

Amended 7/18/2007

**YUROK TRIBAL  
FISHING RIGHTS ORDINANCE**

**Section**

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**AUTHORITY:** This Ordinance is issued by the authority of the Yurok Tribal Council as provided by the Constitution of the Yurok Tribe.

**Section 1. Purpose**

(a) The purpose of this Ordinance is to protect the fishery resources and therefore tribal fishing rights by establishing procedures for the conservation of fish stocks and exercise of federally-reserved fishing rights. This Ordinance is intended to allow fishing opportunity to Yurok Tribal members, while at the same time assuring adequate spawning escapement and the attainment of conservation objectives.

(b) The reserved fishing rights herein are designated exclusively for Yurok Tribal members.

(c) Nothing in this Ordinance reduces or diminishes the trust responsibility of the United States, including the Secretary of the Interior, to the Yurok Tribe.

(d) Violations of this Ordinance by Yurok Tribal Members and other Indians within the territorial jurisdiction of the Yurok Tribe are prosecutable in the Yurok Tribal Court or in other courts of competent jurisdiction.

(e) The Yurok Tribe retains its authority to exercise its jurisdiction to the fullest extent possible.

(f) Enforcement officers required to enforce this Ordinance shall use common sense during the discharge of their duties.

**Section 2. Effect of Ordinance changes**

(a) Any violations to this Ordinance shall be subject to the penalties set out in the individual violation sections and Section 14.

### **Section 3. Application**

(a) The provisions of this Ordinance and all pre-season and in-season adjustment orders issued thereunder apply to the waters within the jurisdiction of the Yurok Tribe as specified in the Yurok Tribal Constitution.

(b) Children under the age of ten (10) years cannot be charged with a violation of this Ordinance. If a child under the age of ten (10) engages in conduct which, but for the age of the child, would constitute a violation of this Ordinance, an adult may be charged with violating this offense, if (i) he or she is the parent or responsible guardian of the child; or (ii) he or she was the owner of any fishing equipment being used by the child at the time of the conduct which violated this Ordinance; or (iii) he or she was physically present at the time and place when/where the child engaged in the conduct which violated this Ordinance and the parent knowingly allowed this conduct.

(c) All Yurok Tribal Court and enforcement records concerning violations or alleged violations which occurred when the violators or alleged violators were under the age of 18 shall be strictly confidential. Records may only be released to other agencies or persons by petition to and approval of the Yurok Tribal Court. Nothing in this paragraph shall bar the use of statistical compilations of juvenile records or the use of a violator's prior record in the sentencing phase of a Yurok Tribal Court.

### **Section 4. Definitions**

**"Anadromous fish"** includes all species, stocks and races of salmon, steelhead, cutthroat trout, eulachon, sturgeon, lamprey or other species of anadromous fish.

**"Angling"** means the taking or attempted taking of fish by hook and line with the line held in the hand or closely attended in such a manner that the fish voluntarily takes the hook in its mouth.

**"Assist"** as used in 5(d) means providing aid to an eligible fisher in placing, checking, or removing fishing gear from the water, removing any fish caught with the gear, or being in the boat while fishing.

**"Barter"** the exchange of goods or productive services for other goods or productive services without the use of money.

**"Ceremony"** means a gathering consisting principally of Yurok Indians for any solemn, religious or cultural observance on a traditional basis, including funerals.

**"Closed"** or **"closure"** refers to waters or areas closed to all fishing unless otherwise authorized.

**"Customary and traditional use"** means a long-established, consistent pattern of use, incorporating beliefs and customs which have been transmitted from generation to generation, including trade and barter.

**"Drift-net"** means a gillnet which is not staked, anchored or weighted but drifts free.

**"Eel"** means Pacific lamprey, an anadromous fish.

**"Eel Hook"** means a traditional piece of fishing gear, a hook attached to a pole used for catching eels.

**"Eligible fisher" or "eligible Indian"** means any Indian or fisher who is determined to be eligible under Section 5.

**"Enforcement officer"** means:(a) any tribal enforcement officer, or (b) any qualified person designated by the Yurok Tribal Council to enforce this Ordinance.

**"Fish" or "fishing"** means the fishing for, catching or taking, or the attempted fishing for, catching or taking of any fish.

**"Fisher identification card"** means a Tribal identification (ID) card issued by the Yurok Tribe to its members. The identification card shall include the name, address, birthdate, color of hair, color of eyes, height, weight, identification number, and photograph of the holder.

**"Fishing gear"** means any gillnet, seine, hook-and-line, or other apparatus used for taking fish.

**"Gillnet"** means a flat net suspended vertically in the water with meshes that allow the head of the fish to pass through and become entangled.

**"Hand dip net" or "trigger net"** means a section of netting distended by a rigid frame operated by hand. Such nets may be of any size.

**"Identification number"** means the identification number assigned by the Yurok Tribe identifying an eligible tribal member.

**"Marine mammals"** the project definition of marine mammals includes all species of seals and sea lions.

**"Reservation"** means the Yurok Indian Reservation as defined by the Constitution of the Yurok Tribe.

**"Reservation allocation"** means a set of harvest quotas.

**"River"** means the wetted area from bank to bank.

**"Secretary"** means the Secretary of the Interior or his/her designated representative.

**"Set-net"** means a gillnet which is staked or anchored or weighted on at least one end so that it does not drift free.

**"Snag gear"** means any hooking implement to catch or hold fish, with or without handles, making possible the taking of fish in such a manner that the fish does not take the hook voluntarily in its mouth.

**"Subsistence fishing"** means the customary and traditional taking of fish for direct personal, family, or community consumption for food, for barter, in addition, the trade or sale of fish to Yurok Tribal Members for consumption as food shall be permitted. The Tribal Council will place any limitations on subsistence uses as necessary pursuant to this Ordinance. Fishing for subsistence purposes will be allowed at all times pursuant to this Ordinance. The Yurok Tribal Council believes that it is important for Tribal fishers to provide fish for elders consistent with traditional and customary practices.

**"Take"** means the pursuing, capturing, harvesting or the attempted pursuit, capture or harvest of fish.

**"Trade"** means the act or business of buying or selling for money.

## **Section 5. Eligible Fisher or Eligible Indian**

(a) An enrolled member of the Yurok Tribe who under Section 6 is issued a valid Yurok Tribal identification card, and is age (7) or older, may exercise fishing rights under the authority of this Ordinance.

(b) Fishers younger than (10) years old cannot fish unless accompanied by an eligible adult Tribal fisher.

(c) Fishers younger than 16 years are not eligible to fish while school is in session during school hours. Exceptions due to hardship, etc., may be approved by the Natural Resource Committee. PENALTY: Community service hours with fish going to the Elders.

(d) No eligible Indian, as identified in Section 5(a) above, may allow an ineligible person to assist in an Indian fishery on the Yurok Indian Reservation. PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3<sup>rd</sup> offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run.

(e) No eligible Indian may use another eligible Indian's identification number. PENALTY: Fine of not less than two hundred fifty dollar (\$250) nor more than one thousand dollars (\$1,000), or have his/her Tribal fishing rights suspended for not more than one hundred eighty (180) days during the fishing season including the fall salmon run, or shall suffer forfeiture of all fish and/or fishing gear seized, or any combination of the above. (formerly 8n)

(f) No eligible fisher may claim fish taken by a non-eligible fisher as fish caught by the eligible fisher. PENALTY: Fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000), or have his/her tribal fishing rights suspended for not more than one hundred eighty (180) days during the fishing season including the fall salmon run, or shall suffer forfeiture of all fish and/or fishing gear seized, or any combination of the above.

#### **Section 6. Fisher identification cards required**

(a) For purposes of this Ordinance, an eligible fisher pursuant to Section 5 of this Ordinance shall obtain a Yurok Tribal identification card and have such card on his/her person while exercising any fishing rights or transporting fish taken on the Yurok Indian Reservation and within the jurisdiction of the Yurok Tribe in the exercise of Yurok Tribal fishing rights. PENALTY: that person shall be punished by a fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) or forfeiture of fish or fishing gear, or shall suffer sixty days suspension of tribal fishing rights during the fall salmon run, or any combination of the above. If an Indian fisher fails to appear after being issued a citation pursuant to Section 6 and offer proof that he/she has an identification card, the court shall order suspension of the fisher's fishing right and law enforcement to retain the net pending the presentation of the required proof.

(b) Upon the request of an enforcement official, each Tribal fisher shall immediately produce for examination his/her Yurok Tribal identification card. Law Enforcement officials that harass Tribal fishers by repeatedly requesting to examine a fishers ID card will be subject to disciplinary actions. PENALTY: The penalty for this offense is left to the discretion of the Judge.

(c) Yurok Tribal member identification card. Yurok Tribal identification cards may be obtained by contacting any Yurok Tribal Office. The identification card shall include the name, address, birthdate, color of hair, color of eyes, height, weight, identification number, and photograph of the holder. Cards shall be signed by the persons to whom they are issued, and countersigned by an authorized official of the Yurok Tribe, certifying that the cardholder is recognized as a Yurok Tribal member eligible to exercise tribal fishing rights.

(d) If a fisher does not present a valid Yurok Tribal identification card upon request, but the law enforcement officer has reason to believe that the person is eligible to fish from other evidence presented to him/her at the catch site by such person, no seizure of the fish or gear shall occur at that time. However, that fisher shall be issued a citation requiring him/her to appear within thirty days and offer proof that he/she possesses a valid Yurok Tribal identification card. If a person does not appear within the time specified on the citation, that person's tribal fishing rights will be suspended until proof of compliance is presented to the Yurok Tribal Court and he/she shall be subject to the penalties set forth. PENALTY: Fine of not less than \$50 nor more than \$500 or forfeiture of fish or fishing gear or suffer 60 days susp of fishing rights during fall salmon run or any combination of the above. Failure to appear after being issued a citation and fails to offer proof that he/she has a Tribal I.D. card, the court shall order susp of fishing rights pending presentation of the required proof.

(e) Fishing for Elderly or Handicapped Yurok Tribal Members is permissible upon application to and approval by the Yurok Tribe Natural Resources Advisory Committee. A permit is then issued to the authorized Yurok Tribal Member to fish for the Elderly or Handicapped Tribal Member. PENALTY: Fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) or forfeiture of fish or fishing gear, or shall suffer sixty (60) days suspension of tribal fishing rights during the fall salmon run, or any combination of the above.

### **Section 7. Permissible Gear/Identification of Gear/Use of Gear**

a) Permissible gear for Yurok Tribal Member Fishing purposes includes: Set-net, gill net, hand dip net or trigger net, drift-net, eel basket, eel hook and hook-and-line.

b) Each eligible Indian fisher shall indelibly and conspicuously mark his/her tribal identification number on a float or cork attached to either end of any net being used so that the number is obvious without removing the gear from the water. PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200 and lose fishing gear. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3<sup>rd</sup> offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run.

c) Only one identification number may be on a net. Any net not marked in conformity with this Ordinance shall be presumed to be in violation of this Ordinance and will be subject to seizure and forfeiture together with any fish contained therein. PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3<sup>rd</sup> offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run.

(d) Except as may be provided for in this Ordinance, no eligible Indian fisher may allow his/her identification number to be used on a net he or she is not attending or fishing. PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3<sup>rd</sup> offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run.

(e) Except as may be provided for in this Fishing Ordinance, no eligible Indian fisher may attend or fish a net that is not marked with his/her own identification number unless the eligible fisher whose identification number is on the net is in the area and has given their permission. PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3<sup>rd</sup> offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run.

(f) The eligible fisher whose number is on the net used knowingly in violation of this Ordinance, shall be responsible if the net is used in a manner that violates this Ordinance. This presumption shall only apply to the responsibility of the person whose number is found on the net. This responsibility shall not act to relieve another person of liability for any conduct charged.

(g) Dip net and hook-and-line fishing: eligible Indians may engage in dip net fishing or angling at all times on the Reservation unless specifically closed by an adopted pre-season or in-season adjustment.

(h) Drift net fishing is allowed in all areas, with the following restrictions: 1) Drift net fishermen must yield to set nets and they must maintain a 50 foot separation from the set net 2) Safety is a concern and Tribal Council will review periodically. PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200 and lose fishing gear. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3<sup>rd</sup> offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run.

(i) An eligible fisher may use a maximum of one hundred (100) feet of gillnet which may be divided into two or more separate gillnets. PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200 and lose fishing gear. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3<sup>rd</sup> offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run.

(j) The set-nets or drift-nets of an eligible fisher must be at least fifty (50) feet at their closest point from the set-nets or drift-nets of another eligible fisher. PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200 and lose fishing gear. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3<sup>rd</sup>

offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run.

(k) At least one end of a set-net shall be anchored or staked at all times it is in use.

(l) Set-net locations: set-net locations shall be determined by the individual Indian fishers in accordance with tradition and custom and in a manner consistent with the provisions of this section. Disputes over set-net locations are to be resolved among the parties. Unresolved disputes are to be referred by the parties to elders or knowledgeable adults of the community for the particular area in which the dispute takes place. Any tribal member may petition the Tribal Council to aid in the resolution of the dispute.

(m) Nets in the estuary must be attended at peak times during the fall chinook fishing season, August 1 through September 15, consistent with the traditional practices of Yurok people. PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3<sup>rd</sup> offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run.

(n) Eels may be taken by eel hook, snag gear or traps at any time by eligible Yurok Tribal members.

(o) Eligible fishers may protect their fishing gear and their person from damage or threat by marine mammals. Fishers shall only use seal bombs and shotguns to protect their gear. Any marine mammal carcass must be used by Yurok Tribal Members in any manner consistent with traditional customs and practice. PENALTY: Fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) or forfeiture of fish or fishing gear, or shall suffer sixty (60) days suspension of tribal fishing rights during the fall salmon run, or any combination of the above.

### **Section 8. Permissible Fishing**

(a) Eligible fishers may fish in the Pacific Ocean within the area of Tribal Jurisdiction for ocean resources pursuant to properly adopted Tribal Management Plans.

(b) Pursuant to the Constitution of the Yurok Tribe, the Reservation is open to the taking of anadromous fish by eligible fishers for subsistence and ceremonial purposes unless specifically closed by this Ordinance or by a properly adopted pre-season or in-season adjustment. Fishing by Yurok Tribal Members is allowed on Memorial and Labor Day Holidays unless closed properly pursuant to this Ordinance.

(c) Fishing with gillnets is permitted seven days per week and 24 hours per day except that all nets must be out of the water between the hours of 9 a.m. and 5 p.m. on Monday of each week, or unless otherwise provided by a properly enacted in-season or pre-season adjustment.

(d) Nothing in this Ordinance prohibits an eligible fisher from requesting or giving assistance to anyone where the person needing assistance is faced with an emergency situation that could lead to injury or to loss of gear or life.

(e) The Yurok Tribal Council shall manage and regulate ceremonial, subsistence, and commercial fishing by eligible Yurok fishers. Commercial fishing will only be allowed by properly enacted management plans adopted by the Yurok Tribal Council.

(f) Ceremonial fishing may be conducted at any time. During closed hours, ceremonial fishing may be conducted pursuant to a special permit issued by the Yurok Tribal Council. The Yurok Tribal Council may impose any conditions on the permittee that are necessary to protect fishery resources or to assure that all fish caught are used for ceremonial purposes.

(g) A Sea Lion Hunt consistent with Yurok Tribe traditional practices is allowable with an approved harvest management plan for this species.

(h) Test fisheries: test fisheries including trapping, netting and electrofishing may be conducted by employees of fisheries management agencies working on the Reservation for resource management purposes. Both Tribal and Non-Tribal agencies and personnel must obtain a permit to conduct such studies from the Yurok Tribal Council. Tribal members may observe test fishery operations upon making arrangements with the agency conducting the activity. Notice of the study must be posted.

(i) Barter, trade or sale of fish to Yurok Tribal Members for consumption as food shall be permitted. The Tribal Council will place any limitations on subsistence uses as necessary pursuant to this Ordinance. Fishing for subsistence purposes will be allowed at all times pursuant to this Fishing Ordinance. The Yurok Tribal Council believes that it is important for Tribal fishers to provide fish for elders consistent with traditional and customary practices.

(j) Use of fish for cookouts, whereby donations for community functions are received for cooked fish, may be permissible pursuant to a special permit issued by the Yurok Tribal Council. The Yurok Tribal Council may impose any conditions on the permittee that are necessary to protect the fishery resources or to assure that all fish caught are used for the stated purpose. Proceeds from the cookout may be used for direct costs incurred for the cookout except for labor or fish.

### **Section 9. Prohibited Fishing**

(a) Violation of an approved Harvest Management Plan or In-Season Adjustment is prohibited and punishable by a fine or penalty set by the Yurok Tribal Council at the time the Plan or In-Season Adjustment is adopted.

(b) The anchoring of gill nets to any boat dock without permission or placement of nets in such a manner as to impede boat traffic from docking at or departing from any boat dock is prohibited. PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200 and lose fishing gear. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or

any combination of the above. 3rd offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run.

(c) No set-net or combination of set-nets, staggered or joined, may be placed in such a way that it or they cover more than one-half (1/2) of the distance across any channel. PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200 and lose fishing gear. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3rd offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run.

(d) No set-net may be placed in any tributary creek of either the Klamath or Trinity River or within one hundred (100) feet of the mouth of any of the following creeks:

Bear Creek	Johnson Creek	Pine Creek	Terwer Creek
Blue Creek	McGarvey Creek	Roach Creek	Tuley Creek
Cappell Creek	Omagar Creek	Surpur Creek	
Hunter Creek	Pecwan Creek	Techtah Creek	

PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200 and lose fishing gear. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3rd offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run.

(e) The use of, or possession of, traps, wire, fencing material, snag gear, explosives, stunning agents or caustic or lethal chemicals in any form, that will assist in the taking of any fish is prohibited, except for eels which may be caught by traps or eel hook made for that purpose. Any material, device or substance used or possessed in violation of this subsection shall be subject to seizure and forfeiture. PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3rd offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run.

(f) Regulations may be imposed as necessary to ensure that no fishing occurs which may interfere with any studies authorized by the Tribe. Notice of the study must be posted. PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3rd offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run.

(g) No eligible fisher may allow a fish taken to become inedible. PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3rd offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run.

(h) The theft of fish from nets, boats, smokehouses or other locations and the theft of fishing gear or boats is strictly prohibited. Complaints from this must be initiated by the

individual(s) who own the property taken. The fine for theft as defined in 8(z) of the Yurok Tribe Fishing Ordinance is punishable by a fine of not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000), loss of fishing opportunities for one year, and restitution in the amount of three times the fair market value of the items taken. A second offense is doubled what the first offense penalty is.

(i) Eligible Tribal Fishers will be allowed to sell roe from fall chinook. The selling of roe from any other species is prohibited. PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3<sup>rd</sup> offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run.

(j) No eligible fisher shall, for commercial purposes, take, possess or sell fish in violation of pre-season or in-season regulations promulgated by the Yurok Tribal Council. PENALTY: Fine of not less than two hundred fifty dollar (\$250) nor more than one thousand dollars (\$1,000), or have his/her Tribal fishing rights suspended for not more than one hundred eighty (180) days during the fishing season including the fall salmon run, or shall suffer forfeiture of all fish and/or fishing gear seized, or any combination of the above.

(k) Cleaning of fish at the Requa boat ramp and the Requa boat docks is prohibited except at designated fish cleaning stations. PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3<sup>rd</sup> offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run.

#### **Section 10. Consultation**

The Yurok Tribal Council or its designee shall hold meetings to consult with Yurok Tribal members about the status of the resources and fisheries, to discuss pre-season and in-season adjustments to the s and to discuss other relevant matters. At the appropriate times during these presentations, comments will be received from those in attendance. As appropriate, notes or tape recordings of these proceedings will be made.

#### **Section 11. Pre-season and In-season Adjustments to this Ordinance**

(a) The Yurok Tribal Council shall adopt pre-season and in-season changes to this Ordinance for resource conservation and harvest management purposes.

(b) Changes to the Ordinance authorized by paragraph (a) of this section are effective 24 hours after adoption by the Yurok Tribal Council and shall remain in effect until modified or rescinded by the Yurok Tribal Council or until they expire by their own terms. Penalties for violations of an adopted Harvest Management Plan or In-Season Adjustments are set by Yurok Tribal Council.

(c) Notification of pre-season and in-season adjustments shall be posted at Tribal offices and other places as determined by the Tribal Council.

(d) Violation of an approved Harvest Management Plan or In-Season Adjustment is

prohibited and punishable by a fine or penalty set by the Yurok Tribal Council at the time the Plan or In-Season Adjustment is adopted. DEFAULT PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3<sup>rd</sup> offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run.

### **Section 12. Fish Catch Reporting**

(a) Each fisher shall display all fish he or she has caught upon the request of an authorized law enforcement official or authorized Tribal personnel for the purpose of monitoring the harvest or assuring compliance with the provisions of this Ordinance. The snouts of Chinook with an adipose fin clip must be given to Yurok Tribal Fisheries Program staff upon request. The information obtained from the coded wire tags recovered from such fish is critical to the successful management of Klamath River Fall Chinook. PENALTY: Fine of not less than two hundred fifty dollar (\$250) nor more than one thousand dollars (\$1,000), or have his/her Tribal fishing rights suspended for not more than one hundred eighty (180) days during the fishing season including the fall salmon run, or shall suffer forfeiture of all fish and/or fishing gear seized, or any combination of the above.

(b) Harvest estimates will be posted on a weekly basis or as necessary to inform Tribal fishers.

### **Section 13. Enforcement [Formerly Section 12]**

(a) *Prosecution.* Eligible fishers or other Indians, who violate this Ordinance or any pre-season or in-season adjustment promulgated thereunder may be subject to prosecution before the Yurok Tribal Court.

(b) *Citations.* Law enforcement officers may issue citations to any eligible Indian believed to have committed a violation of this Ordinance. Such citation shall state date, time, and location where the person cited is to appear in Tribal Court and the offense with which the person is charged.

(c) *Search of Transportation Vehicles.* Law enforcement officers who, with probable cause, believe that any transportation vehicle contains fish illegally taken on the Reservation by an eligible Indian fisher may access said fish for inspection, and may search the vehicle to see if fish are possessed in violation of this Ordinance.

(1) Any net or other fishing gear used in violation of this Ordinance and any fish taken or possessed in violation of this Ordinance may be seized by a law enforcement officer. Fish and gear so seized shall be held pending disposition by Court order except as specifically provided in this Ordinance. The prosecutor may authorize law enforcement officers to release, without a Court order, any gear or fish seized when the prosecutor declines to prosecute an eligible fisher for the suspected violation for which the gear and/or fish were seized.

(2) When a net or other fishing gear is seized and the owner is unknown to the enforcement officer, the prosecutor shall, without unreasonable delay, commence

proceedings in the Yurok Tribal Court by petition for a judgment forfeiting the fishing gear and/or fish. When a net or other fishing gear is seized, the prosecutor shall, without unreasonable delay, notify by registered mail the holder of the identification number that his/her fishing gear has been seized. The notice of seizure shall state the date, place and time of the seizure and shall direct the person whose gear was seized to notify the court directly to arrange to have the matter placed on the Court's calendar

(3) Upon filing of such petition, the enforcement officer shall set out details of the seizure, citing time, place and location of such seizure. A notice of seizure shall be left at the site where the fishing gear and/or fish were confiscated. The Court, upon receipt of the petition, shall set the matter on its calendar for the next quarterly hearing after all procedural requirements have been completed and shall cause notices for unidentified gear and/or fish to be posted and published. A notice shall be posted at least 10 days prior to the forfeiture hearing of the Yurok Tribal Court. The Clerk of the Court shall publish notices in at least one (1) local news medium having circulation on the Reservation. Such notice shall be published at least once five (5) days or more before said hearing and shall set forth the reason for the hearing. The Court shall hold hearings once each three months to determine the disposition of the unmarked gear and fish seized.

(4) Any fishing gear forfeited shall be sold at public sale as directed by the Yurok Tribal Council.

(5) One or more eligible Indians may appear at the forfeiture proceeding and intervene prior to the Court's disposition of the gear and/or fish confiscated. In order to claim the gear and/or fish, the intervenor must present evidence, under oath, subject to the cross-examination of the prosecutor, and satisfy the Court with proof beyond a reasonable doubt that the intervenor is the owner of the gear and/or claimed and an eligible fisher. If the Court finds that the intervenor is the owner of the gear and/or fish, the gear and/or fish will be given back to intervenor.

(6) All fish seized may be utilized for subsistence, ceremonial purposes or be commercially sold by the Yurok Tribe. Proceeds may be held pending a Court determination that fish were taken in violation of this Ordinance. In the event of such a determination, proceeds will be transferred to a special Yurok Fishery Account Fund established by the Tribe. Nothing in this section shall be construed to prevent undercover law enforcement officers from selling fish as part of their duties or to make legal the purchase of fish from such officers.

(d) *Complaint procedures.* Any person regulated under this Ordinance, who alleges professional misconduct may file a complaint, in writing, against a law enforcement officer. The Yurok Tribal Council shall, without unreasonable delay, cause an investigation to be conducted into any allegation of misconduct by a law enforcement officer in carrying out the duties of that office. Upon completion of the investigation, the Yurok Tribal Council shall make available to the complainant the findings of the investigation. The Yurok Tribal Council shall ensure that the appropriate actions occur pursuant to such findings.

#### **Section 14. Additional Penalty Provisions**

The Tribal Court Judge may reduce penalties at his discretion to first time offenders and/or for less serious offenses.

(a) Community service is left at the discretion of the Judge. If a person does not obey the community service penalties then fines should be imposed. The Tribal court shall order community service work to be performed by any person convicted of violating any provision of this or any amendment or adjustments promulgated thereunder. Such work shall be ordered as an alternative to all or any part of the penalties which, in the absence of this subsection, otherwise would be imposed. As a guideline to the Tribal Court, one hour of work shall include activities such as providing wood, fish or services to the Yurok Tribe at the prevailing market value. Failure to comply with Community Service penalties will result in fines being imposed by the Tribal Court.

(b) Prior convictions are calculated from the conviction date of an offense within a three-year period.

(c) Failure to appear before the court pursuant to a proper citation shall not be allowed. Such a failure will subject the alleged offender to a default judgment and forfeiture of the net.

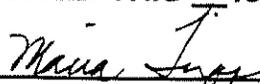
(d) Any Indian who refuses to obey a lawful order of the Yurok Tribal Court shall be fined not more than five hundred dollars (\$500), or suffer suspension of fishing rights for a period not to exceed 365 days, or any combination thereof for each offense. If the sentence of the Yurok Tribal Court is not completed within 180 days, the net and any equipment from that case may be forfeited and disposed of by the Yurok Tribe.

(e) Any Indian who violates a lawful order of the Yurok Tribal Court which suspends that person's tribal fishing rights shall be fined not less than three hundred dollars (\$300) nor more than five hundred dollars (\$500); or suffer further suspension of tribal fishing rights up to one hundred eighty (180) days during the fishing season including the fall salmon run, and forfeiture of all fish and gear seized; or any combination of the above for each offense.

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

**AMENDMENT July 18, 2007.** This is to certify that this Yurok Tribal Fishing Rights was approved at a regular meeting of the Yurok Tribal Council on June 4, 1996 at which a quorum was present, amended at a regular meeting of the Yurok Tribal Council on June 7, 1996, amended July 11, 1996, amended on October 7, 1998, amended on **July 18, 2007**, at which a quorum was present and amended by a vote of 7 for, 0 opposed and 0 abstention. This has not been rescinded in any way.

DATED THIS 18th DAY OF July, 2007.

  
\_\_\_\_\_  
Maria Tripp, Tribal Chair

Attest:   
\_\_\_\_\_  
Cynthia McKernan, Recording Secretary

1998 A\*M\*E\*N\*D\*M\*E\*N\*T S\*E\*C\*T\*I\*O\*N\*

October 7, 1998 Amendment includes the following additions, deletions and changes:

**Section 1. Purpose**

- 1 (c) **added** "United States including the"
- 1 (d) **added** "Yurok Tribal Members and other Indians"
- 1 (d) **deleted** "or in other courts of competent jurisdiction."
- 1 (e) **added** "The Yurok Tribe retains its authority to exercise its jurisdiction to the fullest extent possible."
- 1 (f) **added** "Enforcement officers required to enforce this shall use common sense during the discharge of their duties."

**Section 2 Effect of Changes**

- 2 (a) **deleted** "A person may be prosecuted pursuant to a revised or amended version of this if the alleged actions or conduct of the person would have constituted a violation of the regulation or regulations before it or they were amended or revised."
- 2 (b) **changed** to 2(a) "Any violations to this shall be subject to penalties set out in Section 13."

**Section 3 Application**

- 3 (a) **added** "specified in the Yurok Tribal Constitution."
- 3 (b) **added** "and the parent knowingly allowed this conduct."

**Section 4. Definitions**

- "Assist" **delete** "or removing fish from the boat"
- "Barter" **added** "the exchange of goods and the productive services for other goods and productive services without the use of money."
- "Catch site" **deleted** "means the exact location where the fish is caught."
- "Channel" **deleted** "means the wetted area from bank to bank."
- "Commercial Fishing" **deleted** "means the taking of fish or fish parts with the prior or subsequent intent to sell, trade, barter or otherwise dispose of with the purpose of obtaining something of value."
- "Customary and traditional use" **added** "including trade and barter."
- "Marine Mammals" **added** "the project definition of marine mammals includes, all species of seals and sea lions."
- "River" **added** "means the wetted area from bank to bank."
- "Subsistence Fishing" **added** "means the customary and traditional taking of fish for direct personal, family or community consumption of food, for barter and the trade or sale of fish to Yurok Tribal Members. The Tribal Council will place any limitations on subsistence uses as necessary pursuant to this . The Yurok Tribal Council believes that it is important for Tribal fishers to provide fish for elders consistent with traditional and customary practices."
- "Trade" **added** "means the act or business of buying or selling for money."

**Section 5. Eligible Fisher or Eligible Indian**

(a) added "7"

(b) added "Fishers younger than 10 years old cannot fish unless accompanied by an eligible adult Tribal fisher."

(c) added "Fishers younger than 16 years are not eligible to fish while school is in session during school hours. Exceptions would be due to hardship etc., may be approved by the Natural Resources Committee."

**Section 6. Fisher Identification Cards Required**

(a) added "and within the jurisdiction of the Yurok Tribe"

(b) changed "Tribal" instead of "Indian".

(b) added "Law Enforcement officials that harass Tribal fishers by repeatedly requesting to examine a fishers ID card will be subject to disciplinary actions."

(c) added "the Yurok Tribal Office in Klamath at (707) 482-2921 or the Yurok Tribal Office in Weitchpec at (707) 444-5606."

(d) changed from "seven (7) days" to "thirty (30) days"

**Section 7. Identification of Gear**

(e) added "knowingly"

**Section 8. Permissible and Prohibited Fishing**

(a) added "Fishing by Yurok Tribal Members is allowed on Memorial and Labor Day Holidays unless closed properly pursuant to this Ordinance."

(e) deleted "is prohibited from the new Highway 101 bridge to the mouth of the Klamath River unless otherwise allowed for in properly enacted pre-season or in-season adjustments."

(e) changed "Drift net fishing is allowed in all areas, with the following restrictions: 1) Drift net fishermen must yield to set nets and they must pick up and set out 50 feet 2) Safety is a concern and Tribal Council will review periodically."

(f) changed "more than two separate gillnets." to "two or more separate gillnets."

(i) added "Tribal".

(j) changed from "one third (1/3)" to "one half 1/2".

(l) deleted "snag gear"

(p) deleted "except when expressly prohibited."

(t) added "except in unusual circumstances."

(u) added "Use of fish for cookouts, where by donations for community functions are received for cooked fish, may be permissible pursuant to a special permit issued by the Yurok Tribal Council. The Yurok Tribal Council may impose any conditions on the permittee that are necessary to protect the fishery resources or to assure that all Fish caught are used for the stated purpose. Proceeds from the cookout may be used for direct costs incurred for the cookout except for labor and fish."

(v) added "Eligible fishers may fish in the Pacific ocean within the area of Tribal Jurisdiction for ocean resources pursuant to properly adopted Tribal Management Plans."

(w) added "nets in the estuary must be attended at peak times during the Fall Chinook season, August 1<sup>st</sup> through September

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15<sup>th</sup>, consistent with the traditional practices of Yurok people."

**(x) added** "Special permits may be obtained for elders and disabled individuals from Tribal Council pursuant to and in accordance with Special Permit Policies approved by Tribal Council."

**(y) added** "Eligible fishers may protect their fishing gear and their person from damage or threat by marine mammals. Fishers shall only use seal bombs and shotguns to protect their gear. Any marine mammal carcass must be used by Yurok Tribal Members in any manner consistent with traditional customs and practice. No pistols or rifles will be allowed."

**Section 11. Fish Catch Reporting**

**(a) deleted** "any"

**(a) deleted** "The failure to immediately comply shall subject the Indian fisher to seizure and forfeiture of any gear or any fish in his/her possession."

**Section 12. Enforcement**

**(a) deleted** "or before an appropriate Federal Court."

**(a) added** "other Indians"

**(c) (5) deleted** "then the gear and/or fish shall be held pending prosecution of the person responsible for the violation."

**(c) (5) added** "and give back to intervenor."

**(d) deleted** "conduct"

**(d) added** "The Yurok Tribal Council shall ensure that the appropriate actions occur pursuant to such findings."

**Section 13. Penalties**

**(a) (3) added** "Prior convictions are calculated from the conviction date of an offense within a three year period."

**(f) changed** from "may" to "shall".

**(f) added** "All community service work shall include activities such as providing wood, fish or services to the Yurok Tribe at the prevailing market value. Failure to comply with Community Service penalties will result in fines being imposed by the Tribal Court."

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1999 A\*M\*E\*N\*D\*M\*E\*N\*T S\*E\*C\*T\*I\*O\*N\*

July 7, 1999 Amendment includes the following additions, deletions and changes:

**Section 8. Permissible and Prohibited Fishing**

8(z) added "The theft of fish from nets, boats, smokehouses or other locations and the theft of fishing gear or boats is strictly prohibited."

(1) added "Eligible Tribal Fishers will be allowed to sell roe from fall chinook. The selling of roe from any other species is prohibited."

**Section Penalties 13(b)**

Penalties for 8(w), 8(y) deleted "8(w) untended net in the Estuary during peak Fall Chinook Season" (covered in Penalty 13(a).) "8(y) unauthorized use of pistol or rifle on the Klamath River,". October 7, 1998 amendment.

**Section Penalties 13 (c)**

Penalties for 8(l), 8(n), 8(r), 8(t) deleted "8(l) (use of illegal gear), 8(n) Use of ID number other than your own, 8(r) allowing a fish to become inedible, 8(t) claiming fish from non-eligible fisher." (covered in Section 13 (a).) October 7, 1998 amendment.

**Section 13(g)**

Penalties for 8(z) added "The fine for theft as defined in 8(z) of the Yurok Tribe Fishing Ordinance is punishable by a fine of not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000), loss of fishing opportunities for one year, and restitution in the amount of three times the fair market value of the items taken."

2007 A\*M\*E\*N\*D\*M\*E\*N\*T S\*E\*C\*T\*I\*O\*N\*

July 18, 2007 Amendment includes the following additions, deletions and changes:

**Section 2. Effect of Ordinance Changes**

Corrected wording formerly deleted by scan text and re-numbered section (a) Any violations to this Ordinance shall be subject to the penalties set out in the individual violation sections and Section 14.

**Section 4. Definitions**

Added 'Eel Hook' means a traditional piece of fishing gear, a hook attached to a pole used for catching eels.

Corrected wording formerly deleted by scan text "Subsistence fishing" means the customary and traditional taking of fish for direct personal, family, or community consumption for food, for barter, in addition, the trade or sale of fish to Yurok Tribal Members for consumption as food shall be permitted. The Tribal Council will place any limitations on subsistence uses as necessary pursuant to this Ordinance. Fishing for subsistence purposes will be allowed at all times pursuant to this Ordinance. The Yurok Tribal Council believes that it is important for Tribal fishers to

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provide fish for elders consistent with traditional and customary practices.

**Section 5. Eligible fisher or Eligible Indian**

**Penalty attached (c)** Fishers younger than 16 years are not eligible to fish while school is in session during school hours. Exceptions due to hardship, etc., may be approved by the Natural Resource Committee. PENALTY: Community service hours with fish going to the Elders.

**Penalty attached (d)** No eligible Indian, as identified in Section 5(a) above, may allow an ineligible person to assist in an Indian fishery on the Yurok Indian Reservation. PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3<sup>rd</sup> offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run.

**Penalty attached and re-numbered (e)** No eligible Indian may use another eligible Indian's identification number. PENALTY: Fine of not less than two hundred fifty dollar (\$250) nor more than one thousand dollars (\$1,000), or have his/her Tribal fishing rights suspended for not more than one hundred eighty (180) days during the fishing season including the fall salmon run, or shall suffer forfeiture of all fish and/or fishing gear seized, or any combination of the above. (formerly 8n)

**Penalty attached and re-numbered (f)** No eligible fisher may claim fish taken by a non-eligible fisher as fish caught by the eligible fisher. PENALTY: Fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000), or have his/her tribal fishing rights suspended for not more than one hundred eighty (180) days during the fishing season including the fall salmon run, or shall suffer forfeiture of all fish and/or fishing gear seized, or any combination of the above. (formerly 8t)

**Section 6. Fisher identification cards required**

**Penalty added (a)** For purposes of this Ordinance, an eligible fisher pursuant to Section 5 of this Ordinance shall obtain a Yurok Tribal identification card and have such card on his/her person while exercising any fishing rights or transporting fish taken on the Yurok Indian Reservation and within the jurisdiction of the Yurok Tribe in the exercise of Yurok Tribal fishing rights. PENALTY: that person shall be punished by a fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) or forfeiture of fish or fishing gear, or shall suffer sixty days suspension of tribal fishing rights during the fall salmon run, or any combination of the above. If an Indian fisher fails to appear after being issued a citation pursuant to Section 6 and offer proof that he/she has an identification card, the court shall order suspension of the fisher's fishing right and law enforcement to retain the net pending the presentation of the required proof.

**Changed penalty (b)** Upon the request of an enforcement official, each Tribal fisher shall immediately produce for examination his/her Yurok Tribal identification card. Law Enforcement officials that harass Tribal fishers by repeatedly requesting to examine a fishers ID card will be

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subject to disciplinary actions. PENALTY: The penalty for this offense is left to the discretion of the Judge.

**Penalty attached (d)** If a fisher does not present a valid Yurok Tribal identification card upon request, but the law enforcement officer has reason to believe that the person is eligible to fish from other evidence presented to him/her at the catch site by such person, no seizure of the fish or gear shall occur at that time. However, that fisher shall be issued a citation requiring him/her to appear within thirty days and offer proof that he/she possesses a valid Yurok Tribal identification card. If a person does not appear within the time specified on the citation, that person's tribal fishing rights will be suspended until proof of compliance is presented to the Yurok Tribal Court and he/she shall be subject to the penalties set forth. PENALTY: Fine of not less than \$50 nor more than \$500 or forfeiture of fish or fishing gear or suffer 60 days susp of fishing rights during fall salmon run or any combination of the above. Failure to appear after being issued a citation and fails to offer proof that he/she has a Tribal I.D. card, the court shall order susp of fishing rights pending presentation of the required proof.

**Added (e)** Fishing for Elderly or Handicapped Yurok Tribal Members is permissible upon application to and approval by the Yurok Tribe Natural Resources Advisory Committee. A permit is then issued to the authorized Yurok Tribal Member to fish for the Elderly or Handicapped Tribal Member. PENALTY: Fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) or forfeiture of fish or fishing gear, or shall suffer sixty (60) days suspension of tribal fishing rights during the fall salmon run, or any combination of the above.

#### Section 7. Permissible Gear/Identification of Gear/Use of Gear

**Added (a)** Permissible gear for Yurok Tribal Member Fishing purposes includes: Set-net, gill net, hand dip net or trigger net, drift-net, eel basket, eel hook and hook-and-line.

**Penalty attached, addition to penalty (b)** Each eligible Indian fisher shall indelibly and conspicuously mark his/her tribal identification number on a float or cork attached to either end of any net being used so that the number is obvious without removing the gear from the water. PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200 and lose fishing gear. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3<sup>rd</sup> offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run.

**Corrected wording formerly deleted by scan text, penalty attached (c)** Only one identification number may be on a net. Any net not marked in conformity with this Ordinance shall be presumed to be in violation of this Ordinance and will be subject to seizure and forfeiture together with any fish contained therein. PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3<sup>rd</sup> offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run.

**Corrected wording formerly deleted by scan text, penalty attached(d)**

Except as may be provided for in this Ordinance, no eligible Indian fisher may allow his/her identification number to be used on a net he or she is not attending or fishing. PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3rd offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run.

**Penalty attached and addition to section(e)** Except as may be provided for in this Fishing Ordinance, no eligible Indian fisher may attend or fish a net that is not marked with his/her own identification number unless the eligible fisher whose identification number is on the net is in the area and has given their permission. PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3rd offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run.

**Corrected wording formerly deleted by scan text (f)** The eligible fisher whose number is on the net used knowingly in violation of this Ordinance, shall be responsible if the net is used in a manner that violates this Ordinance. This presumption shall only apply to the responsibility of the person whose number is found on the net. This responsibility shall not act to relieve another person of liability for any conduct charged.

**Re-numbered section (g)** Dip net and hook-and-line fishing: eligible Indians may engage in dip net fishing or angling at all times on the Reservation unless specifically closed by an adopted pre-season or in-season adjustment. (formerly 8p)

**Added penalty (h)** Drift net fishing is allowed in all areas, with the following restrictions: 1) Drift net fishermen must yield to set nets and they must maintain a 50 foot separation from the set net 2) Safety is a concern and Tribal Council will review periodically. PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200 and lose fishing gear. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3rd offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run.

**Added penalty (i)** An eligible fisher may use a maximum of one hundred (100) feet of gillnet which may be divided into two or more separate gillnets. PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200 and lose fishing gear. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3rd offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run.

**Added penalty (j)** The set-nets or drift-nets of an eligible fisher must be at least fifty (50) feet at their closest point from the set-nets or

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drift-nets of another eligible fisher. PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200 and lose fishing gear. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3rd offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run.

**Change re-numbered section (l)** Set-net locations: set-net locations shall be determined by the individual Indian fishers in accordance with tradition and custom and in a manner consistent with the provisions of this section. Disputes over set-net locations are to be resolved among the parties. Unresolved disputes are to be referred by the parties to elders or knowledgeable adults of the community for the particular area in which the dispute takes place. Any tribal member may petition the Tribal Council to aid in the resolution of the dispute. (formerly 8o)

**Change section re-numbered (m)** Nets in the estuary must be attended at peak times during the fall chinook fishing season, August 1 through September 15, consistent with the traditional practices of Yurok people. PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3rd offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run. (formerly 8w)

**Change and section re-numbered (n)** Eels may be taken by eel hook, snag gear or traps at any time by eligible Yurok Tribal members. (formerly 8s)

**Penalty attached and section re-numbered (o)** Eligible fishers may protect their fishing gear and their person from damage or threat by marine mammals. Fishers shall only use seal bombs and shotguns to protect their gear. Any marine mammal carcass must be used by Yurok Tribal Members in any manner consistent with traditional customs and practice. PENALTY: Fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) or forfeiture of fish or fishing gear, or shall suffer sixty (60) days suspension of tribal fishing rights during the fall salmon run, or any combination of the above. (formerly 8y)

## **Section 8. Permissible Fishing**

**Change section re-numbered (a)** Eligible fishers may fish in the Pacific Ocean within the area of Tribal Jurisdiction for ocean resources pursuant to properly adopted Tribal Management Plans. (formerly 8v)

**Change corrected wording formerly deleted by scan text (b)** Pursuant to the Constitution of the Yurok Tribe, the Reservation is open to the taking of anadromous fish by eligible fishers for subsistence and ceremonial purposes unless specifically closed by this Ordinance or by a properly adopted pre-season or in-season adjustment. Fishing by Yurok Tribal Members is allowed on Memorial and Labor Day Holidays unless closed properly pursuant to this Ordinance.

**Change corrected wording formerly deleted by scan text (d)** Nothing in this Ordinance prohibits an eligible fisher from requesting or giving assistance

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to anyone where the person needing assistance is faced with an emergency situation that could lead to injury or to loss of gear or life.

**Addition (g)** A Sea Lion Hunt consistent with Yurok Tribe traditional practices is allowable with an approved harvest management plan for this species.

**Change section re-numbered and addition (h)** Test fisheries: test fisheries including trapping, netting and electrofishing may be conducted by employees of fisheries management agencies working on the Reservation for resource management purposes. Both Tribal and Non-Tribal agencies and personnel must obtain a permit to conduct such studies from the Yurok Tribal Council. Tribal members may observe test fishery operations upon making arrangements with the agency conducting the activity. Notice of the study must be posted. (formerly 8q)

**Change corrected wording formerly deleted by scan text and re-numbered (i)** Barter, trade or sale of fish to Yurok Tribal Members for consumption as food shall be permitted. The Tribal Council will place any limitations on subsistence uses as necessary pursuant to this Ordinance. Fishing for subsistence purposes will be allowed at all times pursuant to this Fishing Ordinance. The Yurok Tribal Council believes that it is important for Tribal fishers to provide fish for elders consistent with traditional and customary practices. (formerly 8[2] given it's own section)

**Section 9. Prohibited Fishing**

**Addition (a)** Violation of an approved Harvest Management Plan or In-Season Adjustment is prohibited and punishable by a fine or penalty set by the Yurok Tribal Council at the time the Plan or In-Season Adjustment is adopted.

**Change re-numbered section and penalty added (b)** The anchoring of gill nets to any boat dock without permission or placement of nets in such a manner as to impede boat traffic from docking at or departing from any boat dock is prohibited. PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200 and lose fishing gear. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3<sup>rd</sup> offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run. (formerly 8i)

**Change section re-numbered and penalty added (c)** No set-net or combination of set-nets, staggered or joined, may be placed in such a way that it or they cover more than one-half (1/2) of the distance across any channel. PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200 and lose fishing gear. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3<sup>rd</sup> offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run. (formerly 8j)

**Change section re-numbered, penalty and McGarvey Creek added (d)** No set-net may be placed in any tributary creek of either the Klamath or

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Trinity River or within one hundred (100) feet of the mouth of any of the following creeks:

Bear Creek	Johnson Creek	Pine Creek	Terwer Creek
Blue Creek	McGarvey Creek	Roach Creek	Techtah Creek
Cappell Creek	Omagar Creek	Surpur Creek	Tuley Creek
Hunter Créek	Pecwan Creek		

**PENALTY:** 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200 and lose fishing gear. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3rd offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run. (formerly 8k)

**Change and section re-numbered(f)** Regulations may be imposed as necessary to ensure that no fishing occurs which may interfere with any studies authorized by the Tribe. Notice of the study must be posted. **PENALTY:** 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3rd offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run. (formerly 8m)

**Change section re-numbered (g)** No eligible fisher may allow a fish taken to become inedible. **PENALTY:** 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3rd offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run. (formerly 8r)

**Change section re-numbered and deletion of text (not well written) (h)** The theft of fish from nets, boats, smokehouses or other locations and the theft of fishing gear or boats is strictly prohibited. To include recognizing traditional practices and the addition that Complaints from this must be initiated by the individual(s) who own the property taken. The fine for theft as defined in 8(z) of the Yurok Tribe Fishing Ordinance is punishable by a fine of not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000), loss of fishing opportunities for one year, and restitution in the amount of three times the fair market value of the items taken. A second offense is doubled what the first offense penalty is. (formerly 8z)

**Change section re-numbered(i)** Eligible Tribal Fishers will be allowed to sell roe from fall chinook. The selling of roe from any other species is prohibited. **PENALTY:** 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3rd offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run. (formerly 8[1])

**Change section re-numbered (j)** No eligible fisher shall, for commercial purposes, take, possess or sell fish in violation of pre-season or in-

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season regulations promulgated by the Yurok Tribal Council. PENALTY: Fine of not less than two hundred fifty dollar (\$250) nor more than one thousand dollars (\$1,000), or have his/her Tribal fishing rights suspended for not more than one hundred eighty (180) days during the fishing season including the fall salmon run, or shall suffer forfeiture of all fish and/or fishing gear seized, or any combination of the above.

**Added by Council previously in Harvest Management Plans, (k)** Cleaning of fish at the Regua boat ramp and the Regua boat docks is prohibited except at designated fish cleaning stations. PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3rd offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run.

### Section 11. Pre-season and In-season Adjustments to this Ordinance

**Change correction to text omitted in scan to text in 1999 (a)** The Yurok Tribal Council shall adopt pre-season and in-season changes to this Ordinance for resource conservation and harvest management purposes.

**Change correction to text omitted in scan to text in 1999 and addition of text (b)** Changes to the Ordinance authorized by paragraph (a) of this section are effective 24 hours after adoption by the Yurok Tribal Council and shall remain in effect until modified or rescinded by the Yurok Tribal Council or until they expire by their own terms. Penalties for violations of an adopted Harvest Management Plan or In-Season Adjustments are set by Yurok Tribal Council.

**Addition (d)** Violation of an approved Harvest Management Plan or In-Season Adjustment is prohibited and punishable by a fine or penalty set by the Yurok Tribal Council at the time the Plan or In-Season Adjustment is adopted. DEFAULT PENALTY: 1<sup>st</sup> offense, forfeit fish seized and a fine of \$50 to \$200. 2<sup>nd</sup> offense in three years, forfeit fish seized and a fine of \$100 to \$250 or suspension of fishing rights for 60 days during the fall salmon run, or forfeit fishing gear, or any combination of the above. 3rd offense in three years, forfeit fish seized and a fine of \$200 to \$500, or suspension of fishing rights for 120 days during the fall salmon run.

### Section 12. Fish Catch Reporting

**Change corrected wording formerly deleted by scan text and added text (a)** Each fisher shall display all fish he or she has caught upon the request of an authorized law enforcement official or authorized Tribal personnel for the purpose of monitoring the harvest or assuring compliance with the provisions of this Ordinance. The snouts of Chinook with an adipose fin clip must be given to Yurok Tribal Fisheries Program staff upon request. The information obtained from the coded wire tags recovered from such fish is critical to the successful management of Klamath River Fall Chinook. PENALTY: Fine of not less than two hundred fifty dollar (\$250) nor more than one thousand dollars (\$1,000), or have his/her Tribal fishing rights suspended for not more than one hundred eighty (180) days during the fishing season including the fall salmon run, or shall suffer forfeiture of all fish and/or fishing gear seized, or any combination of the above.

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Change section re-numbered - Section 13. Enforcement [Formerly Section 12]

Change corrected wording formerly deleted by scan text (a) *Prosecution*. Eligible fishers or other Indians, who violate this Ordinance or any pre-season or in-season adjustment promulgated thereunder may be subject to prosecution before the Yurok Tribal Court.

Change corrected wording formerly deleted by scan text (b) *Citations*. Law enforcement officers may issue citations to any eligible Indian believed to have committed a violation of this Ordinance. Such citation shall state date, time, and location where the person cited is to appear in Tribal Court and the offense with which the person is charged.

Change corrected wording formerly deleted by scan text (c) *Search of Transportation Vehicles*. Law enforcement officers who, with probable cause, believe that any transportation vehicle contains fish illegally taken on the Reservation by an eligible Indian fisher may access said fish for inspection, and may search the vehicle to see if fish are possessed in violation of this Ordinance.

Change corrected wording formerly deleted by scan text (1) Any net or other fishing gear used in violation of this Ordinance and any fish taken or possessed in violation of this Ordinance may be seized by a law enforcement officer. Fish and gear so seized shall be held pending disposition by Court order except as specifically provided in this Ordinance. The prosecutor may authorize law enforcement officers to release, without a Court order, any gear or fish seized when the prosecutor declines to prosecute an eligible fisher for the suspected violation for which the gear and/or fish were seized.

Change corrected wording formerly deleted by scan text (6) All fish seized may be utilized for subsistence, ceremonial purposes or be commercially sold by the Yurok Tribe. Proceeds may be held pending a Court determination that fish were taken in violation of this Ordinance. In the event of such a determination, proceeds will be transferred to a special Yurok Fishery Account Fund established by the Tribe. Nothing in this section shall be construed to prevent undercover law enforcement officers from selling fish as part of their duties or to make legal the purchase of fish from such officers.

Change corrected wording formerly deleted by scan text (d) *Complaint procedures*. Any person regulated under this Ordinance, who alleges professional misconduct may file a complaint, in writing, against a law enforcement officer. The Yurok Tribal Council shall, without unreasonable delay, cause an investigation to be conducted into any allegation of misconduct by a law enforcement officer in carrying out the duties of that office. Upon completion of the investigation, the Yurok Tribal Council shall make available to the complainant the findings of the investigation. The Yurok Tribal Council shall ensure that the appropriate actions occur pursuant to such findings.

Added Section 14. Additional Penalty Provisions

Added section, The Tribal Court Judge may reduce penalties at his discretion to first time offenders and/or for less serious offenses.

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Change, section re-numbered, (b) Prior convictions are calculated from the conviction date of an offense within a three-year period. [formerly 13 (a) (4)]

Change section re-numbered and penalty added. (c) Failure to appear before the court pursuant to a proper citation shall not be allowed. Such a failure will subject the alleged offender to a default judgment and forfeiture of the net. [formerly 13(a)(4)d)]

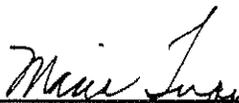
Change, penalty added and section re-numbered, (d) Any Indian who refuses to obey a lawful order of the Yurok Tribal Court shall be fined not more than five hundred dollars (\$500), or suffer suspension of fishing rights for a period not to exceed 365 days, or any combination thereof for each offense. If the sentence of the Yurok Tribal Court is not completed within 180 days, the net and any equipment from that case may be forfeited and disposed of by the Yurok Tribe. [formerly 13(a)(4)(e)]

Change section re-numbered, (e) Any Indian who violates a lawful order of the Yurok Tribal Court which suspends that person's tribal fishing rights shall be fined not less than three hundred dollars (\$300) nor more than five hundred dollars (\$500); or suffer further suspension of tribal fishing rights up to one hundred eighty (180) days during the fishing season including the fall salmon run, and forfeiture of all fish and gear seized; or any combination of the above for each offense. [formerly 13(a)(4)(f)]

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

AMENDMENT July 18, 2007. This is to certify that this Yurok Tribal Fishing Rights was approved at a regular meeting of the Yurok Tribal Council on June 4, 1996 at which a quorum was present, amended at a regular meeting of the Yurok Tribal Council on June 7, 1996, amended July 11, 1996, amended on October 7, 1998, amended on July 18, 2007, at which a quorum was present and amended by a vote of 7 for, 0 opposed and 0 abstention. This has not been rescinded in any way.

DATED THIS 18th DAY OF July, 2007.

  
\_\_\_\_\_  
Maria Tripp, Tribal Chair

Attest:   
\_\_\_\_\_  
Cynthia McKernan, Recording Secretary

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YUROK TRIBAL  
FISHING RIGHTS 2007  
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