CONSTITUTION AND BY LAWS

OF THE
HOOPA VALLEY TRIBE
HOOPA VALLEY INDIAN RESERVATION

(Amended June 19, 2012)

PREAMBLE

We, the members of the Hoopa Valley Tribe in California, in order to exercise our tribal rights and promote our common welfare do hereby ordain and establish this Constitution and Bylaws.

ARTICLE I – PURPOSE

The purpose of this Constitution and Bylaws shall be to protect and promote the interests of the Hoopa Valley Indians, to develop cooperative relations with the agencies of the Federal Government and to cooperate with State and local governments. Upon its effective date this revised Constitution and Bylaws shall supersede the Tribe's initial governing document, approved September 4, 1952. All existing ordinances, resolutions or any other enactment or policies of the Tribe, which are not in conflict with the provisions of this revised constitution and bylaws shall remain in effect.

ARTICLE II – NAME

The Tribal organization shall be called "The Hoopa Valley Tribe."

ARTICLE III – TERRITORY

The jurisdiction of the Hoopa Valley Tribe shall extend to all lands within the confines of the Hoopa Valley Indian Reservation boundaries as established by Executive Order of June 23, 1876, and to such other lands as may hereafter be acquired by or for the Hoopa Valley Indians.

ARTICLE IV – MEMBERSHIP

Section 1. The membership of the Hoopa Valley Tribe shall consist as follows:

(a) All persons of Hoopa Indian blood whose names appear on the official roll of the Hoopa Valley Tribe as of October 1, 1949; provided that corrections may be made in the said roll by the Tribal Council within five years from the adoption and approval of this Constitution, subject to the approval of the Secretary of Interior or his authorized representative.

(b) All children, born to members of the Hoopa Valley Tribe, who are at one-eighth (1/8) Indian blood. Degree or quantum of blood to be determined by adding one-half (1/2) the degree of Indian blood of each parent as shown on the approved Roll Schedules of the Hoopa Valley Tribe; provided that, if a parent in not enrolled in the Hoopa Valley Tribe, calculation of degree or quantum of blood shall include Indian blood derived from the parent's lineal ancestor(s) as shown on the approved Roll Schedules of the Hoopa Valley Tribe.

Section 2. The Tribal Council shall have the power to make rules governing the adoption of new members or the termination of membership in the Tribe.

Section 3. ENROLLMENT ORDINANCE. The Tribal Council shall draft an ordinance setting forth the procedures governing tribal membership in accordance with this article. This ordinance shall be submitted to a referendum within one year from the effective date of this revised constitution and bylaws and shall be in effect only when ratified by the tribal referendum and approved by the Commissioner of Indian Affairs. Changes to such ordinance shall require a further vote by the Tribe's general membership and approval by the Commissioner.

ARTICLE V – GOVERNING BODY

Section 1. Name. The governing body of the Hoopa Valley Tribe shall be a council known as the Hoopa Valley Tribal Council.

Section 2. COMPOSITION. The Council shall consist of a chairman, and seven (7) other members. A vice-chairman shall be elected by the Council from within its own membership. A secretary, treasurer, and such other employees, committees as are deemed necessary shall be either appointed or employed by the Council from the outside the membership of the Council.

Section 3. DISTRICTS. The Tribal Council and (7) other Council members shall be elected at large as hereinafter specified in Article VI. The Chairman shall represent the membership as a whole and one Councilman shall be elected to represent each of the following districts:

1. Hostler – Matilton
2. Soctish – Chenone
3. Agency
4. Norton
5. Campbell
6. Bald Hill
7. Mesket

ARTICLE VI – NOMINATIONS AND ELECTIONS

Section 1. Starting with the June 1972 election the Chairman shall be elected for a term of 2 years. The other Tribal Council members shall be elected for terms of two years which shall be staggered. At the June 1973 election four Council members shall be elected to fill the positions on the present Council which are presently due to expire in June 1973. Three Councilmembers shall be elected in 1974 to fill the Council positions on the Council which expire in June 1974. All Councilmembers including those presently serving shall remain in office until their successors are duly elected and installed in office.

Section 2. ELECTION DAY: An election shall be held on the third Tuesday of June of each year. In the event a holiday falls on that date, or for some other reason it is not advisable to hold the election at the specified time, the election board shall designate an alternate time to conduct the election no later than the last day of June.

Section 3. ELECTION BOARD: The membership shall elect an election board composed of 5 members which shall enact an ordinance as set forth in Section 4. The terms shall expire as follows: one in one year, two in two years, two in three years and their successor shall serve three year terms.

(a) The membership shall also elect five "alternate" election board members. The terms of office, qualifications and election process shall be the same as for the election board, except the alternate board shall be elected from among candidates running for seats as alternate election board members. In the first election for alternate election board members, the terms shall expire as follows: one in one year, two in two years, two in three years and their successors shall serve three year terms. In the first election candidate terms shall correspond to votes, with the candidates receiving the highest number of votes serving the longest terms and the candidate receiving the lowest number of votes serving a one year term. Vacancies on the election board shall be filled from among elected alternates with the candidates receiving the highest number of votes serving as the first alternate and the candidate receiving the lowest number of votes serving as the fifth alternate.

(b) The election board shall be responsible for screening candidates calling and conducting elections, settling any election disputes, certifying election results and installing successful candidates. The election board chairman shall administer oaths of office. The board shall establish its own rules of procedure. Members of the board shall receive fair payment to be set by the Council for the performance of their duties. The board may levy and collect filing fees from candidates to help defray costs of elections. It may also require that a fee accompany protests of elections for Tribal Council members to help defray any costs of recounts or such actions as the protest may require. Such fee may be refunded if the aggrieved party's protest is sustained. Members of the board shall be subject to the recall provisions of Article VII, Section 3.

Section 4. ELECTION ORDINANCE: The election board shall enact an ordinance governing elections and setting forth the procedures to be followed in conducting each of the various types of elections. Such ordinance shall include provisions for secret ballots, absentee voting, registration of voters, screening of candidates, and settling election disputes. A separate section of the ordinance shall spell out the procedure and format to be used whenever it is necessary to submit petitions for any purpose to the Tribal Council or any office or board of the Tribe. Whenever practical such ordinance shall include provisions of the State or local election regulations. The ordinance shall also include provisions for run-off elections in case of tie votes.

Section 5. NOMINATION PROCEDURES: Candidates shall file for a specific position by submitting to the election board a nominating petition signed by not less than five (5) registered voters. A voter may sign only one petition. Petitions for nomination shall be filed with the clerk of the election board at least forty-five (45) days prior to the election in which the candidate intends to compete.

It shall be the duty of the election board to screen all candidates and post in public places on the reservation the names of all candidates who have met the above qualifications and the position for which they have filed. Such lists shall be posted at least forty (40) days prior to the election. Copies of the sample ballot shall be mailed to all registered voters.

Section 6. QUALIFICATIONS OF CANDIDATES: Any member of the Tribe may announce his or her candidacy for a specific position of the Tribal Council provided the following qualifications are met:

(a) Must be at least twenty-one (21) years of age by the date of the election in which he desires to compete.

(b) Must physically reside within the area shown by a circle drawn on a map representing a one hundred (100) mile radius from the tribal office building while in office. Failure to maintain a residence within this area shall be grounds for removal from office.

(c) Must not have been convicted of a felony or misdemeanor involving moral turpitude such as, but not limited to, fraud, embezzlement, theft. Provided, that person who have completed their sentence for such conviction at least ten (10) years prior to the date of the election in which the intend to run for office, may file as candidates.

(d) Must not have been found liable for a civil judgment issued by any court of competent jurisdiction for conduct, while an officer or employee of the Hoopa Valley Tribe, involving fraud, misappropriation, unauthorized use, theft, or conversion of tribal funds, assets, or property. Provided, that persons who have fully satisfied any such judgment at least ten (10) years prior to the date of the election in which they intend to run for office, may file as candidates.

(e) Must be bondable.

(f) Each prospective candidate must disclose to the election board any personal, financial and business interests that may create a conflict if that person is elected. Once elected each Council member shall report to the Tribal Council and election board any situation that may create a conflict while in office.

Section 7. QUALIFICATIONS OF VOTER: Any member of the Tribe who will be at least eighteen (18) years of age on election day shall be eligible to vote, provided he has duly registered.

Section 8. ABSENTEE BALLOTS: Absentee ballots shall be provided upon request to all non-resident registered voters and other registered voters who advise the election board that they will be away from the reservation on election day.

Section 9. OATH OF OFFICE: Each successful candidate elected to the Tribal Council shall take an oath of office prior to assuming the duties of such position, by which oath he shall pledge himself to support and defend the Tribe's constitution and bylaws. The following form of oath of office shall be administered by the chairman of the election board:

> I _____, do solemnly swear (or affirm) that I will carry out faithfully and impartially the duties of my office to the best of my ability, that I will promote and protect the best interest of my Tribe, in accordance with its constitution and bylaws.

Section 10. INSTALLATION: Successful candidate shall be installed in office within ten (10) days after the general election following certification of election results. Installation of any candidate for a particular position may be postponed, however, until such time as there is a determination of any dispute or election for that position.

Section 11. JUDICIAL REVIEW: The Hoopa Valley Tribal Court shall have limited judicial review authority over Election Board actions as follows:

a) To the extent practicable, the Court shall defer to the decisions of the Election Board as to both questions of law and fact. As necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an Election Board action. The reviewing court shall—
(1) compel Election Board action unlawfully withheld or unreasonably delayed; and
(2) issue declaratory judgments or otherwise hold unlawful and set aside Election Board action, findings, and conclusions found to be—
(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
(B) unsupported by substantial evidence in a case reviewed on the record of an Election Board hearing. The record shall consist of a recording of testimony and exhibits, together with all papers and requests filed in the Board proceeding. This shall constitute the exclusive record for decision. The Board may impose reasonable fees for preparation of the record.

b) Any court proceeding involving an election in progress must occur on an expedited basis, in accordance with time frames set forth in the Election Ordinance.

ARTICLE VII – VACANCIES, REMOVAL, RECALL AND REFERENDUM

Section 1. If any member of the Tribal Council or other elected official shall die, resign, be removed from office or shall be found guilty while in office of a felony or misdemeanor involving moral turpitude in any Indian, State or Federal court, or if he shall miss three (3) consecutive regularly scheduled meetings of the Council without being excused by that body, the Council shall declare that position vacant. If more than six (6) months remains in the term of the position the election board shall conduct a special election of the voting membership for the purpose of filling the vacancy. If less than six (6) months remains in the unexpired term, the Council shall appoint a representative to serve the remainder of the unexpired term.

Section 2. REMOVAL: The Tribal Council may by five (5) affirmative votes, expel any member for neglect of duty or gross misconduct. Before any vote for expulsion is taken on the matter, such member or official shall be provided a written statement of the charges against him at least five (5) days before the meeting of the Tribal Council before which he is to appear, and an opportunity to answer any and all charges at such designated Council meeting. The decision of the Tribal Council shall be final.

Section 3. RECALL: Upon receipt of a petition signed by one-third (1/3) of the number of voters, who were registered to vote in the last election, calling for the recall of any member of the Council or election board, it shall be the duty of the election board to call and conduct within forty-five (45) days an election on such recall. Recall shall be effective only if a majority of the Tribe's registered voters shall vote in favor of such recall. Once a member has faced a recall attempt, no further recall action may be brought against him until at least one (1) year has passed. No member of the Council shall be subject to recall action within the first six (6) months of his term.

Section 4. REFERENDUM: Upon receipt of a petition signed by one-third (1/3) of the voters who participated in the last election or upon receipt of a resolution of the Council, the election board shall call and conduct within forty-five (45) days an election on any enacted or proposed enactment of the Council, or any proposal initiated by the voters. Should that measure fail, it cannot be reconsidered until at least one (1) year has passed. Should it pass, the Council is bound by that decision. Any ordinance submitted to referendum for ratification can only be amended by like action.

ARTICLE VIII – RIGHTS OF MEMBERS

Section 1. The Hoopa Valley Tribe, in exercising its powers of self-government, shall not:

(a) Make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances;

(b) Violate the right of the people to be secure in their persons, houses, papers and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;

(c) Subject any person for the same offense to be twice put in jeopardy;

(d) Compel any person in any criminal case to be a witness against himself;

(e) Take any private property for public use without just compensation.

(f) Deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense;

(g) Require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of one (1) year or a fine of five thousand dollars ($5,000) or both unless greater penalty or punishment is permitted by federal law;

(h) Deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;

(i) Pass any bill of attainder or ex post facto law; or

(j) Deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six (6) persons.

ARTICLE IX – POWERS AND DUTIES OF TRIBAL COUNCIL

Section 1. The Tribal Council shall have the following powers subject to any limitations imposed by the federal statutes or by the Constitution of the United States.

(a) To administer all tribal property. Toward this end a land assignment ordinance shall be submitted for ratification to a referendum vote within one year of the effective date of this revised constitution and bylaws.

(b) To borrow money from the Indian credit fund or from any other federal or state agency, and to pledge or assign future tribal income as security for such loans.

(c) To collect and expend any Hoopa Valley Tribal funds within the exclusive control of the Tribe and to recommend the expenditure of any other Tribal funds.

(d) To purchase in the name of the Hoopa Valley Tribe any land or other property the Council may deem beneficial to said Hoopa Valley Indians.

(e) To enforce the protection of Tribal property, wildlife and natural resources of the Hoopa Valley Tribe in accordance with a conservation ordinance which shall be enacted within one year from the effective date of this revised constitution.

(f) (1) To provide assessments or license fees upon non-members doing business or obtaining special privileges within the reservation, subject to the approval of the Commissioner of Indian Affairs or his authorized representative.

(2) To promulgate and enforce assessments or license fees upon member exercising special privileges or profiting from the general resources of the reservation.

(g) To negotiate with the federal, state and local governments on behalf of the Tribe.

(h) To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Commissioner of Indian Affairs.

(i) To prevent the sale, disposition, lease or encumbrance of Tribal lands, interests in lands or other Tribal assets.

(j) To exclude from the restricted land of the Hoopa Valley Indian persons not legally entitled to reside therein, under ordinances which shall be subject to the approval of the Commissioner of Indian Affairs or his authorized representative.

(k) To promulgate and enforce ordinances governing the conduct of members and nonmembers of the Hoopa Valley Indian Tribe.

(l) To safeguard and promote the peace, safety, morals and general welfare of the Hoopa Valley Indians by regulating the conduct of trade and the use and disposition of property upon the reservation, provided that any ordinance directly affecting non-members of the Hoopa Valley Tribe shall be subject to the approval of the Commissioner of Indian Affairs or his authorized representative.

(m) To confer with Commissioner of Indian Affairs and heads of other Federal agencies, regarding all appropriation estimates and budgets for the benefit of the Tribe prior to their submission to the Office of Management and Budget and Congress.

(n) To establish a tribal court through the necessary ordinances and resolutions.

(o) To establish a Housing Authority.

(p) To create subordinate bodies for the operation of economic enterprises to benefit the Tribe.

(q) To negotiate and conclude contracts for economic purposes except where Tribal assets are involved outside of the approved annual budget, in excess of $100,000, during any budget and year. Contracts in excess of such amount shall be submitted to the Tribal membership for approval by referendum vote.

Section 2. Any rights and powers heretofore vested in the Hoopa Valley Tribe but not express referred to in this constitution shall not be abridged, but may be exercised by the members of the Hoopa Valley Tribe through the adoption of appropriate amendments to this Constitution and Bylaws.

ARTICLE X – AMENDMENTS

Amendments to this Constitution and Bylaws may be proposed by either the following documents being submitted to the Tribal Election Board along with the desire modification:

(a) A resolution in which at least six (6) of the Tribal Council members have voted in favor of the proposal.

(b) A petition signed by at least twenty percent (20%) of the Tribe's registered voters.

Upon receipt of the resolution provided for in (a) above or a valid petition referred to in (b) above, the Election Board shall call and conduct a special amendment in accordance with this Article and provisions set forth the Tribal Election Ordinance. The specific language which will become part of the Constitution and Bylaws, if such amendment is adopted and approved, shall appear on the ballot including language changes of any other parts of the governing document that will be affected by such modification. If at such election the proposed amendment is adopted by a majority of those voting in the election and if at least thirty percent (30%) of the registered voters shall vote, that amendment shall be submitted to the Commissioner of Indian Affairs and if approved by him, shall thereupon take effect.

BYLAWS OF THE HOOPA VALLEY TRIBE

ARTICLE XI – TRIBAL COUNCIL

Section 1. CHAIRMAN: The Chairman shall preside over all meeting of the Tribal Council and of the Tribe's general membership. He shall perform all duties of the Chairman and exercise any authority delegated to him by the Tribal Council. The specific duties and responsibilities of the Chairman and other members of the Tribal Council shall be spelled out in appropriate ordinance of the Tribal Council. The Chairman shall vote only in case of a tie.

Section 2. VICE-CHAIRMAN: The Vice-Chairman shall assist the Chairman when called upon to do so. In the absence of the Chairman, he shall preside, and when so presiding shall have all the rights, privileges and duties, as well as the responsibilities of the Chairman.

Section 3. SECRETARY: The Secretary shall conduct all correspondence and keep a complete and accurate record of all matters transacted at Council and Committee meetings. It shall be his duty to submit promptly to the Superintendent of the Hoopa Agency, copies of all minutes of regular and special meetings of the Tribal Council and Tribe's general membership. Other duties shall be spelled out in a job description.

Section 4. TREASURER: The Treasurer shall be the custodian of all monies which may come into the control of the Tribal Council. He shall pay out money in accordance with ordinances and resolutions of the Tribal Council. He shall keep an account of all receipts and disbursements, and shall report same to the Tribal Council monthly. He shall be bonded in such an amount as the Tribal Council may by resolution provide, approved by the Commissioner of Indian Affairs. The books of the Council Treasurer shall be subject to audit or inspection at the direction of the Tribal Council or the Commissioner of Indian Affairs.

The Hoopa Agency of the Bureau of Indian Affairs shall be responsible for the custody and disbursement of Tribal funds in the event the Treasurer does not possess an adequate bond. The Treasurer shall perform other duties as assigned in accordance with the ordinance mentioned in Section 1 of this Article.

Section 5. APPOINTIVE OFFICERS: The duties of all committees and officers appointed by the Tribal Council shall be clearly defined by resolution of the Tribal Council at the time of their creation or appointment. Such committees or officers shall report from time to time, as required, to the Tribal Council, and their activities and decision shall be subject to review by the Tribal Council upon the petition of any person aggrieved.

ARTICLE XII – TIME AND PLACE OF MEETINGS AND PROCEDURE

Section 1. Regular meetings of the Tribal Council shall be held on the first and third Thursday of each month in a hall designated by the Tribal Council. Special meetings may be called by written notice signed by the Chairman and shall be called by him upon receipt of a petition signed by at least five (5) Council members, and when so called, the Tribal Council shall have power to transact business as in regular meetings.

General Council meetings shall be called in like manner upon ten (10) days' notice.

Section 2. QUORUM: No business shall be transacted unless a quorum is present. A quorum shall consist of any five (5) of the eight (8) Council members.

Section 3. ORDER OF BUSINESS: The following order of business is established for all meetings but may be changed if deemed necessary:

(a) Call to Order by Chairman
(b) Roll call
(c) Ascertainment of a quorum
(d) Reading of minutes of the last meeting
(e) Adoption of minutes by a vote or common consent
(f) Unfinished business
(g) New business
(h) Non-agenda items
(i) Adjournment

Section 4. TRIBAL LEGISLATION: Any enactment of the Tribal Council which is of a temporary nature or for a specific one-time use shall take the form of a RESOLUTION. Enactments of a permanent nature which are to be effective over an extended period of time shall be embodied in ORDINANCES.

Section 5. REPORT OF MEETINGS: It shall be the duty of each member of the Tribal Council to make reports concerning the proceedings of the Tribal Council to the members of his district.

Section 6. SALARIES: The Tribal Council may prescribe by resolution such salaries for officers, committees, Tribal employees, or members of the Council as it deems advisable from such funds as may be available. Provided any changes in the rates of per diem for attending Council or committee meetings shall not be effective until one (1) year from the date of such action.

ARTICLE XIII – RATIFICATION OF CONSTITUTION AND BYLAWS

This Constitution and Bylaws shall become effective upon approval by the Commissioner of Indian Affairs following its adoption by a majority of those who vote in an election called for that purpose. Provided at least thirty percent (30%) of those Hoopa Valley Tribal members entitled to vote shall cast ballots in such election. Upon the effective date of this Constitution and Bylaws, the original constitution and Bylaws adopted on May 13,1950, and approved by the Commissioner of Indian Affairs on September 4, 1952, **and any amendments since** are hereby expressly revoked.

ELECTION BOARD CERTIFICATION

I, the undersigned, as Chairman of the Hoopa Valley Tribal Election Board, do hereby certify that the Election Board called a General Election in accordance with the Election Ordinance Section 16-i. and Article X of the Tribes Constitution and Bylaws. The Hoopa Valley Tribe held a General Election on the 19th day of June, 2012; and that these Constitutional Amendments were adopted by a majority vote of those voting in the election; and that at least thirty percent (30%) of the registered voters voted on said election. The Election results were certified at a meeting of the Election Board on June 26, 2012.

Kristen Raymond, Chairperson
Election Board

CERTIFICATION

I, the undersigned, as Chairman of the Hoopa Valley Tribal Council, do hereby certify the Tribal Council received notice of the following from the Hoopa Valley Tribal Election Board: that the Hoopa Valley Tribe held a General Election on the 19th day of June, 2012; and that these Constitutional Amendments were adopted by a majority vote of those voting in the election; and that the Election results were certified at a meeting of the Election Board held on June 26, 2012.

Dated on this 28th day of February, 2013.

Leonard E. Masten Jr., Chairman
Hoopa Valley Tribal Council

Attest:
Darcy A. Miller, Executive Secretary
Hoopa Valley Tribal Council