

TITLE 6

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

ORDINANCE NO: 4-89

DATE APPROVED: NOVEMBER 16, 1989

SUBJECT: LEGISLATIVE PROCEDURES ACT OF THE HOOPA VALLEY TRIBE

WHEREAS: The Hoopa Valley Tribe is organized under a Constitution and Bylaws, which was approved by the tribal membership on June 20, 1972 and by the Commissioner of Indian Affairs on August 18, 1972, and this Constitution and Bylaws provides that the Hoopa Valley Business Council shall be the governing and lawmaking body of the Tribe, fully authorized to exercise all the retained, inherent sovereign powers of the Tribe; and

WHEREAS: In order to promote efficient and consistent decisionmaking by the Council and to facilitate meaningful participation by tribal managers, employees, and members in important actions and activities of the Tribe, the Hoopa Valley Business Council has identified the need for establishing a uniform process for decision making.

THEREFORE BE IT NOW RESOLVED THAT: The Hoopa Valley Business Council hereby enacts the following Legislative Procedures Act as Title 6 of the Law and Order Code of the Hoopa Valley Tribe, in order to establish procedures, which shall be immediately effective, to be followed in enacting legislation or in taking other major tribal action.

6.0 SHORT TITLE

The short title of this enactment shall be the Legislative Procedures Act.

6.1 PURPOSE

The purpose of this Legislative Procedures Act is to set forth a comprehensive and systematic process for the Tribal Council, its programs, and its entities chartered or established under the authority of the Tribal Council, to establish, amend, or modify policies, ordinances and acts, or to take other major governmental actions on behalf of the Hoopa Valley Tribe. Council intends that this Act shall: establish a check and balance system for the Tribal Council and its entities and departments; provide a mechanism for review and consideration of Tribal Council actions by those persons affected thereby, including programs which are intended to enforce such action; enable Council to gain maximum benefit of the expertise of the professional staff employed by the Tribe; facilitate adequate input from the tribal membership, and where appropriate the general reservation community, regarding proposed actions of the Council in a manner that permits fair consideration of the concerns from the membership and the community. The definition of the term "major action" as used in this Act shall be left to the reasonable interpretation of the Tribal Council and Tribal Court.

6.2 PROPOSED ACTION

Any person (including a member of Council), board, committee or department may submit to the Tribal Council a proposal to amend, modify or establish a policy or ordinance at any duly called meeting. The Council may by motion accept the proposal, and if Council so accepts a proposal it shall refer the matter to the appropriate tribal departments, entities, and staff. Except as provided under Section 6.10 of this Act, which establishes procedures for enactment of emergency legislation, the Tribal Council may not, in the same meeting in which it accepts a proposal, take any action on the proposal other than to refer it as provided in Section 6.3 of this Act.

6.3 REFERRAL BY TRIBAL COUNCIL; DRAFTING

(a) During the same meeting at which Council accepts a proposal under Section 6.2 of this Act, the Council shall identify those departments, entities, and staff to whom the proposal shall be referred, and the recording secretary shall, on a routing form developed to fulfill the purposes of this Section, list the names of all such departments, entities, and staff. The

Executive Secretary shall be responsible for promptly routing the proposed action, as submitted to and accepted by the Council, along with a copy of the routing form, to the departments, entities, and staff identified on the routing form. A copy of the completed routing form shall be kept at the Tribal Office for future reference.

(b) Also during the same meeting at which the Council accepts and refers a proposal, Council shall identify who shall be responsible for drafting the language of the proposal (unless it is submitted in a form that would, if enacted, accomplish its intended effect). Council shall not take final action on any proposal subject to the procedures of this Act unless the proposal contains the actual language that would take effect if approved.

6.4 DEPARTMENT AND STAFF ACTION

After each department receives a copy of a proposal referred under Section 6.3, the manager of each such department shall be responsible for assuring such department's timely response to the referral. Once that department's response has been documented and all information has been considered, that department shall route its comments, suggestions, and recommended amendments back to the Executive Secretary. The Executive Secretary shall prepare a file of all department input for Council consideration. Once all departments have responded, the Chairman shall schedule time on the agenda to review the department comments, suggestions and recommendations.

6.5 COUNCIL MODIFICATIONS AND AMENDMENTS

After reviewing and considering all responses to the referral process, the Council may make such changes to the original proposal as it deems necessary or appropriate. Once changes, if any, are made to the original proposal, the Council may set the matter for a public hearing and schedule a hearing date, or take final action in accordance with Section 6.9.

6.6 HEARING NOTIFICATION

The Council shall notice a hearing for two (2) weeks prior to the hearing date in a public place on the Hoopa Valley Indian Reservation and in appropriate public media. The notices shall

state the date, time, and place of the hearing and will include a brief description of the proposed action and the final date on which written comments will be accepted.

6.7 HEARING

All hearings will be conducted in accordance with the tribal hearing procedures. The Council shall appoint a hearing officer to preside over the hearing. The hearing officer shall call the hearing to order, briefly outline the hearing procedures, including the final date for written comments, and briefly outline the subject matter of the hearing. Both written and oral testimony may be accepted.

6.8 COUNCIL REVIEW OF PUBLIC COMMENT

Comments received during a hearing, any written comments received before the deadline set for their receipt, and all documentation submitted during the referral process shall be compiled by the hearing officer into one packet for Council review. The proposed action will be placed on the agenda at a duly called Council meeting for consideration. The Council may decide whether any other information is necessary, including whether to send the proposal to any departments for reconsideration. The Council shall have the discretion as to when Council final action will be taken; however, it shall not postpone action for an unreasonable length of time.

6.9 FINAL COUNCIL ACTION

Once the Council has determined that it has adequately considered a proposal as provided in this Act, it shall take action on the proposal by voting according to its ordinary constitutional procedures. If the proposal is approved, the Chairman's office, unless the enactment provides otherwise, shall direct the appropriate departments and staff to begin implementation and enforcement of the enactment. In the case of the enactment of a new law, or the amendment of an existing law, the Council shall be responsible for directing the codification of such action in the Tribe's Law and Order Code, as provided in Title 1, Section 1.09 thereof.

6.10 EMERGENCY ACTION

6.10.1 Enactment of Emergency Regulation

Whenever it determines that there is an immediate threat to the Tribe or any of its resources or assets, the Council may enact emergency regulations or take other emergency action. Such regulations or action shall be valid for not longer than thirty (30) days from the date of enactment, after which such regulations or actions shall no longer be effective, unless upon the expiration of this 30 day period, the Council expressly finds that the emergency situation necessitates extension of such regulations or actions for another period not to exceed 30 days. Emergency regulations or actions pursuant to this Section must be accompanied by a duly adopted Council resolution which specifies the need and intent of such regulations or action.

6.10.2 Emergency Regulation Limitations

This emergency Section is intended to be used only where adherence to the other requirements of this Act would result in a significant injury to the interests of the Tribe, and shall not be used to frustrate the general purposes of this Act as set forth in Section 6.1. It is expected that the Council will, at the time that any emergency action is taken as provided herein, propose additional action in accordance with the process established under this Ordinance.

6.10.3 Emergency Regulation Expiration Date

No emergency regulation shall remain valid if allowed to stand longer than 30 days without an official extension as provided under this Section. The enforceability of an emergency regulation shall expire 30 days after its enactment date and such emergency regulation shall be deemed null and void.

6.11 PUBLIC NOTICE

Once action is taken by the Council under this Ordinance, the Executive Secretary shall be responsible for notifying all appropriate departments as to who shall be responsible for posting such public notices as may be required by the action taken.

6.12 JUDICIAL REVIEW BY THE TRIBAL COURT

The Hoopa Tribal Court shall have authority to issue declaratory judgments regarding violations of this Ordinance, and any action taken by the Council not substantially in accordance with this Ordinance shall be declared null and void; provided, however, that the Court shall have no jurisdiction to hear challenges to Council action based solely on violations of Section 6.13 of this Act. Except to the extent that this Section provides for judicial review by the Tribal Court, the Council does not waive the sovereign immunity of the Hoopa Valley Tribe, or that of any of its departments or entities, from unconsented lawsuit.

6.13 ROBERTS RULES OF ORDER

It is hereby declared to be the policy of the Council that, to the extent not precluded by law, Roberts Rules of Order shall be the governing process for conducting all meetings of the Tribe. This Policy shall be incorporated into the official meeting process for all committees and boards established under the authority of the Tribal Council and it shall be the duty of the Chairperson of each board and committee to conduct the affairs of such board and committee in a manner in accordance with this Act.

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6.14 SEVERABILITY

If any part of this Act is held to be invalid, it is the intent of the Council that the remainder shall continue to be in full force and effect to the maximum extent possible.

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

I, the undersigned, as Chairman of the Hoopa Valley Business Council do hereby certify that the Hoopa Valley Business Council is composed of eight (8) members of which five (5) were present, constituting a quorum, at a Regular Meeting thereof; duly and regularly called, noticed, convened, and held this 16th day of November, 1989; and that this Ordinance was duly adopted by a vote of four (4) for and none (0) against, and that this Ordinance has not been rescinded or amended in any way.

DATED THIS 16TH DAY OF NOVEMBER, 1989



DALE RISLING, CHAIRMAN
HOOPA VALLEY BUSINESS COUNCIL

ATTEST:



DEIRDRE R. YOUNG, EXECUTIVE SECRETARY
HOOPA VALLEY BUSINESS COUNCIL