

TITLE 17

AN ORDINANCE OF THE HOOPA VALLEY TRIBE  
CLOSING THE RANGELANDS  
OF THE HOOPA VALLEY RESERVATION  
TO LIVESTOCK

ORDINANCE NO.: 1-89, Amendment No. 1

DATE: SEPTEMBER 6, 1989

SUBJECT: CLOSED RANGE ORDINANCE, AMENDMENT NO. 1

WHEREAS: The Hoopa Valley Tribe did on June 20, 1972, adopt a Constitution and Bylaws which was approved by the Commissioner of Indian Affairs on August 18, 1972, and Article IX, Section 1 (e) of this Constitution and Bylaws authorized the Hoopa Valley Business Council, "To enforce the protection of tribal property", and

WHEREAS: In a general referendum held on June 21, 1988, the general membership of the Hoopa Valley Tribe did approve the Hoopa Valley Business Council to close the open rangelands of the Hoopa Valley Reservation, and

NOW THEREFORE BE IT RESOLVED: The Hoopa Valley Business Council, under the authority of the June 21, 1988 referendum, hereby enacts this Closed Range Ordinance as Title 17 of the Law and Order Code of the Hoopa Valley Tribe and deems this Ordinance to be in full force and effect.

17.0 Short Title.

This Ordinance shall be known as the Closed Range Ordinance of the Hoopa Valley Tribe.

17.1 FINDINGS AND PURPOSE

The Hoopa Valley Business Council (Council) finds that the longstanding tribal practice of permitting tribal members' livestock to run at large on the rangelands of Hoopa Valley Reservation (the so-called Open Range policy) is no longer compatible with conditions on the Reservation. Briefly stated, the open range policy permitted the free ranging of tribal members' livestock on all unallotted trust lands of the Reservation, except those held under lease or assignment. In practice, this has placed on private landowners, and on those holding individual interests in trust lands under a lease or

assignment, the responsibility of excluding free ranging animals from their property.

In recent years, the Council has received a growing number of complaints from tribal members and other Reservation residents that it is difficult and unfair for property owners and occupants to construct fences and other enclosures to exclude free-ranging livestock and protect their private property or leased or assigned trust property. There have been increasing instances of damage to water lines, fences, gardens, and enclosed livestock. In addition, free-ranging livestock pose a serious safety hazard to vehicles, pedestrians, and riders on horseback.

In response to growing community concerns, the Council submitted the question to a referendum of the membership, which on June 21, 1988, voted to discontinue the Open Range policy. The Council therefore finds that it is the will of the Hoopa people that the rangelands of the Hoopa Valley Reservation be closed to free-running livestock in order to protect the safety and health of the community, as well as to prevent unnecessary injury to persons and animals and damage to tribal and private property.

## 17.2 Definitions.

17.2.1 Hoopa Valley Reservation means the Reservation as defined in Article III of the Constitution and Bylaws of the Hoopa Valley Tribe of June 20, 1972.

17.2.2 Livestock means any animal of the Bovine, Caprine, Equine, Ovine, or Swine families, or any Mule, Jack, Jenny or Burro, or any domestic Ruminant mammal.

17.2.3 Tribal Court means the Hoopa Valley Tribal Court established in the Law and Order Code of the Hoopa Valley Tribe, enacted on March 27, 1986 as Ordinance No. 1-86.

17.2.4 Tribal Police means law enforcement officers of the Hoopa Valley Department of Public Safety, authorized to enforce tribal law.

17.2.5 Rangelands means all unallotted lands within the Hoopa Valley Reservation held in trust by the United States, and all allotted lands held in fee by the Hoopa Valley Tribe or in trust by the United States for the benefit of the Hoopa Valley Tribe.

17.2.6 Public or Private Lands means any and all allotted lands not identified in subsection (e) of this section, whether held in trust or fee, and any and all public rights-of-way within the exterior boundaries of the reservation.

17.2.7 Standard of Proof; Evidence, as used in this Ordinance, shall be subject to the "greater weight of the evidence (preponderance) standard.

17.2.8 Bail, as used in this Ordinance, shall mean any incurred expenses in enforcing this Ordinance including, but not limited to, all costs for impounding, keeping, and caring for the animal.

17.3 Open Grazing. Free Roaming of Livestock Prohibited.

Pursuant to the Referendum of the tribal membership of June 21, 1988, the rangelands of the Hoopa Valley Reservation are hereby closed to livestock. It shall be the policy of the Tribe that open grazing and free roaming of livestock is prohibited on all Reservation rangelands, and that all livestock within reservation boundaries must be enclosed in a properly cared for fenced area.

It shall be unlawful for any livestock owner, or agent of such owner, to permit livestock to roam, graze, stray, or wander upon any Reservation rangelands, or in the absence of express consent or permit of the owner, upon any public or private lands within the exterior boundaries of the Hoopa Valley Reservation.

17.4 Establishment of Animal Control Fund

The Tribal Police shall, with consultation with the Fiscal Department, establish an Animal Control Fund for the purposes of enforcement of this Ordinance. The Tribal Police shall keep records of such funds in accordance with written guidelines approved by the Fiscal Department.

17.5 Enforcement.

17.5.1 Seizure by Tribal Police

The Tribal Police are authorized and directed to investigate complaints of livestock in violation of this Ordinance, and to capture any and all livestock found on the closed rangelands or on public or private lands in violation of this Ordinance.

17.5.2 Authority to Enter Into Contracts

Tribal Police are authorized to enter into written contracts with appropriately private parties for performance of work necessary to enforce this Ordinance. Such contracts shall be subject to standard tribal procurement procedures. By appropriate resolution the Council shall establish appropriate fees to be used in such contracts.

17.6 Emergency Destruction of Livestock.

If any animal has incurred severe injuries or is incurably sick or crippled the Tribal Police shall have such authority to destroy said animal. If any animal is destroyed in this way Tribal Police, and any officers and employees of the Tribe, shall not be civilly or criminally liable for such destruction. The Tribal Police, Hoopa Public Utilities District and Tribal Forestry are authorized and directed, upon notice by the Tribal Chairman, to dispose of destroyed livestock in a timely manner.

17.7 Impoundment.

Livestock seized pursuant to this Ordinance shall be boarded at an appropriate location on tribal or on private lands within the Reservation. The Council shall by appropriate resolution establish a daily board fee for each impounded animal.

17.8 Notice of Seizure; Citation.

If any animal is seized under this Ordinance the Tribal Police shall post a public notice of such seizure in at least three (3) public locations on the Reservation, including at the Hoopa Tribal Office. The Tribal Police may issue citations for violations of this Ordinance. Such citations shall briefly state the nature of the violation, and shall be accompanied by a written explanation of bail and the right to request a hearing in Tribal Court.

17.9 Unclaimed Animals

If any seized animal(s) remain unclaimed for more than five (5) days such animal(s) shall be deemed abandoned and shall be automatically forfeited to the Hoopa Valley Tribe.

17.10 Retrieval of Impounded Livestock; Bail.

17.10.1 Claim by Owner; Proof of Ownership

Not later than five (5) days after seizure of any animal the owner of impounded livestock shall appear at Tribal Police headquarters to claim said livestock. Satisfactory proof of ownership must be presented to the Police.

17.10.2 Posting Bail; Transportation

Upon determining the ownership of an impounded animal, an owner may recover said livestock by posting bail with the Tribal Police. The owner must provide transportation for all livestock retrieved.

#### 17.11 Hearing in Tribal Court.

Any livestock owner cited or assessed under this Ordinance shall have the right to request a hearing before a Judge of the Tribal Court to review any action taken under this Ordinance. If at the time that a hearing is requested the animal(s) are still impounded, the animal(s) shall remain in the custody of the Tribe and any and all costs shall continue to be incurred. However, if the Court deems it appropriate, it may reduce such fees, except for capturing fees, and reasonable damages and boarding costs.

#### 17.12 Penalties; Assessments

The Court is authorized to approve appropriate penalties for violations of this Ordinance, provided that any order setting forth such penalties shall be subject to enforceable conditions. If appropriate community service work is available such work may be imposed in lieu of all or part of the penalties provided in this subsection, at a rate of \$5.00 per hour.

#### 17.13 Forfeiture and Sale.

##### 17.13.1 Unclaimed Livestock; Ineligible Persons

If no owner appears within five (5) days after seizure, or if the owner is unable to pay the penalty established, the livestock shall be deemed forfeited to the Hoopa Valley Tribe. The Tribal Police shall cause all forfeited livestock to be sold under sealed bid or at a public livestock auction. Any employee of the Tribal Police, the Tribal Court and any person directly responsible for enforcing this Ordinance shall be ineligible to bid or purchase forfeited livestock.

##### 17.13.2 Funds From Sales

Any funds received from the sale of the livestock that are in excess of bail, capturing and boarding fees, penalties of citations and any assessed damages shall be paid to the livestock owner, if known. In the case of forfeited animal(s), such funds shall be deposited in the Animal Control Fund.

#### 17.14 Exclusive Tribal Court Jurisdiction

In any appropriate case, the Hoopa Valley Tribal Court shall have exclusive jurisdiction to review applicable provisions of this Ordinance for conformance with the Constitution and Bylaws of the Hoopa Valley Tribe. On incidents which require filing in Tribal Court, all notices, publications, and other information pertinent to that particular court docket file, shall be delivered to the Clerk of the Court for filing in that case.

17.15 Private and Tribal Cause of Action.

Any person (including the Hoopa Valley Business Council or its officers and agents acting in an official capacity) who suffers bodily injury, or whose property is damaged, as a result of livestock straying upon Reservation rangelands or upon public or private property in violation of this Ordinance, shall have a cause of action for compensatory damages, exclusively in Tribal Court, against the owner of such livestock. Such an action must be filed within six (6) months of either the date when the injuries occurred, or when the person entitled to bring the action learns of or in the exercise of reasonable diligence should have learned of the injuries. Violation of this Ordinance shall not be conclusive of a livestock owner's liability, but shall establish a rebuttable presumption thereof. If damages to tribal property have already been fully satisfied through a forfeiture hearing, such damages may not be re-adjudicated by a tribal action otherwise authorized by this section.

Law to be applied in assessing liability shall be determined using the negligence and comparative fault law of the State of California as a guide and with due regard for any evidence of relevant reliable customary tribal law that the Court in its discretion, and subject to the provisions of the Law and Order Code, may admit. Nothing in this provision shall be construed as a cession of jurisdiction by the Hoopa Valley Tribe not authorized by existing law.

17.16 Principles of Construction; Sovereign Immunity Preserved.

17.16.1 Limitations of Application

This Ordinance shall not be construed to apply to riders on horseback; nor shall it be construed as waiving claims for damage to Reservation rangelands caused by riders on horseback or by free-ranging livestock.

17.16.2 Movement of Livestock

When livestock owners need to move livestock from one lawful enclosure to another, their livestock may be moved across Reservation rangelands closed by this Ordinance, provided that said livestock is properly attended, their presence on the rangelands is brief, and their movements reasonably continuous until they are within a lawful enclosure.

17.16.3 If any part of this Ordinance is found to be invalid the remaining provisions shall continue to be in full force and effect to the maximum extent possible.

17.16.4 Sovereign Immunity Preserved

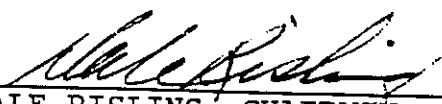
Nothing in this Ordinance shall be construed as a waiver by the Hoopa Valley Business Council or the Hoopa Valley Tribe of sovereign immunity to unconsented lawsuit, nor as consent by the Hoopa Valley Business Council to bring a legal action against it or any of its entities or departments for damages to livestock or to private property or for any other purpose.

BE IT FURTHER RESOLVED: That the Chairman and Legal Department are hereby authorized and directed to forward this Ordinance to the Bureau of Indian Affairs to obtain concurrence for enforcement against non-members of the Hoopa Valley Tribe, in accordance with certain provisions of Article IX of the Tribal Constitution. Failure of the Bureau to act within ninety (90) days of the request for its concurrence as provided herein shall be deemed an approval of the Business Council's request for BIA concurrence.

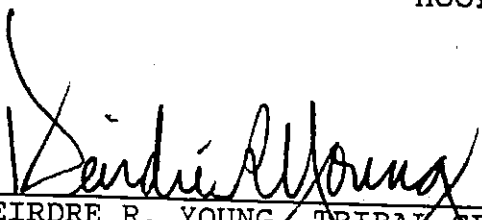
CERTIFICATION

I, the undersigned, as Chairman of the Hoopa Valley Business Council hereby certify that the Hoopa Valley Business Council is composed of eight (8) members of which five (5) were present, constituting a quorum, at a Special Meeting thereof, duly and specially called, noticed, convened, and held this sixth (6th) day of September, 1989, and this Ordinance was duly enacted by a vote of three (3) for and one (1) against and one (1) abstaining, and that since its enactment this Ordinance has not been rescinded or amended in any way.

DATED THIS 6th DAY OF September, 1989.

  
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DALE RISLING, CHAIRMAN  
HOOPA VALLEY BUSINESS COUNCIL

ATTEST:

  
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DEIRDRE R. YOUNG, TRIBAL SECRETARY  
HOOPA VALLEY BUSINESS COUNCIL

# *Hoopa Valley Business Council*

P.O. Box 1348 • Hoopa, California 95546 • (916) 625-4211

**Dale Risling**

Chairman

**HOOPA VALLEY TRIBE**

Regular meetings on 1st & 3rd  
Thursdays of each Month

September 6, 1989

Mr. Karole Overberg, Superintendent  
Northern California Agency  
Bureau of Indian Affairs  
P.O. Box 494879  
Redding, California 96049

Dear Mr. Overberg:

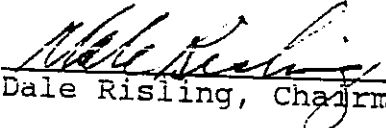
Enclosed please find the Closed Range Ordinance of the Hoopa Valley Tribe, Amendment No. 1, Title 17 of the Law and Order Code of the Hoopa Valley Tribe, for which we are requesting your review and approval. As provided by the Constitution and Bylaws of the Hoopa Valley Tribe, the Tribal Council is empowered to enact laws affecting non-members, subject to the approval of the Bureau of Indian Affairs.

As you know, free roaming livestock on the Hoopa Reservation has been responsible for many vehicle accidents and for damages to tribal and private property for several years. The local county government has no zoning jurisdiction on the Reservation lands, primarily because of its effect on tribal jurisdiction. Therefore, sufficient reason exists for BIA approval of this Ordinance and no problems will arise involving other jurisdictions. Moreover, the due process rights of individuals are more than adequately provided for by the provisions for notice and right to a hearing and that non-members are in no way subject to discriminatory treatment.

Substantial time, expense and energy has gone into developing this Ordinance. Your expedited review and approval will be appreciated.

If you have any questions, please do not hesitate to contact me.

Sincerely,

  
Dale Risling, Chairman

Enclosure



# *Hoopa Valley Business Council*

P.O. Box 1348 • Hoopa, California 95546 • (916) 625-4211

Dale Risling  
Chairman

**HOOPA VALLEY TRIBE**  
Regular meetings on 1st & 3rd  
Thursdays of each Month

SEPTEMBER 6, 1989

## PUBLIC NOTICE

This notice is to advise the Hoopa tribal membership and Hoopa Reservation residents of recent amendments to the Closed Range Ordinance of the Hoopa Valley Tribe, Ordinance No. 1-89. These amendments will streamline procedures in order to provide for more efficient and timely enforcement. Besides making several implementation changes, the amended Ordinance is codified as Title 17 of the Law and Order Code of the Hoopa Valley Tribe. ALL INTERESTED PERSONS ARE ENCOURAGED TO REVIEW THE AMENDED ORDINANCE DURING WORKING HOURS AT THE HOOPA TRIBAL OFFICE IN THE NEIGHBORHOOD FACILITIES BUILDING.

Briefly, some of the amendments are as follows:

1. Establishment of an Animal Control Fund to expedite enforcement of the Ordinance.
2. Empowers the Tribal Police to enter into private contracts to enforce the Ordinance.
3. Provides that all seized animals must be claimed within five (5) days or they will be forfeited to the Tribe for sale.
4. Amends the sale provisions to provide for sealed bids or for sale at a public livestock auction.
5. Provides authority for the Council to establish capturing and boarding fees to be paid by the owner of any seized livestock before the animals can be released.

This notice is intended to highlight only some of the recent amendments to the Closed Range Ordinance and is not intended to identify all amendments that were made. If you have any questions regarding these amendments, you are encouraged to review the amended Ordinance in detail.

THE PROVISIONS OF THE CLOSED RANGE ORDINANCE, AMENDMENT NO. 1, TITLE 17 OF THE LAW AND ORDER CODE OF THE HOOPA VALLEY TRIBE, ARE IN IMMEDIATE EFFECT AND ARE BEING ENFORCED.

RESOLUTION OF THE HOOPA VALLEY TRIBE  
HOOPA VALLEY INDIAN RESERVATION  
HOOPA, CALIFORNIA

RESOLUTION NO.: 89-171

DATE APPROVED: SEPTEMBER 6, 1989

SUBJECT: TO ESTABLISH THE ANIMAL CONTROL FUND AND TO APPROVE FEES FOR IMPLEMENTING THE CLOSED RANGE ORDINANCE, NO. 1-89, AMENDMENT NO. 1

WHEREAS: The Hoopa Valley tribe did on June 20, 1972, adopt a Constitution and Bylaws, which the Commissioner of Indian Affairs approved on August 18, 1972, and Article IX, Section (1), (1) of said Constitution authorizes the Hoopa Valley Business Council, "To safeguard and promote the peace, safety, morals, and general welfare...", and

WHEREAS: The Hoopa Valley Business Council did on June 2, 1989 enact the Closed Range Ordinance of the Hoopa Valley Tribe and on September 6, 1989 did amend said Ordinance to, among other things, establish an Animal Control Fund, and

WHEREAS: Sections 17.5.2 and 17.7 authorize and direct the Hoopa Valley Business Council to establish, by appropriate resolution, fees to be paid from the Animal Control Fund to contractors for the implementation of said Ordinance, such as, for capturing free roaming animals, for expenses of daily boarding of impounded animals, and for other purposes, and

NOW THEREFORE BE IT RESOLVED: That the Hoopa Valley Business Council does hereby authorize and direct the Chairman and Chief Fiscal Officer to establish the Animal Control Fund, as authorized in the Closed Range Ordinance, Amendment No. 1, and to transfer from an appropriate Tribal account the amount of \$500.00 to said Fund to be used for enforcing the Closed Range Ordinance, provided however, that no employee of the Tribe shall be eligible to receive any fees under this Ordinance.

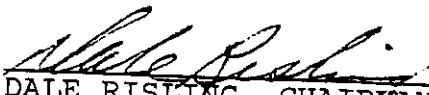
BE IT FURTHER RESOLVED: That the following amounts are hereby authorized to be expended by Tribal Police and Tribal Court from the Animal Control Funds:

1. \$20.00 per head for a capturing fee, and
2. \$5.00 per head per day for any day after 12:00 pm, and
3. Other reasonable expenses directly related to implementation and enforcement of the Closed Range Ordinance, as may be authorized by the Tribal Police.

C E R T I F I C A T I O N

I, the undersigned, as Chairman of the Hoopa Valley Business Council hereby certify that the Hoopa Valley Business Council is composed of eight (8) members of which five (5) were present, constituting a quorum, at a special meeting thereof, duly and specially called, noticed, convened, and held this sixth (6th) day of September, 1989, and that this Resolution was duly adopted by a vote of three (3) for and one (1) against and one (1) abstaining, and that this resolution has not been rescinded or amended in any way.

DATED THIS 6th DAY OF SEPTEMBER, 1989

  
DALE RISLING, CHAIRMAN  
HOOPA VALLEY BUSINESS COUNCIL

ATTEST:

  
DEIRDRE R. YOUNG, TRIBAL SECRETARY  
HOOPA VALLEY BUSINESS COUNCIL