

CODE FOR PROFESSIONAL GUIDES OR PACKERS

HOOPA VALLEY INDIAN RESERVATION
HOOPA, CALIFORNIA

TITLE 33
HOOPA VALLEY TRIBAL CODE

ORDINANCE NO. 1-93

DATE APPROVED: July 22, 1993

SUBJECT: CODE FOR PROFESSIONAL GUIDES OR PACKERS

WHEREAS: The Hoopa Valley Tribe adopted a Constitution and Bylaws (Tribal Constitution) on June 20, 1972, which was approved by the Commissioner of Indian Affairs on August 18, 1972, and ratified and confirmed by Congress on October 31, 1988 in section 8 of Pub. L. 100-580, and amended on June 19, 1990 and, by tribal law, the sovereign authority of the Tribe over the matter described herein is delegated to the Hoopa Valley Tribal Council, acting by law; and

WHEREAS: The Tribal Council has concluded that it is necessary to exercise tribal regulatory authority over the ability of private individuals to act as guides or packers within the exterior boundaries of the Hoopa Valley Reservation, and traditional guiding and packing and other activities in proximity to the Trinity River and Klamath River riparian areas and unallotted Hoopa forest lands, in order to protect fundamental tribal ceremonial, fishery, and property interests, water quality, and the public health and safety; and

WHEREAS: The Tribal Council did, on November 16, 1989, enact a Conservation/Trespass Ordinance, and section 16.4.1 establishes a system of permits that "may be issued to members of the Hoopa Valley tribe and may include conditions under which the permit can be used, and such conditions shall be enforceable under this act"; and

WHEREAS: The Tribal Council, through organizational development, has successfully implemented resource conservation programs through the Tribal Fisheries Department and the Tribal Forestry Department, and has actively pursued resource protection through the Department of Public Safety

WHEREAS: It is the desire of the Tribal Council to adopt and establish a permit system for all professional guides and packers who practice this traditional trade, not only within the exterior boundaries of the Hoopa Indian Reservation, but also on or within those lands and waterways that are the

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"usual and accustomed places" that have traditionally been hunting, trapping, fishing, gathering and trading grounds for the Hupa people since time began.

THEREFORE BE IT NOW ORDAINED THAT: The Tribal Council hereby approves the attached Code for Professional Guides or Packers, to take effect immediately pursuant to the emergency procedures set forth in Section 6.10 of the Legislative Procedures Act (LPA), and further directs that this Ordinance be routed to tribal departments pursuant to the procedures set forth in Section 6.3 of the LPA, so that, subject to any modifications that may be determined necessary or appropriate as a result of comments received during the routing process, it can be adopted on a permanent basis within 30 days.

BE IT FURTHER ORDAINED THAT: The Tribal Council hereby reaffirms its intent that the provisions of this Ordinance be enforceable against non-members of the Tribe and upon private lands within the Reservation.

BE IT FURTHER ORDAINED THAT: It shall be the policy of the Tribe and its authorized entities and departments to vigorously enforce the provisions of this Code, and to oppose any assertion of jurisdiction by Humboldt County, or by the State of California or any of its agencies, that purports to regulate the matters herein regulated by tribal authority.

BE IT FURTHER ORDAINED THAT: The Hoopa Valley Tribe will exercise control over professional guiding and packing and other related activities to fullest extent of Tribal jurisdiction in order to properly regulate and protect all Tribal resources, as well as access protection to the "usual and accustomed places" within the traditional lands and waterways that have been the hunting, trapping, fishing and gathering grounds of the Hupa people since time immemorial.

33.0 SHORT TITLE AND PURPOSE

33.0.1 Short Title. This Ordinance shall be known as the Code for Professional Guides and Packers of the Hoopa Valley Tribe.

33.0.2 Purpose. The purpose of this Act is to protect the interest of members of the Hoopa Valley Tribe, to conduct the business of guiding and packing not only within the exterior boundaries of the Hoopa Indian Reservation, but also on the "usual and accustomed places" within those lands and waterways

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that have traditionally been the hunting, fishing, trapping, trading, and gathering grounds for the Hupa people since time immemorial.

33.1 PRIOR ORDINANCES AND POLICIES AMENDED

Any and all codes and ordinances of the Hoopa Valley Tribe which are in conflict in any way with the provisions of this Code are hereby amended to the extent that they are inconsistent with, or are contrary to, the spirit and purposes of this Code for Professional Guides or Packers.

33.2 AMENDMENT OF THIS CODE

This Code may be amended in the manner provided for the adoption of tribal ordinances. Amendments and additions to this Code shall become part of this Code for all purposes and shall be codified and incorporated herein in a manner consistent with the numbering and organization of this Code.

33.3 JURISDICTION

33.3.1 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 as well as to all of the "usual and accustomed places" that the Hupa people have used for hunting, fishing, trapping, gathering and trading since time began that are "open and unclaimed."

33.3.2 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 provide services as a hunting, trapping or fishing guide or packer under this Code.

33.4 PERMIT REQUIREMENTS

33.4.1 It is hereby authorized that a tribal permit system for all guiding and packing be established. Such permits may be issued only to enrolled members of the Hoopa Valley Tribe and may include conditions under which the permit can be used, and such conditions shall be enforceable under this Act.

33.4.2 It is hereby authorized that the Tribal Forestry Department shall have the responsibility to carry out the intent of this ordinance on behalf of the Hoopa Valley Tribal Council with regard to the permit process.

33.5 PERMIT APPLICATION PROCESS

33.5.1 Except as otherwise provided for in this Act, enrolled Hoopa Tribal members holding a valid identification card issued under the authority of the Hoopa Valley Tribal Council shall be deemed eligible to make an application under this Act. However, activities authorized by this Act may be suspended or revoked if used in violation of this Act.

33.5.2 An application for a permit under this Act shall be on a form furnished by the Tribal Council upon request. The application shall indicate all of the following:

33.5.2.1 The name, date of birth, physical description, age, address, telephone number, if any, and a photo copy of the applicant's Tribal Enrollment card.

33.5.2.2 The name, address, and phone number, if any, of all employees of the business.

33.5.2.3 The business name, address, telephone number, if any, and a list of all persons who enjoy ownership privileges of the business. If the business is co-owned by a non-tribal member, documents must be provided to the satisfaction of the Hoopa Valley Tribal Council and the TERO Office that the business is majority owned (at least 51%) by an eligible Hoopa Tribal member.

33.5.2.4 If the applicant proposes to furnish transportation, the application must indicate the address or location of the headquarters from which the applicant proposes to operate

33.5.2.5 The area or areas in which the applicant proposes to operate.

33.5.2.6 The type of guiding or packing that the applicant propose to engage in.

33.5.2.7 An affidavit, subject to the satisfaction of the Hoopa Valley Tribal Council, which explains the experience which qualifies the applicant for the type of guiding or packing the applicant proposes to conduct. The affidavit shall contain, but is not limited to: a list of former clients or references, testimony from previous clients, company brochures, testimony from the applicant, or records from previous expeditions that have occurred under applicant's guidance.

33.5.2.8 The type, identification number (if applicable) and amount of any equipment, animals, vehicles, traps, nets, firearms or other property the applicant proposes to use in the proposed operation.

33.5.2.9 Any other information that the Hoopa Valley Tribal Council may require from time to time.

33.6 APPLICATION FEES AND RENEWAL

33.6.1 The fee for a revocable permit for guiding and packing issued to a Tribal member shall be \$50.00. A Guide or Packer permit shall be valid for the fiscal year in which issued, or if issued after the beginning of a fiscal year, for the remainder thereof.

33.6.2 The permit shall not be transferred, assigned, sold, or used by any other permit other than the applicant to whom it was granted. Violation of this will result in revocation of the permit for one (1) year.

33.7 REVOCATION OF A PERMIT

33.7.1 The Hoopa Valley Tribal Council may, at anytime, upon a showing that the holder of a valid tribal guide or pack permit has violated any provision of this Code, or any provision of the Hoopa Valley Law and Order Code, or that any employee, assistant, or client of such a permit holder, has knowingly violated any provision of this code or any other regulation of the Hoopa Valley Tribal Code adopted pursuant thereto.

33.7.2 Upon a showing that any holder of a valid permit, their assistant or client, while operating under the permit holder's direction or control, who knowingly trespasses onto, removes articles from, or in any way violates any traditional ceremonial grounds or burial site, shall have their permit revoked and will be subject to legal penalties as provided by the Hoopa Tribal Code, as well as any relevant state or federal laws. In addition permittees shall have their permit revoked for a period of time to be determined by the Tribal Court, including permanent revocation.

33.8 NUMBER OF PERMITS ISSUED

The Hoopa Valley Tribal Council will issue no more than twenty (20) permits for Professional Guide or Pack services per year. These permits will be issued on a first come, first serve

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basis. The Tribal Council retains the right to increase the number of permits each year as it sees fit and to allow for renewal of permits on a seniority basis as it sees fit.

33.9 REFUSAL TO ISSUE PERMIT; APPEAL AND HEARING PROCEDURE

33.9.1 The Hoopa Valley Tribal Council may refuse to issue a guide or pack permit to an applicant who, in the opinion of the Council, has previously failed to fulfill their responsibilities to any portion of the Hoopa Valley Law and Order Code, or has jeopardized the safety and welfare of a client and or others, or upon a showing that the applicant, or any employee or assistant of the applicant, or client of the applicant, while operating under the applicant's direction or control, has violated any provision of this code or any regulation of the Law and Order Code adopted pursuant thereto. An applicant who has been refused a permit may request a hearing before a committee, and the committee shall then and there determine whether or not a permit shall be issued to the applicant. The decision of the Review Committee shall be final.

33.9.2 Establishment of Review Committee. The committee for hearing such appeals shall be made up of the following:

33.9.2.1 A representative from the Department of Forestry; and

33.9.2.2 A representative from the Department of Fisheries; and

33.9.2.3 A representative from the TERO Commission.

33.10 ENFORCEMENT

The provisions of this Chapter shall be enforced by the Department of Public Safety. It shall be an civil offense, for which a fine of not less than \$100.00 shall be assessed, to obstruct or otherwise interfere with investigative or other activities of any agent or officer of the Tribe.

33.11 SEVERABILITY

If any provision of this Code or its application to any person or circumstance is held invalid, the remainder of the Code or application of its provisions to other persons or circumstances shall not be affected, and to this end, the provisions of this Code are severable.

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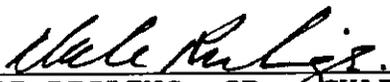
33.12 SOVEREIGN IMMUNITY PRESERVED

Nothing in this Ordinance shall be interpreted as a waiver of the Tribe's sovereign immunity from unconsented lawsuit or as authorization for a claim for monetary damages from the Tribe.

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 (8) members of which eight (8) were present, constituting a quorum, at a Regular Meeting thereof, duly and regularly called, noticed, convened, and held on this twenty-second (22nd) day of July, 1993; that this Ordinance was duly adopted by a vote of seven (7) in favor, none (0) opposed, and none (0) abstaining; and that since its approval this Ordinance has not been rescinded, amended, or modified in any way.

DATED THIS 22ND DAY OF JULY, 1993.



DALE RISLING, SR., CHAIRMAN
HOOPA VALLEY TRIBAL COUNCIL

ATTEST: 

KIM NORTON, EXECUTIVE SECRETARY
HOOPA VALLEY TRIBAL COUNCIL

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Hoopa Valley Tribal Council

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

Dale Risling
Chairman

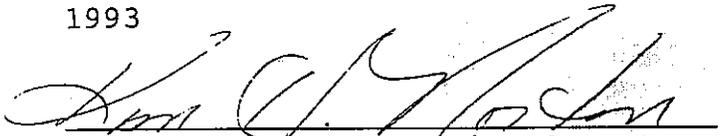
HOOPA VALLEY TRIBE

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

LEGISLATIVE PROCEDURES ACT ROUTING SHEET

- A. PROPOSAL: The Tribal Council would like your comments on the Code for Profession Guides or Packers, to be routed thought LPA.
- B. PROPOSED BY: Hoopa Valley Tribal Council
- C. DEPARTMENTS REQUIRED TO COMMENT: All Departments.
- D. NOTE TO DEPARTMENTS: This proposal has been approved by the Tribal Council, and will take effect immediately. This policy is under the emergency action section of the LPA that was enacted.
- E. SEQUENCE OF EVENTS SHOWING DATES FOR THIS ISSUE.
1. Initial Routing: July 27, 1993
 2. Deadline for Comments: August 27, 1993
 3. Council Approval: September 2, 1993

This notification is pursuant to TRIBAL ORDINANCE NO. 4-89 LEGISLATIVE PROCEDURES ACT. In accordance with Section 6.4, please route your comments, suggestions and recommended amendments to the Executive Secretary on or before August 27, 1993



Kim H. Norton, Executive Secretary
Hoopa Valley Tribal Council