

## **Hoh Tribal Code Title 3**

### **Law and Order**

#### **Chapter 3.02 Traffic Ordinance**

##### **§ 3.02.010 Purpose**

The purpose of this Ordinance is to promote a uniform, comprehensive system of laws to regulate motor traffic and to protect public safety on the Hoh Indian Reservation. In order to preserve the peace and safety of the Hoh Indian Reservation, and in order to protect the quality of life for all those who reside, work or visit on the Hoh Indian Reservation, this Ordinance regulates certain activities and establishes civil penalties for the violation of these regulations.

##### **§ 3.02.020 Authority**

- (a) The Hoh Constitution, Article IV, Section 1, authorizes the Hoh Tribal Business Committee to pass ordinances governing and regulating the conduct of tribal members and tribal affairs.
- (b) The Hoh Tribal Business Committee has determined that certain activities on the Hoh Indian Reservation have the potential to interfere with the health, safety and well-being of residents of and visitors to the Reservation. Those activities are set out in the Ordinance below and are regulated by this Ordinance, and certain civil penalties are authorized when the provisions of this Ordinance are violated.

##### **§ 3.02.030 Jurisdiction**

- (a) **Jurisdiction Generally.** The Hoh Indian Tribe has jurisdiction over all traffic violations committed by persons within the reservation or trust lands of the Tribe. The Hoh Indian Tribe expressly determines that the actions of non-Indian traffic violators, many of whom are residents of and domiciled on the Hoh Indian Reservation or employees of the Hoh Indian Tribe, directly impact the health, safety and welfare of Tribal members and Reservation residents, and affect the ability of the Tribal government to carry on its operation in an orderly manner.
- (b) **Enforcement Authority.** An enforcement officer has the authority to issue a notice of civil traffic violation:
  - (1) When it occurs in the officer's presence, including when the officer observes the violation;

- (2) When the officer investigating the scene of an accident has probable cause to believe a civil traffic violation has been committed; or
  - (3) When the officer discovers an unattended vehicle parked, stopped, or standing contrary to this Ordinance. In such a case the officer shall affix a notice of civil traffic violation in plain view on the vehicle.
- (c) **Judicial Authority.** The Hoh Tribal Court is hereby granted jurisdiction to hear cases brought under this Ordinance and to issue such penalties as are authorized in the particular provisions below. All matters under this Ordinance shall be brought in the name of the Hoh Indian Tribe through such officers as are designated by the Business Committee.

### § 3.02.040 Definitions

As used in this Ordinance, the following definitions shall apply:

- (a) “Drive” or “Driving” means operating or being in control of a motor vehicle, regardless of whether the motor vehicle is in motion.
- (b) “Emergency Vehicle” means a fire truck, police car, or ambulance.
- (c) “Enforcement Officer” means an officer of the Hoh Tribal Police Department or an officer of another jurisdiction acting pursuant to a valid cross-deputization agreement with the Hoh Indian Tribe.
- (d) “Hoh Reservation” means the Hoh Indian Reservation and includes all lands held in trust by the United States for the benefit of the Hoh Indian Tribe.
- (e) “Motor Vehicle” or “Vehicle” means any automotive vehicle not operated on rails.
- (f) “Road” includes all streets, avenues, loops, alleys, highways and any other roadways, paved or unpaved, within or running through the Hoh Reservation.
- (g) “Tribal Court” or “Court” means the Hoh Tribal Court.
- (h) “Tribe” means the Hoh Indian Tribe.

### § 3.02.050 Civil Violations

It shall be a civil violation for any person on the Hoh Reservation to violate the provisions of this Ordinance. Any person cited for a violation may contest the citation and fine in accordance with the rules established by the Hoh Tribal Court and as provided in this Ordinance. No person shall be subjected to imprisonment for violation of this Ordinance. Fines and other penalties under this Ordinance are not punitive and are for the purpose of preventing recurrence of the violation,

regulating use of the roads within the Hoh Reservation, and protecting the safety and welfare of all persons residing on and traveling through the Hoh Reservation. If fines assessed against the offender remain unpaid for more than thirty days after they are due, then the Tribal Court may order the suspension of the offender's driver's license pursuant to Section 3.02.140 of this Ordinance until the fines are paid.

### **§ 3.02.060 Traffic Citation Requirements**

- (a) A traffic citation conforming to the requirements of this section shall be used for all traffic violations.
- (b) The citation shall consist of at least four parts. Additional parts may be inserted by law enforcement agencies for administrative use. The required parts are:
  - (1) The complaint;
  - (2) The abstract of driving record;
  - (3) The police record; and
  - (4) The summons.
- (c) The complaint shall contain a form of certificate in which the complainant shall certify that the complainant has reasonable grounds to believe, and does believe, that the person cited committed the violation. A certificate conforming to this section shall be deemed equivalent of a sworn complaint.

### **§ 3.02.070 Minimum Requirements for Summons**

A summons in a traffic violation is sufficient if it contains the following:

- (a) The name of the court, name of the person cited, the date on which the citation was issued and the name of the complainant;
- (b) A statement or designation of the violation in such manner as can be readily understood by a person making a reasonable effort to do so, and the date, time and place at which the violation is alleged to have occurred;
- (c) A penalty schedule indicating the fine imposed for commission of the violation;
- (d) A notice to the person cited that a complaint will be filed with the court based on the violation; and
- (e) The options contained in Section 3.02.100 regarding the cited person's response to the summons.

### § 3.02.080 Minimum Requirements for Complaint

- (a) Except as provided in this section, a complaint in a traffic violation is sufficient if it contains the following:
  - (1) The name of the court, the name of the public body in whose name the action is being brought and the name of the defendant;
  - (2) A statement or designation of the violation in such a manner as can be readily understood by a person making a reasonable effort to do so and the date, time and place at which the violation is alleged to have occurred; and
  - (3) A certificate under Section 3.02.060(c), signed by the complainant.
- (b) The complaint shall be set aside by the court without prejudice upon motion of the person cited when the complaint does not conform to this section. A pretrial ruling on a motion to set aside may be appealed by the Tribe.

### § 3.02.090 Delivery of Citation

An officer issuing the citation shall cause:

- (a) The summons to be delivered to the person cited; and
- (b) The complaint and abstract of driving record to be delivered to the court.

### § 3.02.100 Response to Summons

- (a) **In General.** Any person who receives a summons under this Ordinance shall respond to such summons as provided in this section within thirty days of the date of the summons.
- (b) **Paying the Fine Without Contesting the Citation.** If the person cited does not contest the citation, they shall respond by completing the appropriate portion of the summons and submitting it, either by mail or in person, to the Tribal Court as specified on the summons. A check or money order in the amount of the fine prescribed for the violation and made out to the Hoh Indian Tribe must be submitted with the response. When a response which does not contest the determination is received, an appropriate order shall be entered in the Tribal Court's records, and a record of the response and order together with the check or money order shall be furnished to the Tribe.
- (c) **Contesting the Citation.** If the person cited wishes to contest the determination, they shall respond by completing the portion of the summons requesting a hearing for that purpose and submitting it, either by mail or in person, to the Tribal Court as specified on the summons. The Tribal Court shall then notify the person in writing of the time, place, and date of the hearing.

- (d) **Failure to Respond.** If any person issued a summons fails to respond to the summons as provided in this section, the Tribal Court shall enter an appropriate order assessing the fine prescribed for the violation and any other penalty authorized by this Ordinance and shall notify the Tribe of the failure to respond.

### § 3.02.110 Hearing Date; Action for Failure to Appear

- (a) **Notice of Hearing.** If the person cited requests a hearing, the Tribal Court shall set a date and time for the hearing and shall, at least five days in advance of the hearing, mail to the person cited notice of the date and time. The notice shall include a warning that for failure to appear for the hearing, action will be taken by the Court that may result in revocation of the driver's privilege to drive a vehicle within the jurisdiction of the Tribe and any penalty assessed against the person cited being sent to a collection agency.
- (b) **Failure to Appear.** If the person cited fails to appear for the hearing at the time and place fixed by the Court, the Court shall enter an order assessing the fine prescribed for the traffic violation and any other penalty authorized by this Ordinance, including suspension or revocation of the driver's privilege to drive a vehicle within the jurisdiction of the Tribe.

### § 3.02.120 Hearing to Contest Citation

- (a) **In General.** The trial of any traffic violation shall be during a hearing conducted by the Court without a jury.
- (b) **Burden of Proof.** The prosecution shall have the burden of proving the alleged traffic violation by a preponderance of the evidence. This means that as a whole, the evidence more strongly indicates that the defendant committed the violation than not.
- (c) **Defense Counsel Not Provided.** At any trial involving a traffic violation only, defense counsel shall not be provided at Tribal expense. A defendant may provide their own counsel at defendant's expense.
- (d) **Proceeding with Pro Se Defendant.** Where a defendant appears pro se, the trial shall proceed by the citing officer testifying, calling witnesses and providing supporting documentation. The defendant shall have an opportunity to present his or her defense and to cross-examine the testifying officer and any witnesses, and shall be given copies of all supporting documentation.
- (e) **When Prosecuting Attorney May Appear.** At any hearing to contest a traffic violation only, the prosecuting attorney may aid in preparing evidence and obtaining witnesses but shall not appear unless counsel for the defendant appears. The Court shall ensure that the prosecuting attorney is given timely notice if defense counsel is to appear at trial.
- (f) **Appeal.** There shall be no appeal from a judgment involving a traffic violation.

### **§ 3.02.130 Penalty for Traffic Violations**

- (a) The penalty for committing a traffic violation shall be a fine only or, as provided in Section 3.02.140, suspension of the defendant's privilege of driving within the Hoh Reservation, or other civil penalty. Where an individual contested the citation in a hearing and lost, in addition to a fine, the judge may also impose court fees or may order the individual to complete community service in lieu of court fees, such community service not to exceed 30 hours for a single offense. No person shall be subject to imprisonment for violation of this Ordinance.
- (b) A judgment to pay a fine for a traffic violation shall be a sentence to pay an amount provided in Section 3.02.260.

### **§ 3.02.140 Suspension of Driving Privilege**

- (a) **Suspension in Addition to or in Lieu of Fine.** If a defendant is convicted of any traffic violation, the judge may impose a suspension of the defendant's privilege of driving within the Hoh Reservation in addition to or in lieu of fines. The duration of such suspension shall be at the discretion of the judge, who shall take into account repeated violations of this Ordinance.
- (b) **Suspension for Failure to Pay Fine.** If a defendant is convicted of any traffic violation and fails or refuses to pay a fine imposed by the judge or to comply with any condition upon which payment of the fine or any part of it was suspended, the judge, in addition to or instead of any other method authorized by law for enforcing a court order, may order the defendant's privilege of driving within the Hoh Reservation to be suspended for a period not to exceed one year.

### **§ 3.02.150 Double Jeopardy and Preclusion Not Applicable in Traffic Violation Cases**

- (a) If a person commits both a crime and a traffic violation as part of the same episode, the prosecution for one violation shall not bar the subsequent prosecution for the other. However, the fact of the first conviction, plea or acquittal shall not be admissible in any subsequent prosecution for the other violation.
- (b) No plea, finding or proceeding upon any traffic violation shall be used for the purpose of res judicata or collateral estoppel, nor shall any plea, finding or proceeding upon any traffic violation be admissible as evidence in any civil proceeding.

### **§ 3.02.160 Disposition of Fine Monies**

All monies obtained from payment of fines and interest under this Ordinance shall be deposited into the Tribe's General Fund Account, or such other account designated by the Hoh Tribal Business Committee.

### § 3.02.170 Interest

Fines imposed under this Ordinance shall gather interest at the rate of 9% per year, provided that no fine shall gather interest during any period of time that a defendant actively participates in a Tribal Court authorized fine payment plan.

### § 3.02.180 Law Applicable to Vehicles Registered Off-Reservation

Any motor vehicle registered by an entity other than the Hoh Indian Tribe is subject to all laws, rules and regulations governing the operation of vehicles while within the Hoh Reservation.

### § 3.02.190 Required Documents

- (a) **Driver's License.** Except as provided in subsection (b) of this section, no person shall drive a vehicle within the Hoh Reservation unless he or she has obtained a valid driver's license, and that driver's license remains in full force and effect and is not suspended or revoked.
- (b) **Learner's Permit.** No person under the age of 16 years of age shall drive a vehicle within the Hoh Reservation except in full compliance with all requirements of a valid learner's permit.
- (c) **Vehicle Registration.** It is unlawful for a person to drive any vehicle within the Hoh Reservation without first having obtained and having in full force and effect a current and proper vehicle registration.
- (d) **Motor Vehicle Insurance.** No person may drive a motor vehicle within the Hoh Reservation unless the person is insured under a motor vehicle insurance policy in full force and effect.
- (e) **Failure to Possess or Produce for Inspection.** All persons driving a motor vehicle on the Hoh Reservation are required to possess all required documents on their person or inside the vehicle, and to permit inspection of such documents upon demand of a tribal law enforcement officer. It is a violation for any person to fail to comply with this section.

### § 3.02.200 Vehicle Safety Equipment; Maintaining Vehicle

- (a) **Generally.** It is a civil traffic violation for any person to fail to comply with the requirements of this section.
- (b) **Required Safety Equipment.** It is a violation to drive a motor vehicle on a road without all of the following safety equipment in proper condition:
  - (1) **Bumpers.** Every motor vehicle shall be equipped with front and rear bumpers maintained in good condition.

- (2) Headlights. Every motor vehicle shall be equipped with at least two working headlights, with at least one on each side of the front of the vehicle.
  - (3) Horns. Every motor vehicle shall be equipped with a horn in good working order.
  - (4) Muffler. Every motor vehicle shall be equipped with a muffler in good working order to prevent excessive or unusual noise.
  - (5) Parking Brakes. Every motor vehicle shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated.
  - (6) Service Brakes. Every motor vehicle shall be equipped with service brakes maintained in good working order and adequate to control the movement and to stop and hold such vehicle on any grade incident to its operation.
  - (7) Stop Lamps. Every motor vehicle shall be equipped with at least two stop lamps on the rear of the vehicle which shall clearly display a red or amber light, and which shall be visible upon application of the service brakes.
  - (8) Taillights. Every motor vehicle shall be equipped with at least two taillights mounted on the rear of the vehicle which shall emit a red light plainly visible from a distance of one thousand feet to the rear of the vehicle.
  - (9) Tires. Every motor vehicle shall be equipped with tires in safe operating condition.
  - (10) Windshield. Every motor vehicle shall be equipped with a front windshield in such condition as to permit the driver a clear view.
  - (11) Windshield Wipers. Every motor vehicle shall be equipped with windshield wipers maintained in good working order.
- (c) **Failure to Maintain Required Safety Equipment**. Failing to maintain the required safety equipment listed in subsection (b) of this section shall result in a violation.
  - (d) **Missing or Unclear License Plates**. It is a violation for any person to drive any vehicle on a public road within the Hoh Reservation without clearly displaying the vehicle license plates.

### § 3.02.210 General Driving Rules

- (a) **Due Care Required**. No person shall drive a vehicle upon a road in a manner or at a speed greater than is reasonable and prudent, having due regard for the traffic, surface, and width of the road and the hazards at intersections and any other conditions then existing. Nor shall any person drive in a manner or at a speed which is greater than will



permit the driver to exercise proper control of the vehicle and to decrease speed or stop as may be necessary to avoid colliding with any person, vehicle, or other conveyance on or entering the road in compliance with legal requirements and with the duty of drivers and other persons using the road to exercise due care.

- (b) **Failure to Use Safety Belts; Child Safety Systems.** A person commits the violation of failure to use safety belts if the person:
  - (1) Drives a motor vehicle on a road and is not properly secured with a safety belt or safety harness;
  - (2) Drives a motor vehicle on a road with a passenger who is under 18 years of age and the passenger is not properly secured with a child safety system, safety belt, or safety harness; or
  - (3) Is a passenger in a motor vehicle on a road who is 18 years of age or older and who is not properly secured with a safety belt or safety harness.
- (c) **Exceeding Maximum Speed Limit.** A person commits the violation of exceeding the maximum speed limit if the person drives a motor vehicle at a speed greater than the posted maximum speed for that road; provided, that this section does not apply to emergency vehicles responding to an emergency.
- (d) **Careless Driving.** A person commits the violation of careless driving if the person drives a motor vehicle upon a road or other premises open to the public in a manner that endangers or would be likely to endanger any person or property.
- (e) **Failure to Obey Traffic Signal or Traffic Sign.** A person commits the violation of failure to obey traffic signal or sign if the person drives a motor vehicle and the person fails to obey the directions of any traffic signal or traffic sign.
- (f) **Failure to Stop or Yield.** A person commits the violation of failure to stop or yield if the person drives a motor vehicle and fails to stop or yield for an emergency vehicle with its lights and/or sirens activated.
- (g) **Unlawful or Unsignaled Turn.** A person commits the violation of making an unlawful or unsignaled turn if the person is driving a motor vehicle on a road and the person turns the vehicle right or left when:
  - (1) The movement cannot be made with reasonable safety; or
  - (2) The person fails to give an appropriate signal continuously during the last 100 feet traveled by the vehicle before turning, or, where the vehicle traveled less than 100 feet before turning, for as long as practicable under the circumstances.

- (h) **Improper Passing.** Persons driving a vehicle may overtake and pass other vehicles traveling in the same direction where road conditions permit passing, provided they do so in a safe manner. Passing another vehicle in an unsafe manner, including where the left side of the road is not clearly visible or free of oncoming traffic, or where there is any sign or other road marking indicating passing is prohibited, is a violation.
- (i) **Failure to Use Lights.** A person commits the violation of failure to use lights if the person drives a motor vehicle at any time when limited visibility conditions exist, including at night, and that person fails to operate the vehicle headlights.
- (j) **Driving While Privilege Suspended.** It shall be a violation to drive a motor vehicle within the Hoh Reservation while the driver's privilege of driving within the Reservation has been suspended by an order of the Tribal Court.
- (k) **Impaired Driving; Alcoholic Beverages and Drugs Prohibited.** It shall be a violation to:
  - (1) Drive a motor vehicle while impaired by alcohol or any drug.
  - (2) Drink any alcoholic beverage or use any drug in a motor vehicle when the vehicle is upon a road.
  - (3) Have an illegal drug or an open or unsealed receptable containing an alcoholic beverage in his or her possession while in a motor vehicle when the vehicle is upon a road.
  - (4) Keep an open or unsealed receptacle containing an alcoholic beverage or legal drug within the vehicle while driving upon a road, unless the receptacle is kept in the trunk or other area of the vehicle which is not normally accessible to the occupants.
- (l) **Texting and Other Cell Phone Usage.** It shall be a violation to:
  - (1) Read or send a text message while driving a motor vehicle on a road.
  - (2) Use a cellular phone while driving a motor vehicle on a road, unless using with a hands-free device.

**§ 3.02.220 Effective Date; Six-Month Phase-In Period**

- (a) This Ordinance shall be effective immediately upon passage by the Business Committee.
- (b) There shall be a phase-in period for the first six months following the effective date of this Ordinance, during which time an enforcement officer may issue a warning in lieu of a citation and notify drivers of this Ordinance.

### § 3.02.230 Sovereign Immunity

Nothing in this Ordinance is intended to be construed as a waiver of the Hoh Indian Tribe's sovereign immunity, which remains intact.

### § 3.02.240 Repealing Clause

This Ordinance hereby repeals and supersedes all prior traffic ordinances and laws.

### § 3.02.250 Severability

If any provisions of this Ordinance or its applicability to any person or circumstances is held invalid by a court of competent jurisdiction, the remainder of this Ordinance or its application to other persons or circumstances shall not be affected.

### § 3.02.260 Fine Schedule

The following schedule of fines applies to the civil traffic infractions enumerated in this Ordinance:

<b>HTC §</b>	<b>INFRACTION</b>	<b>FINE</b>
3.02.190(a)	Drivers to be licensed	\$450.00
3.02.190(b)	Failure to comply with learner's permit	\$100.00
3.02.190(c)	Vehicle not registered	\$100.00
3.02.190(d)	Vehicle not insured	\$450.00
3.02.190(e)	Required documents not on person	\$100.00
3.02.200(c)	Failure to maintain required safety equipment	\$100.00
3.02.200(d)	Missing or unclear license plates	\$100.00
3.02.210(a)	Due care required	\$100.00
3.02.210(b)(1)	Driver's failure to use safety belt	\$100.00
3.02.210(b)(2)	Failure to use child safety system	\$100.00
3.02.210(b)(3)	Passenger's failure to use safety belt	\$100.00
3.02.210(c)	Exceeding maximum speed limit	
	If speed is 40 MPH or less:	
	1-5 MPH over	\$113.00
	6-10 MPH over	\$124.00
	11-15 MPH over	\$154.00
	16-20 MPH over	\$195.00
	21-25 MPH over	\$247.00
	26-30 MPH over	\$298.00
	31-35 MPH over	\$349.00
	36 MPH or more over	\$411.00
	If speed is over 40 MPH:	
	1-5 MPH over	\$93.00
	6-10 MPH over	\$113.00
	11-15 MPH over	\$144.00

	16-20 MPH over	\$175.00
	21-25 MPH over	\$206.00
	26-30 MPH over	\$247.00
	31-35 MPH over	\$298.00
	36-40 MPH over	\$349.00
	41 MPH or more over	\$411.00
3.02.210(d)	Careless driving	\$100.00
3.02.210(e)	Failure to obey traffic signal or traffic sign	\$100.00
3.02.210(f)	Failure to stop or yield	\$100.00
3.02.210(g)	Unlawful or un signaled turn	\$100.00
3.02.210(h)	Improper passing	\$100.00
3.02.210(i)	Failure to use lights	\$100.00
3.02.210(j)	Driving while privilege suspended	\$450.00
3.02.210(k)(1)	Driving while impaired	\$411.00
3.02.210(k)(2)	Consuming alcohol or drugs in vehicle	\$100.00
3.02.210(k)(3)	Possession of unsealed receptacle in vehicle	\$100.00
3.02.210(k)(4)	Possession of unsealed receptacle while driving	\$100.00
3.02.210(l)	Text message and cell phone usage	\$100.00