

**YUROK TRIBAL ORDINANCE  
PROHIBITING ILLEGAL DUMPING ON THE YUROK RESERVATION**

**Ordinance No. YTC - 1- 08**

**SECTION 1. AUTHORITY**

This Ordinance prohibiting open dumping on the Yurok Reservation is established by the Yurok Tribal Council under the authority delegated to it by Article IV, Section 5 of the Constitution of the Yurok Tribe, as ratified on November 19, 1993. Article IV, Section 5 states in part: "...the Yurok Tribal Council shall have the authority to enact legislation, rules and regulations not inconsistent with the Constitution to further the objectives of the Yurok Tribe as reflected in the Preamble to this Constitution; [and to] enact civil and criminal laws." Yurok Tribal Resolution No. 9547 declared open dumping to be illegal within the Yurok Reservation in accordance with Federal and State statutes, local ordinances, and tribal law, and further directed the Yurok Tribal Council to, "have prepared and to execute all necessary certifications, public notices, and other documents in support of this Council action, and to direct the preparation of proposed enforcement action and recommendations for the Tribal Court in prosecuting violations of this Tribal mandate." The Yurok Tribal Court is hereby directed to hear any cases brought before them for violations of this Ordinance, and to impose penalties in accordance with the schedule and criteria set forth in Sections 5, 6, and 7 below.

**SECTION 2. PURPOSE**

The purpose of this Ordinance is to establish a Yurok Tribal law prohibiting the open disposal, dumping, depositing, burying (other than small, residential compost piles of non-hazardous, organic materials produced on the premises and being tended for use as fertilizer) or unpermitted burning of any waste materials' whatsoever on any lands or in any waters of the Yurok Reservation, in order to end the public health hazard being perpetuated by numerous individuals: known and unknown to the Yurok Tribe; and, by bringing about the cessation of the illegal dumping, to hereby stop the resultant pollution of the soils, streams, groundwater, and the Klamath River itself, which in turn has endangered the natural environment and the fishery resources belonging to all of the Yurok Tribe.

**SECTION 3. DEFINITIONS**

Constitution: The Constitution of the Yurok Tribe, as ratified on November 19, 1993

Yurok Tribal Council: The duly elected nine-member governing body

Yurok Tribal Court: The Yurok Tribal Court as established by Yurok Tribal Code 1-05 Court (or "Court")

Waste materials: Any items or materials being disposed of, including (but not limited to) solid waste, trash, or garbage (defined as easily decomposable or illegally-dumped putrefactive animal and vegetable matter), rubbish (defined as non-putrefactive, non-organic materials and plant matter, such as yard trimmings), glass, metals, plastics, papers, asbestos, construction waste materials, cardboard, batteries, chemicals, tires, used vehicles or appliances, furniture, etc.

Dumping: The open disposal, depositing, burying, or non-permitted burning of any waste materials, other than at-home organic compost piles (as defined in Section 2 above)

#### SECTION 4. EFFECT OF ORDINANCE

Any person responsible for illegal dumping on the Yurok Reservation may be prosecuted before the Yurok Tribal Court pursuant to the stipulations set forth in Sections 5, 6, and 7 of this Ordinance. A Container Site (also known as the Transfer Station) has been established at Weitchpec (on Highway 169) to receive and appropriately handle the waste materials and recyclables brought there for proper permitted disposal. Tribal members and other Yurok Reservation residents are given the alternative to dispose of their wastes either at the Container Site at Weitchpec or another legally-permitted Waste Transfer Station of their choice.

#### SECTION 5. APPLICATION

All persons over the age of 18 years (eighteen) shall be treated as adults in the prosecution of a violation of the Ordinance. The parents or guardians of minors under the age of 18 years shall be held accountable for any illegal dumping committed by any minors for whom they are legally responsible.

#### SECTION 6. ENFORCEMENT

*(a) Prosecution:* Any person(s) who violate this ordinance (or their legal guardians, in the case of a minor, per Section 5 above) may be subject to prosecution before the Yurok Tribal Court.

*(b) Citations:* Law enforcement officers may issue citations to any person(s) suspected of having violated this Ordinance. The retrieval of two (2) pieces of addressed mail or other name-labeled property from illegally dumped trash shall constitute sufficient prima facie evidence for the issuance of a citation. The retrieval of one piece of named evidence shall be grounds for the issuance of a warning citation. In instances where dumping has been witnessed and reported, even without the retrieval of prima facie evidence, a law enforcement officer is authorized to issue a citation to the violator. When this ordinance is applied to unlawful accumulation of wastes upon an individual's privately owned property or individually held assignment, no prima facie evidence is required for assignment of culpability.

*(c) Warnings:* In the case where an officer finds it appropriate to issue a warning to a violator or suspected violator, the officer may require a receipt from an appropriate transfer station or dump for the proper disposal of the refuse within a specified time period. If the officer does not receive such receipt, the officer may issue a citation and proceed with the provisions in Section 7.

Citations shall include the following information:

- (1) the offense for which the person is being cited (illegal dumping, per this Ordinance);
- (2) the specific location of the illegally-dumped waste materials (with approximate road mileage from the nearest major intersection given, or the nearest milepost marker, if along Highway 169);
- (3) the date(s) and time(s) of the suspected offense(s) (if witnessed), or

- (4) the date discovered by the law enforcement officer (with prima facie evidence as detailed above);
- (5) the date, time, and location where the cited person is to appear before the Tribal Court; (In the case of a warning citation, the address where the suspected violator may respond to the officer who wrote the citation); and
- (6) the name and legible signature of the officer issuing the citation.

#### SECTION 7. PENALTIES

Any person found guilty of illegal dumping after due process of law before the Yurok Tribal Court shall be subject to the following:

- (1) *First violation:* Up to \$500.00 (five hundred dollars) in fines and/or one hundred hours of community service, to be determined by the Yurok Tribal Court, plus the cost of cleanup for the materials illegally dumped. The assigned community service shall involve the collection and removal of roadside trash, or trash which has accumulated in illegal dumps on the Yurok Reservation.
- (2) *Second violation:* Up to \$1000 (one thousand dollars) in fines, plus the cost of the cleanup of the illegally-dumped materials, and up to two hundred hours of community service (as specified in subsection [I] above), to be determined by the Court.
- (3) *Third and subsequent violations:* Up to \$1 500 (fifteen hundred dollars) in fines per each subsequent offense, plus the cost of the cleanup of the illegally dumped materials, and up to three hundred hours of community service (as specified in subsection [I] above), to be determined by the Court.

#### SECTION 8. SOVEREIGN IMMUNITY

Nothing in this Ordinance shall be deemed a waiver of the sovereign immunity of the Yurok Tribe.

#### SECTION 9. EFFECTIVE DATE AND AMENDMENTS

This Ordinance shall become effective on the date enacted by the Yurok Tribal Council. This Ordinance, once enacted, may be amended by the Yurok Tribal Council per the procedures set forth in the Constitution, Article IV (Duties *and* Powers of the Yurok Council), Section 5, subsection [j].

THIS IS TO CERTIFY THAT YTC 1-08, TITLED THE YUOK TRIBE ORDINANCE PROHIBITING ILLEGAL DUMPING ON THE YUOK RESERVATION, WAS AMENDED AT A REGULARLY SCHEDULED MEETING OF THE YUOK TRIBAL COUNCIL ON SEPTEMBER 9, 2004 AT WHICH A QUORUM WAS PRESENT; AND THAT ORDINANCE WAS APPROVED BY CONSENSUS IN ACCORDANCE WITH ARTICLE 4, SECTION 5 (J) OF THE CONSTITUTION OF THE YUOK TRIBE DATED THIS 9TH DAY OF SEPTEMBER, 2004.

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Howard McConnell, Chairperson  
Yurok Tribal Council

Attest:

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Cynthia Carlson