

GAMING FACILITY STANDARDS ORDINANCE
Of The Hoopa Valley Tribe

Title 65

ORDINANCE NO.: 04-00

DATE APPROVED: July 20, 2000 and October 1, 2021

SUBJECT: Gaming Facility Standards Ordinance

WHEREAS: The Hoopa Valley Tribe adopted its Constitution and Bylaws on June 20, 1972, approved by the Commissioner of Indian Affairs on August 18, 1972, confirmed and ratified by the United States Congress of October, 1988, in Public Law 100-580, the Hoopa-Yurok Settlement Act, and thereafter on June 18, 1996;

WHEREAS: The Hoopa Valley Tribal Council is the governing body of the Hoopa Valley Tribe;

WHEREAS: The Hoopa Valley Tribal Council is authorized to promulgate and enforce ordinances governing the conduct of members and nonmembers of the Hoopa Valley Indian Tribe;

WHEREAS: The Hoopa Valley Tribe and the State of California entered into a tribal-state gaming compact pursuant to the Indian Gaming Regulatory Act (25 U.S.C. § 2701 *et seq.*) in September 1999;

WHEREAS: The voters of California approved Proposition 1A on March 7, 2000 thereby amending the California Constitution to authorize the scope of gaming contained in the tribal-state gaming compact;

WHEREAS: The Tribe and the State agreed to an amended compact executed on September 10 and October 19, 2018 (Compact);

WHEREAS: The Compact at Sections 6.4.2 requires the Tribe to adopt and comply with various standards; including, food and beverage handling standards; federal water quality and safe drinking water standards; federal workplace and occupational health and safety standards; to comply with tribal codes and other applicable federal law regarding public health and safety; general anti-discrimination in employment laws, including the Americans with Disabilities Act; state laws prohibiting a gaming enterprise from cashing certain types of checks; state laws regarding gratuitous or reduced price alcoholic beverages or food or lodging; state laws regarding extensions of credit; and possession of firearms;

NOW, THEREFORE, BE IT RESOLVED THAT: the enactment of this Ordinance promotes the public health, safety, and welfare and is in the public interest.

BE IT FURTHER RESOLVED THAT: the Tribal Council hereby adopts the following Ordinance in order to comply with the requirements of the Compact to the extent the requirements of the Compact are authorized by IGRA.

§ 65.1 SHORT TITLE

This Ordinance shall be known as the Gaming Facility Standards Act or Title 65.

§ 65.2 SCOPE

The scope of application of this Ordinance shall be limited to the Lucky Bear Casino or any other Class III gaming facility operated under any Class III gaming compact between the Tribe and the State of California.

§ 65.3 PURPOSE

The purpose of this Ordinance is to address the various standards, laws, and regulations required by the tribal-state compact ("Compact") in Sections 6.4.2 and 10.2 of the Compact.

§ 65.4 DEFINITIONS

65.4.1 "Council" means the Hoopa Valley Tribal Council as established by the Hoopa Valley Tribal Constitution and Bylaws.

65.4.2 "Compact" means the Compact between the State of California and the Hoopa Valley Tribe, executed on September 10 and October 19, 2018, as may be amended from time to time.

65.4.3 "Council" means the Hoopa Valley Tribal Council as established by the Hoopa Valley Tribal Constitution and Bylaws.

65.4.4 "Employee" means a person employed directly by the Gaming Operation. An independent contractor or vendor of the Gaming Operation or Gaming Facility is not an Employee.

65.4.5 "Gaming Activity" means the Class III gaming activities authorized under the Compact.

65.4.6 "Gaming Facility" means any building in which Gaming Activities or Gaming Operations occur, or in which business records, receipts, or funds of the Gaming Operation are maintained (excluding offsite facilities primarily dedicated to storage of those records, and financial institutions), and all rooms, buildings, and areas, including hotel parking lots, and walkways, a principal purposes of which is to serve the activities of the Gaming Operation rather than providing that operation

with an incidental benefit. Nothing herein shall be construed to apply in a manner that does not directly relate to the activities of the Gaming Operation.

65.4.7 “Gaming Operation” means the tribally-owned business enterprise that employs persons to assist in the operation of the Gaming Facility and facilitate Gaming Activities.

65.4.8 “State” means the State of California.

65.4.9 “Tipped Employee” means an Employee who, in the normal course of his or her employment, regularly receives monetary gratuities from patrons in excess of the actual amount due to participate in a Gaming Activity, for services rendered, or for goods, food, drink, or articles sold or served.

65.4.10 “Tribal Business Council” means the Tribal Council of the Hoopa Valley Tribe.

65.4.11 “Tribe” means the Hoopa Valley Tribe, a federally-recognized Indian tribe. Depending on the context, “Tribe” includes the Tribe’s elected or appointed officials, employees, and agents.

§ 65.5 FOOD AND BEVERAGE HANDLING STANDARDS

Standards. The Tribe hereby adopts, incorporates by this reference and makes applicable to all gaming facilities operated under any Class III gaming Compact between the Tribe and the State of California standards no less stringent than the public health standards of the State of California for food and beverage handling. The Tribe hereby delegates to the Hoopa Valley Tribal Gaming Commission all necessary authority to adopt appropriate regulations and enforce said standards, subject to prior approval by the Tribal Council.

Inspections. To assess compliance with the standards under of this Section, the Gaming Operation shall allow during normal business hours of operation, inspection of food and beverage services in the Gaming Facility by State, County, federal or other independent (non-tribal governmental) health inspectors who provide evidence of authority demonstrating that the inspector would have jurisdiction by for the Gaming Facility being on Indian lands, unless inspections are routinely made by an agency of the United States government to ensure compliance with equivalent standards of the United States Public Health Service.

Reports. Any report subsequent to an inspection or visit by the State, County, federal or other independent (non-tribal governmental) health inspectors that includes any deficiency finding or citation shall be transmitted within three (3) business days to the State Gaming Agency and the Tribal Gaming Agency. All reports shall be made available to the State Gaming Agency upon request.

§ 65.6 WATER QUALITY STANDARDS

Standards. The Tribe hereby adopts, incorporates by this reference and makes applicable to all Gaming Facilities operated under any Class III gaming Compact between the

Tribe and the State of California federal water quality and safe drinking water standards applicable in California. The Tribe hereby delegates to the Tribal Environmental Protection Agency working in conjunction with the Public Utilities District all necessary authority to adopt appropriate regulations and enforce said standards, subject to prior approval by the Tribal Council. Nothing herein shall serve to override any authority now contained in or granted by any Self-Governance Compact between the Tribe and the United States Department of the Interior, Bureau of Indian Affairs, or the Department of Health and Human Services, Indian Health Services, or any designation of Treatment as a State by the Environmental Protection Agency for purposes of the federal Clean Water Act.

Inspection. The Tribe will allow, during normal hours of operation, inspection and testing of water quality at the Gaming Facility by non-tribal governmental inspectors that would have jurisdiction but for the Gaming Facility being on Indian lands, to assess compliance with these standards, unless inspections and testing are routinely made by an agency of the United States pursuant to federal law, or testing is routinely performed under the authority of the Tribe in compliance with federal law, the results of which are routinely provided to, and monitored by, an agency of the United States to ensure compliance with federal water quality and safe drinking water standards.

Reports. Any report or other writings by the non-tribal governmental inspector that includes any deficiency finding or citation shall be transmitted within three (3) business days to the State Gaming Agency and the Tribal Gaming Agency. All reports shall be made available to the State Gaming Agency upon request.

§ 65.7 BUILDING & SAFETY CODE STANDARDS

65.7.1 Standards. The Gaming Facility shall comply with construction standards that meet or exceed the Hoopa Valley Tribe Uniform Building Code Ordinance, as amended July 20, 2000. "Building official" and "code enforcement agency" shall mean the Gaming Commission, or such other agency or official as the Tribal Business Council may designate from time to time. The Gaming Facility and construction expansion, improvement, modification or renovation will also comply with Title III of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq.

65.7.2 Inspections. To assess compliance with the standards under Section 65.7.1 in all cases where those codes would otherwise require a permit, the Tribe shall require inspections and, in connection with such inspections:

- (a) The Tribe shall employ, for any Gaming Facility construction, qualified plan checkers or review firms. Such plan checkers or review firms must be either California-licensed architects or engineers or International Code Council (ICC)-certified building inspectors with relevant experience, or California licensed architects, engineers or ICC-certified building inspectors on the list, if any, of approved plan checkers or review firms provided by the County.
- (b) The Tribe shall also employ qualified project inspectors. To be qualified as a project inspector, project inspectors must possess the same qualifications

- and certifications as project inspectors used by the County.
- (c) These plan checkers, review firms and project inspectors shall be considered "Inspectors" for purposes of assessing compliance with these construction standards. Inspectors are required to report any failure to comply with these standards to the Tribal Gaming Agency and the State Gaming Agency within (30) days after the discovery thereof.

65.7.3 Reports & Corrective Action.

The Gaming Operation shall:

- (a) require plan checkers, review firms, and project inspectors conducting the inspections required under Section 65.7.2(a) to maintain contemporaneous records of all inspections and report in writing any failure to comply with the standards under Section 65.7.1 to the Gaming Commission and, if such failure is not remedied within 30 days of notice of the same to the Gaming Commission, to the State Gaming Agency;
- (b) require any independent expert conducting the inspection required under Section 65.7.2(b) to issue to the Gaming Commission and State Gaming Agency (i) a report identifying any deficiency in fire or life safety or in the ability of the Gaming Operation to meet reasonably expected fire suppression needs within the sooner of 15 days after completion of the inspection or 30 days after commencement of the inspection; (ii) within 30 days after the issuance of the report, a plan for correcting any deficiencies; and (iii) written certification of the correction of any deficiencies, immediately upon their correction; and
- (c) The Tribe shall enforce these standards, in accordance with Compact, section 6.4.2, and promptly notify the State Gaming Agency of circumstance that pose a serious and significant risk to the health or safety of occupants and take prompt action to correct such circumstances.

§ 65.8 WORKPLACE AND OCCUPATIONAL HEALTH & SAFETY STANDARDS

The Tribe hereby adopts, incorporates by this reference and makes applicable to all gaming facilities operated under any Class III gaming Compact between the Tribe and the State of California workplace and occupational health and safety standards no less stringent than those established under federal law. The Tribe hereby delegates to the Hoopa Valley Tribal Gaming Commission and the Gaming Facility Human Resources Department all necessary authority to adopt appropriate regulations and enforce those standards.

§ 65.9 HEALTH & SAFETY STANDARDS

The Tribe hereby adopts as Tribal standards all relevant federal health and safety standards for which there is not an express Tribal standard and for which there is a comparable State standard that would apply to the Tribe's Gaming Facilities but for the Gaming Facilities being on Indian lands.

§ 65.10 LABOR & EMPLOYMENT STANDARDS & INDIAN PREFERENCE

All gaming facilities operated under any Class III gaming Compact between the Tribe and the State of California shall comply with the Fair Labor Standards Act, 29 U.S.C. § 201 et seq., the United States Department of Labor regulations implementing the Fair Labor Standards Act, 29 C.F.R. § 500 et seq., and, as applicable, the State's minimum wage rates as adjusted in California Labor Code section 1182.12. However, only the federal minimum wages laws set forth in the Fair Labor Standards Act, 29 Code of Federal Regulations, part 500 et seq., shall apply to tipped employees.

All gaming facilities operated under any Class III gaming Compact between the Tribe and the State of California shall not discriminate in the employment of persons to work for the Gaming Operation or Facility on the basis of race, color, religion, national origin, gender, sexual orientation, age, or disability, provided, that nothing herein shall override or repeal the provisions of the Employment Discrimination Complaint Resolution Ordinance regarding Indian Preference.

It is the policy of the Tribe to grant Indian Preference in hiring, promotion and retention, all subject to meeting or being capable of meeting minimum job qualifications. Any alleged violations of this section shall be subject to the jurisdiction of the Tribal Employment Rights Commission and any claims shall be brought in accordance with the Tribal Employment Rights Ordinance and the rules or regulations of the Tribal Employment Rights Commission.

§ 65.11 CHECK CASHING

All gaming facilities operated under any Class III gaming Compact between the Tribe and the State of California shall not cash any check drawn against a federal, state, county, or city fund, including but not limited to, Social Security, unemployment insurance, disability payments or public assistance payments.

§ 65.12 ALCOHOLIC BEVERAGES

All gaming facilities operated under any Class III gaming Compact between the Tribe and the State of California shall comply with applicable standards for service of alcoholic beverages, including any applicable licensing requirements and prohibitions against serving of complimentary alcoholic beverages to patrons.

§ 65.13 EXTENSION OF CREDIT

All gaming facilities operated under any Class III gaming Compact between the Tribe and the State of California shall not extend credit to patrons except in accordance with regulations promulgated by the Hoopa Valley Tribal Gaming Commission and approved by the Tribal Council which shall be no less stringent than the laws of the State of California, if any, prohibiting the extension of credit.

§ 65.14 BANK SECRECY ACT

All gaming facilities operated under any Class III gaming Compact between the Tribe and the State of California shall comply with the applicable provisions of the Bank Secrecy Act, 31 U.S.C. §§ 5311-5314, as amended, and all applicable reporting requirements of the Internal Revenue Service regarding gambling establishments, and any applicable Minimum Internal Control Standards promulgated by the National Indian Gaming Commission.

§ 65.15 POSSESSION OF FIREARMS

The Tribe officially declares its policy of permitting law enforcement officers of the Hoopa Valley Tribal Police Department and qualified security personnel to carry firearms on the premises of Tribal gaming facilities, provided that all other persons are prohibited from possessing firearms on the premises of Tribal gaming facilities.

§ 65.16 SEVERABILITY

If any part of this Ordinance is held to be invalid the remainder shall remain in full force and effect to the maximum extent possible.

§ 65.17 SOVEREIGN IMMUNITY

Nothing in this Ordinance shall be deemed to waive the sovereign immunity of the Hoopa Valley Tribe or any of its enterprises, officers, agents, or employees.

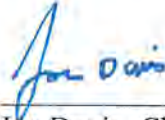
§ 65.18 EFFECTIVE DATE; AMENDMENT

This Ordinance shall take effect upon its adoption by the Tribal Council. This Ordinance may be amended as provided in accordance in the Legislative Procedures Act and as such Act is hereafter amended.

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 seven (7) were poll voted, constituting a quorum and held this 29th day of September 2021 and approved this 1st day of October 2021 thereof; and was reaffirmed at a Regular Meeting held October 7, 2021; and this Ordinance was duly adopted under the Emergency LPA process, Title 6 of the Hoopa Valley Tribe. The Hoopa Valley Tribe composed of eight (8) members, of which seven (7) were present, constituting a quorum at a Regular Meeting thereof, duly and regularly called, noticed, convened and held this 4th day of November 2021; and final approval occurred and this Ordinance was duly adopted by a vote of six (6) in favor with zero (0) opposed and zero(0) abstaining, and that said Ordinance has not been rescinded or amended in any way.

Dated this fourth day of November 2021.



Joe Davis, Chairman
Hoopa Valley Tribal Council

Attest:



Amber Turner, Executive Secretary
Hoopa Valley Tribal Council