

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

TITLE 48

ORDINANCE NO. 02-98

DATE APPROVED: March 5, 1998

SUBJECT: LAND MANAGEMENT COMMISSION, PLANNING AND ZONING
ORDINANCE OF THE HOOPA VALLEY TRIBE

WHEREAS: The Hoopa Valley Tribal Council is the governing body of the Hoopa Valley Indian Tribe of California pursuant to authority in Article V, Section 1, of the Constitution and Bylaws of the Hoopa Valley Tribe as approved by the Commissioner of Indian Affairs on August 18, 1972 and subsequently confirmed and ratified by the United States Congress on October 31, 1988 (25 U.S.C. § 1300i et seq.);

WHEREAS: The Hoopa Valley Tribal Council is authorized to promulgate and enforce ordinances governing the conduct of members and non-members of the Hoopa Valley Indian Tribe within the exterior boundaries of the Hoopa Valley Indian Reservation pursuant to Article IX of the Constitution and Bylaws of the Hoopa Valley Tribe;

WHEREAS: The Hoopa Valley Tribal Council is authorized to safeguard and promote the peace, safety, morals and general welfare of the Hoopa Valley Indians pursuant to Article IX of the Constitution and Bylaws of the Hoopa Valley Tribe; and

WHEREAS: The Hoopa Valley Tribal Council is authorized to negotiate with the federal, state and local governments on behalf of the Hoopa Valley Tribe pursuant to Article IX of the Constitution and Bylaws of the Hoopa Valley Tribe.

NOW, THEREFORE, BE IT RESOLVED, that the following Ordinance is hereby adopted and shall be effective upon approval by the Hoopa Valley Tribal Council.

ORDINANCE OF THE HOOPA VALLEY TRIBE
LAND MANAGEMENT COMMISSION
DIVISION 1. PLANNING AND ZONING

Article 1. Local Planning

The Hoopa Valley Tribe hereby establishes a planning agency with the powers necessary to carry out the purposes of this title. The Tribal Council further assigns the functions of the planning agency to the Hoopa Land Management Division as the Land Management Commission, the Tribal Council itself, or any combination thereof, as it deems appropriate and necessary. In the absence of an assignment, the Tribal Council shall carry out all the functions of the planning agency.

The Land Management Commission shall report directly to the Hoopa Valley Tribal Council. The Hoopa Valley Tribal Council shall specify the membership of the commission. In any event, the Land Management Commission shall consist of at least five members, all of whom shall act in the public interest. Three members of the Land Management Commission shall be enrolled members of the Hoopa Valley Tribe and two members shall be appointed from the community at large representing the interests of fee land owners within the Hoopa Valley Indian Reservation.

The Hoopa Valley Tribal Council, as the governing body of the Hoopa Valley Indian Tribe, may participate as legislative body, pursuant to the California Government Code under subdivision (b) of Section 65101 on the Humboldt County Association of Governments and for that purpose may enter into a joint powers agreement with the parties thereto and shall be deemed to be a public agency for purposes of Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1. The California legislature finds and declares that the unique circumstances of Humboldt County necessitated this special law. (Added by Stats. 1987, Ch. 73.)

The Hoopa Valley Tribal Council may establish for its planning agency any rules, procedures, or standards which do not conflict with federal laws.

The Land Management Commission shall perform all of the following functions:

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(a) Prepare, periodically review, and revise, as necessary, the land-use plan.

(b) Implement a general plan within one year of its initial establishment through actions including, but not limited to, the administration of specific plans and zoning and subdivision ordinances.

(c) Annually review the capital improvement program of the Tribe and the local public works projects of other local agencies for their consistency with the general plan.

(d) Endeavor to promote public interest in, comment on, and understanding of the general plan, and regulations relating to it.

(e) Consult and advise with public officials and agencies, public utility companies, civic, educational, professional, and other organizations, and citizens generally concerning implementation of the general plan.

(f) Promote the coordination of local plans and programs with the plans and programs of other public agencies.

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(g) Perform other functions as the Hoopa Valley Tribal Council provides, including conducting studies and preparing plans other than those required or authorized by this title.

(h) Advise the Land Management Division in the issuance of land leases pursuant to the Tribal Land Assignment/Lease Ordinance.

The Hoopa Valley Tribal Council shall provide the funds, equipment, and accommodations necessary or appropriate for the work of the planning agency. If the Hoopa Valley Tribal Council establishes any fees to support the work of the planning agency, the fees shall not exceed the reasonable cost of providing the service for which the fee is charged. The Hoopa Valley Tribal Council shall impose the fees pursuant to Tribal policy.

In the performance of their functions, planning agency personnel may enter upon any land and make examinations and surveys, provided that the entries, examinations, and surveys do not interfere with the use of the land by those persons lawfully entitled to the possession thereof.

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Upon request all public officials shall furnish to the planning agency within a reasonable time any available

information as may be required for the work of the planning agency.

Article 2. Authority for and Scope of General Plans

The Land Management Commission shall prepare and the Hoopa Valley Tribal Council shall adopt a comprehensive, long-term general plan for the physical development of the Hoopa Valley Indian Reservation, and of any land outside its boundaries which in the Land Management Commission judgment bears relation to its planning.

In construing the provisions of this article, the Hoopa Valley Tribal Council intends that the general plan and elements and parts thereof comprise an integrated, internally consistent and compatible statement of policies for the adopting agency.

The general plan shall be so prepared that all or individual elements may be adopted by the Hoopa Valley Tribal Council, and so that it may be adopted by the Hoopa Valley Tribal Council for all or part of the territory of the Reservation and such other territory outside its boundaries which in its judgment bears relation to its planning. The general plan may be adopted in any format deemed appropriate or convenient by the Hoopa Valley Tribal Council, including the combining of elements. The Hoopa Valley Tribal Council may adopt all or part of a plan of another Tribal or public agency if the plan of the other Tribal or public agency is sufficiently detailed and its contents are appropriate, as determined by the Hoopa Valley Tribal Council.

(a) The general plan may be adopted as a single document or as a group of documents relating to subjects or geographic segments of the planning area.

(b) The general plan shall address each of the elements specified in this Section to the extent that the subject of the element exists in the planning area. The degree of specificity and level of detail of the discussion of each such element shall reflect local conditions and circumstances. However, this section shall not be construed to expand or limit the authority of the Hoopa Valley Indian Housing Authority to review housing need assessments pursuant to Native American Housing and Self-determination Act of 1996.

The adoption of the general plan or any part or element thereof or the adoption of any amendment to such plan or any

part or element thereof is a legislative act which shall be adopted pursuant to the Legislative Procedures Act.

The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element which designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall identify areas covered by the plan which are subject to flooding and shall be reviewed annually with respect to those areas. The land use element shall designate, in a broad land use category that provides for timber production pursuant to the Forest Management Plan.

(b) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other local public utilities and facilities, all correlated with the land use element of the plan as required by the Intermodal Surface Transportation Efficiency Act (ISTEA).

(c) A housing element as provided in the Native American Housing and Self Determination Act.

(d) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. That portion of the conservation element including waters shall be developed in coordination with The Water Quality Control Plan of the Tribe and any long-range planning documents of the Hoopa Valley Public Utilities District. The conservation element may also cover:

(1) The reclamation of land and waters.

- (2) Prevention and control of the pollution of streams and other waters.
- (3) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.
- (4) Prevention, control, and correction of the erosion of soils, beaches, and shores.
- (5) Protection of watersheds.
- (6) The location, quantity and quality of the rock, sand and gravel resources.
- (7) Flood control.

The conservation element shall be prepared and adopted no later than June 15, 1999.

(e) An open-space element. Open space is used for the managed production of resources, including but not limited to, forest lands, rangeland, agricultural lands and areas of economic importance for the production of food or fiber; areas required for recharge of ground water basins; bays, estuaries, marshes, rivers and streams which are important for the management of commercial fisheries; and areas containing major mineral deposits, including those in short supply.

(f) A noise element which shall identify and appraise noise problems in the community. The noise element shall recognize the guidelines established by the U.S. Department of Housing and Urban Development in the Noise Assessment Guidelines manual and shall analyze and quantify, to the extent practicable, as determined by the Hoopa Valley Tribal Council, current and projected noise levels for all of the following sources:

- (1) Highways and freeways.
- (2) Primary arterials and major local streets.
- (3) Commercial, general aviation, heliport, aircraft overflights, and all other ground facilities and maintenance functions related to the Hoopa airport operation.
- (4) Local industrial plants.
- (5) Other ground stationary noise sources identified by Tribal agencies as contributing to the community noise environment.

Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average level (Ldn). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (5), inclusive.

The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

(g) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence, liquefaction and other seismic hazards, and other geologic hazards known to the Hoopa Valley Tribal Council; flooding; and wildland and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, peakload water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards.

The general plan may include any other elements or address any other subjects which, in the judgment of the Hoopa Valley Tribal Council, relate to the physical development of the Reservation.

Article 3. Preparation, Adoption, and Amendment of the General Plan

The Hoopa Valley Tribal Council shall prepare, adopt, and amend the general plan and elements of the general plan in the manner provided in this article.

During the preparation or amendment of the general plan, the Land Management Commission shall provide opportunities for the involvement of citizens, public agencies, public utility companies, and civic, education, and other community groups, through public hearings and any other means the Tribal Council deems appropriate.

(a) Prior to action by a Hoopa Valley Tribal Council to adopt or substantially amend the general plan, the planning agency shall refer the proposed action to all of the following entities:

(1) Humboldt County, within or abutting the area covered by the proposal, and any special district which may be significantly affected by the proposed action, as determined by the Land Management Commission.

(2) The Klamath Trinity Joint Unified School District within the area covered by the proposed action.

(3) The Local Agency Formation Commission (LAFCO).

(4) Any areawide planning agency whose operations may be significantly affected by the proposed action, as determined by the Land Management Commission.

(5) Any federal agency if its operations or lands within its jurisdiction may be significantly affected by the proposed action, as determined by the Land Management Commission.

(6) The Hoopa Valley Public Utilities District.

(7) Hoopa Air Quality Management District for a proposed action within the boundaries of the district.

(b) Each entity receiving a proposed general plan or amendment of a general plan pursuant to this section shall have 45 days from the date the referring agency mails it or delivers it in which to comment unless a longer period is specified by the planning agency.

The Hoopa Valley Tribal Council finds and declares that it is vital that there be close coordination and consultation between the Hoopa Valley Public Utilities District to ensure that proper water supply planning occurs in order to accommodate projects that will result in increased demands on water supplies. It is, therefore, the intent of the Hoopa Valley Tribal Council to provide a standardized

process for determining the adequacy of existing and planned future demands on these water supplies.

Upon receiving notification of the Tribe's proposed action to adopt or substantially amend the general plan, the Hoopa Valley Public Utilities District shall provide the Land Management Commission with the following information, as is appropriate and relevant:

(1) A description of the source or sources of the total water supply currently available to HVPUD by water right or contract, taking into account historical data concerning wet, normal, and dry runoff years.

(2) A description of the quantity of surface water that was purveyed by the HVPUD in each of the previous five years.

(3) A description of the quantity of groundwater that was purveyed by the HVPUD in each of the previous five years.

(4) A description of all proposed additional sources of water supplies for the HVPUD, including the estimated dates by which these additional sources should be available and the quantities of additional water supplies that are being proposed.

(5) A description of the total number of customers currently served by the HVPUD, as identified by the following categories and by the amount of water served to each category:

(A) Agricultural users.

(B) Commercial users.

(C) Industrial users.

(D) Residential users.

(6) Quantification of the expected reduction in total water demand, identified by each customer category associated with future implementation of water use reduction measures identified in HVPUD's water management plan.

(7) Any additional information that is relevant to determining the adequacy of existing and planned future water supplies to meet existing and planned future demands on these water supplies.

The Land Management Commission shall make a written recommendation on the adoption or amendment of the general plan. A recommendation for approval shall be made by the affirmative vote of not less than a majority of the total

membership of the commission. The Land Management Commission shall send its recommendation to the Hoopa Valley Tribal Council.

The Hoopa Valley Tribal Council shall adopt or amend the general plan by resolution, which resolution shall be adopted by the affirmative vote of not less than a majority of the total membership of the Hoopa Valley Tribal Council. The Hoopa Valley Tribal Council may approve, modify, or disapprove the recommendation of the Land Management Commission, if any. However, any substantial modification proposed by the Hoopa Valley Tribal Council not previously considered by the commission during its hearings, shall first be referred to the Land Management Commission for its recommendation. The failure of the commission to report within 45 calendar days after the reference, or within the time set by the Hoopa Valley Tribal Council, shall be deemed a recommendation for approval.

A copy of the adopted general plan or amendment to the general plan shall be sent to all Tribal entities and any other public entities that submitted comments on the proposed general plan or amendment to the general plan during its preparation. Failure to send the adopted general plan or amendment as provided in this section shall not affect its validity in any manner.

Copies of the documents adopting or amending the general plan, including the diagrams and text, shall be made available to the general public as follows:

(a) Within one working day following the date of adoption, the Executive Secretary of the Hoopa Valley Tribal Council shall make the documents adopting or amending the plan, including the diagrams and text, available to the public for inspection.

(b) Within two working days after receipt of a request for a copy of the documents adopting or amending the plan, including the diagrams and text, accompanied by payment for the reasonable cost of copying, the Executive Secretary shall furnish the requested copy to the person making the request.

If it deems it to be in the public interest, the Hoopa Valley Tribal Council may amend all or part of the adopted general plan. An amendment to the general plan shall be

initiated in the manner specified by the Hoopa Valley Tribal Council. Notwithstanding the Legislative Procedures Act, the Hoopa Valley Tribal Council may permit persons to request an amendment of the general plan and may require that an amount equal to the estimated cost of preparing the amendment be deposited with the Land Management Commission prior to the preparation of the amendment.

(b) Except as otherwise provided in subdivision (c), no mandatory element of the general plan shall be amended more frequently than four times during any calendar year. Subject to that limitation, an amendment may be made at any time, as determined by the Hoopa Valley Tribal Council. Each amendment may include more than one change to the general plan.

(c) The limitation on the frequency of amendments to a general plan contained in subdivision (b) does not apply to amendments of the general plan requested and necessary for a single development of residential units, at least 25 percent of which will be occupied by or available to persons and families of low or moderate income, as defined by the U.S. Department of Housing and Urban Development. The specified percentage of low- or moderate-income housing may be developed on the same site as the other residential units proposed for development, or on another site or sites encompassed by the general plan, in which case the combined total number of residential units shall be considered a single development proposal for purposes of this section.

Article 4. Administration of General Plan

After the Hoopa Valley Tribal Council has adopted all or part of a general plan, the Land Management Commission shall do both of the following:

(a) Investigate and make recommendations to the Hoopa Valley Tribal Council regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of Tribal funds relating to the subjects addressed in the general plan.

(b) Provide an annual report to the Hoopa Valley Tribal Council on the status of the plan and progress in its implementation, including the progress in meeting its share of housing needs determined pursuant to the Native American Housing and Self Determination Act.

Article 5. Open-Space Lands

Open space is for the preservation of natural resources including, but not limited to, areas required for the preservation of plant and animal life, including habitat for fish and wildlife species; areas required for ecologic and other scientific study purposes; rivers, streams, bays and estuaries; and coastal beaches, lakeshores, banks of rivers and streams, and watershed lands.

Open space is used for the managed production of resources, including but not limited to, forest lands, rangeland, agricultural lands and areas of economic importance for the production of food or fiber; areas required for recharge of ground water basins; bays, estuaries, marshes, rivers and streams which are important for the management of commercial fisheries; and areas containing major mineral deposits, including those in short supply.

Open space used for outdoor recreation, including but not limited to, areas of outstanding scenic, historic and cultural value; areas particularly suited for park and recreation purposes, including access to lakeshores, beaches, and rivers and streams; and areas which serve as links between major recreation and open-space reservations, including utility easements, banks of rivers and streams, trails, and scenic highway corridors.

Open space is also used for public health and safety, including, but not limited to, areas which require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, flood plains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs and areas required for the protection and enhancement of air quality.

The Hoopa Valley Tribal Council finds and declares as follows:

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(a) That the preservation of open-space land, as defined in this article, is necessary not only for the maintenance of the economy of the Reservation, but also for the assurance of the continued availability of land for the production of food and fiber, for the enjoyment of scenic beauty, for recreation and for the use of natural resources.

(b) That discouraging premature and unnecessary conversion of open-space land to urban uses is a matter of public interest and will be of benefit to urban dwellers because it will discourage non-contiguous development patterns which unnecessarily increase the costs of community services to community residents.

(c) That the anticipated increase in the population of the Reservation demands that at the earliest possible date the Tribe will make definite plans for the preservation of valuable open-space land and take positive action to carry out such plans by the adoption and strict administration of laws, ordinances, rules and regulations as authorized by this chapter or by other appropriate methods.

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(d) That in order to assure that the interests of all its people are met in the orderly growth and development of the Reservation and the preservation and conservation of its resources, it is necessary to provide for the development by the Tribe plans for the conservation and preservation of open-space lands.

(e) That for these reasons this article is necessary for the promotion of the general welfare and for the protection of the public interest in open-space land.

It is the intent of the Hoopa Valley Tribal Council in enacting this article:

(a) To assure that Reservation residents recognize that open-space land is a limited and valuable resource which must be conserved wherever possible.

(b) To assure that every Tribal or public agency will accomplish the objectives of a comprehensive open-space program.

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Article 6. Housing Elements

The Hoopa Valley Tribal Council finds and declares as follows:

(a) The availability of housing is of vital importance, and the early attainment of decent housing and a suitable living environment for every Reservation family is a priority of the highest order.

(b) The early attainment of this goal requires the cooperative participation of government and the private sector in an effort to expand housing opportunities and accommodate the housing needs of residents of all economic levels.

(c) The provision of housing affordable to low-and moderate-income households requires the cooperation of all levels of government.

(d) The Hoopa Tribal government has a responsibility to use the powers vested in them to facilitate the improvement and development of housing to make adequate provision for the housing needs of all economic segments of the community.

The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include the following:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the

relationship of zoning and public facilities and services to these sites.

(4) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures.

(5) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(6) An analysis of any special housing needs, such as ~~those of the~~ handicapped, elderly, large families, families with female heads of households, and families and persons in need of emergency shelter.

(7) An analysis of opportunities for energy conservation with respect to residential development.

(8) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use.

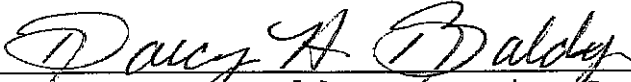
CERTIFICATION

I, the undersigned, as Chairman of the Hoopa Valley Tribal Council do certify that the Hoopa Valley Tribal Council is composed of eight (8) members of which six (6) members were present, constituting a quorum, at a regular meeting thereof; duly and regularly called, noticed, convened and held this 5th day of March, 1998; and that this Ordinance was adopted by a vote of five (5) for, 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 FIFTH DAY OF MARCH 1998.



Merv George, Jr., Chairman
Hoopa Valley Tribal Council



ATTÉST: Darcy Baldy, Executive Secretary
Hoopa Valley Tribal Council