

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

ORDINANCE NO: 03-98

DATE APPROVED: June 8, 1998

SUBJECT: APPROVAL OF THE TRIBAL COMPREHENSIVE BUSINESS POLICY CODE, TITLE 50 OF THE HOOPA TRIBAL CODE.

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, ratified by Act of Congress on October 31, 1988, 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: Article IX of the Constitution authorizes the Hoopa Valley Tribal Council to promulgate and enforce ordinances to regulate the conduct of commerce within the Tribe's jurisdiction, and

WHEREAS: The Tribal Council has identified business development and job creation as major goals for the Tribe, and that said goals are consistent with the Tribe's priorities of maintaining a strong, self-governing and stable society.

NOW THEREFORE BE IT RESOLVED: The Hoopa Valley Tribal Council hereby enacts the Tribal Comprehensive Business Policy Code as Title 50 of the Hoopa Tribal Code.

TITLE 50 - TRIBAL COMPREHENSIVE BUSINESS POLICY CODE
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TITLE 50 - TRIBAL COMPREHENSIVE BUSINESS POLICY CODE

50.101. Short Title.

The short title of this Code shall be the Tribal Comprehensive Business Policy Code of the Hoopa Valley Tribe.

50.102. Definitions.

As used in Titles 50-60, unless intended otherwise by the context used, the following means:

- (1) "Jurisdiction" means the jurisdiction of the Hoopa Valley Tribe, whether within or without the exterior boundaries of the Reservation.
- (2) "Reservation" means the Hoopa Valley Indian Reservation, as presently and hereafter constituted.
- (3) "Tribe" means the Hoopa Valley Tribe.
- (4) "Tribal Comprehensive Business Codes" means Title 50-60 of the Tribal Code.
- (5) "Tribal Council" means the Hoopa Valley Tribal Council
- (6) "Tribal Court" means the Hoopa Tribal Court.
- (7) "Tribal Constitution" means the Constitution and Bylaws of the Hoopa Valley Tribe, and any amendments thereof.
- (8) "Tribal law" means the Tribal Constitution and all laws now or hereafter duly enacted by the Tribal Council.

50.103. Purpose and Construction.

- (a) The purpose of the Tribal Comprehensive Business Codes are to establish the policy framework through which the Tribe, its entities, private businesses and individuals may conduct business activities within the territorial and governmental jurisdiction of the Tribe. The policies set forth in this Code shall apply to each of the Codes contained in Titles 50-60 of the Hoopa Tribal Code. The provisions of this Code shall be liberally construed and applied to promote its underlying purposes and policies.
- (b) Individual Titles of the Tribal Comprehensive Business Codes apply individually and collectively to Titles 50-60.
- (c) The Tribal Court has jurisdiction to adjudicate matters arising from the Tribal Comprehensive Business Codes.

50.104. Tribal and Private Sector Business Policy.

The Tribe recognizes that a strong Reservation economy must include both tribal and private sector development. It is the policy of the Tribal Council to promote both tribal and private sector development within the exterior boundaries of the Reservation and elsewhere within the jurisdiction of the Tribe. It shall be the policy of the Tribe to interpret laws, policies, regulations, procedures, etc., in a manner that facilitates the development and promotion of businesses on the Reservation to the greatest commercial potential possible.

50.105. Employment In Lieu of Tax Policy.

- (a) It is the policy of the Tribe to facilitate and enhance job stability, career opportunities and use of inherent Tribal powers to create and maintain a sound business environment within the Tribe's jurisdiction. Consistent with these goals, it is the policy of the Tribe to promote the least restrictive and most cost effective business environment within which a business environment can be promoted. As part of this policy, the Tribe hereby establishes an "employment in lieu of tax" policy for businesses operating pursuant to the authority prescribes in the Tribal Comprehensive Business Codes.
- (b) The policy contained in 50.105(a) is intended to stimulate and promote local employment and business opportunities. While it is anticipated that local business development will generate the need to improve services, facilities and infrastructure to support business and employment opportunities, consistent with the policy of employment in lieu of tax, the Tribal Council will conduct direct and open discussions with businesses within the Tribe's jurisdiction

to address community and governmental infrastructure needs and will strive to develop alternative methods for addressing infrastructure needs in lieu of imposing taxes on businesses.

50.106. Private Business Non-Interference Policy.

- (c) It is the policy of the Tribal Council that, to the greatest extent feasible, and without waiving authorities over such business activities, the Hoopa Tribal Government, its entities and its employees, while conducting affairs under the authorities of such offices shall not knowingly and unnecessarily interfere, obstruct, hinder, nor negatively impact private sector business(es) being properly and lawfully carried out in accordance with the provisions of the Tribal Comprehensive Business Codes, without first determining that the Tribe has an overriding interest in doing so.
- (d) It is the policy that the Tribe will not knowingly and unnecessarily create unfair business practices or unfair competition, nor interfere, obstruct, hinder or negatively impact, any private sector business that generates less than one-hundred thousand dollars (\$100,000.00) in net profits, as determined by the financial statements of such business, without first demonstrating that the Tribe has an overriding tribal interest in doing so.
 - (1) For the purposes of 50.106(b), unfair business practices means taking governmental actions that create difficulties or burdens on private sector businesses, enact additional regulatory or administrative requirements, or cause additional costs to be incurred, without first demonstrating that the Tribe has an overriding interest in doing so.
 - (2) For the purpose of 50.196(b), unfair competition means taking governmental action that favors one business over another, or that results in the Tribe creating governmental entities that unfairly compete against private sector business(es) without first demonstrating that the Tribe has an overriding interest in doing so.
- (c) Nothing in this section shall be construed as creating a financial claim against the Tribe, the Tribal Council, or its officers and employees.

50.107. Use of Tribal Lands and Resources to Promote Business.

- (a) It is the policy of the Tribe to allow the use of tribal land, natural and financial resources and opportunities for the promotion of economic benefits to create jobs, expand

business opportunities and secure business independence in order to achieve the goals prescribed in this Code, consistent with applicable regulations and statutes.

- (b) Under the policy prescribed in 50.107(a), the Tribal Council may entertain proposals from private sector business interests for privatizing Tribal Governmental activities. If approved, the Tribal Council will enter into a contractual agreement with such business interests for carrying out such contracted services.
- (c) For grant and other programs for which the Tribe is eligible, and that the Tribe or any of its departments does not express an interest in applying for, the Tribe hereby authorizes businesses operating pursuant to the Tribe's Comprehensive Business Codes to apply for and operate such programs within the Tribe's jurisdiction.

50.108. Not a Waiver of Authority or Jurisdiction.

Nothing in this Code shall be construed as a waiver by the Tribe of its authority or jurisdiction over businesses operating within its jurisdiction.

50.109. Local Purchasing Policy.

It is the policy that Hoopa Tribal Governmental purchasing power generated by both tribal and other funds be used to support local businesses and that every effort be made by Tribal departments to purchase from local vendors and businesses. When comparing the cost for non-local purchases, all costs associated with a non-local purchase are to be taken into consideration, including mileage, wages, per diem, taxes and freight. In addition, written documentation must be submitted along with a request for non-local purchases which explain why it is not feasible to make such purchase(s) locally. In implementing this policy, non-local purchases may be authorized under the following situations:

- (a) Urgent Need for Services of Goods. The need for the services or goods is so urgent that time will not permit the purchase from a local vendor or business.
- (b) One-Source Availability/Not Available Locally. The goods or services to be procured, or a like equal, are not available from a local vendor or business.
- (c) Intertwined Segments. When segments of goods or services are so intertwined that it is impossible to accomplish the objectives if all or parts of the segments were to be procured locally.

- (d) Prior Approval. The contemplated purchase received prior approval for a non-local purchase.

50.110. Department of Commerce Business Tax.

There is hereby enacted a one percent (1%) business tax on gross revenues for all business operating under the authority of this Code, except Tribal Entities operating pursuant to Title 52, for the purpose of maintaining the Tribal Department of Commerce (Department). The Department shall submit to the Tribal Council an annual plan which includes a budget, goals, staffing plan, and other requirements, for the Department's operations. The Department's annual plan will be incorporated into the Tribe's annual overall budget.

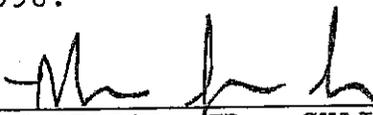
50.111. Severability.

In the event that any provision of this Code shall be found or declared to be invalid, the remaining provisions of this Code shall be unaffected thereby, and shall remain in full force and effect.

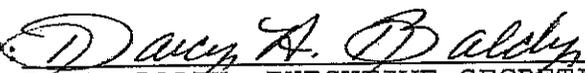
* C E R T I F I C A T I O N

I, the undersigned, as Chairman of the Hoopa Valley Tribal Council do hereby certify that the Hoopa Valley Tribal Council, composed of eight members, of which five were present constituting a quorum at a regular meeting thereof; duly and regularly called, noticed, and convened, and held this eighth day of June, 1998; and that this Ordinance was duly adopted by a vote of four for and none against, and that said Ordinance has not been rescinded or amended in any way.

DATED THIS EIGHTH DAY OF JUNE, 1998.


MERV GEORGE, JR., CHAIRMAN
HOOPA VALLEY TRIBAL COUNCIL

ATTEST:


DARCY BALDY, EXECUTIVE SECRETARY
HOOPA VALLEY TRIBAL COUNCIL