

YUROK TRIBE COPYRIGHT PROTECTION ORDINANCE

AUTHORITY:

The Yurok Tribal Council is the duly elected and authorized Governing body of the Yurok Tribe; a federally recognized Indian Tribe which is eligible for all rights and privileges afforded to a federally recognized Indian Tribe and, as such, enacts this ordinance by the power and authority granted under the Yurok Tribal Constitution. Article IV, Section 5(a) states that the Tribal Council may “enact legislation, rules and regulations not inconsistent with this constitution to further the objectives of the Yurok Tribe...”

PURPOSE:

The purpose of this ordinance is to provide a Tribally sanctioned method to register copyrightable original works and to enforce individual copyright protections for Yurok Tribal members who register their original works of authorship/design. Such works shall include, but not necessarily be limited to: Literary Works, Pictorial Works, Graphic Works, Musical Works, Dramatic Works, Choreographic Works, Architectural works. Nothing in this Ordinance shall allow for, or advocate the copyrighting of certain specific symbols and basket designs. The Yurok Tribe holds these designs sacred as gifts from the Creator to the Yurok People. However, such designs may appear as part of a larger work of copyrightable material. The Yurok Tribal Council further reserves the right to copyright such designs in the name of the Yurok Tribe.

In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

SECTION 1 DEFINITIONS:

Definitions pertaining to this ordinance shall be identical to those used in the *Copyright Act of 1976*, 17 U.S.C. Section 101.

SECTION 2 EXCLUSIVE RIGHTS:

The owner of copyright under this title has the exclusive rights to do and to authorize any of the following:

- (1) Reproduce the copyrighted work in copies;
- (2) Prepare derivative works based upon the copyrighted work;

- (3) Distribute copies of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
- (4) In the case of literary, musical, dramatic, and choreographic works, pantomimes and other audiovisual works, to perform the copyrighted work publicly;
- (5) In the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including other audiovisual work, to display the copyrighted work publicly.

SECTION 3 FAIR USE -- LIMITATIONS ON EXCLUSIVE RIGHTS

Notwithstanding the provisions of section 2 the fair use of a copyrighted work, including such use by reproduction in copies or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include—

- (1) The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
- (2) The nature of the copyrighted work;
- (3) The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- (4) The effect of the use upon the potential market for or value of the copyrighted work.

SECTION 4 DURATION OF COPYRIGHT PROTECTION:

The term for protection of a copyrighted work under this ordinance shall be the life of the author plus twenty years; during which time the rights and protections afforded under this ordinance shall be assumable with, respect to specific works, by the original author's named heir, or next of kin as named by law.

SECTION 5 WORKS FOR HIRE:

Any work produced at the direction of an employer or any work produced under commission from a party other than the original author shall be the exclusive property of the employer or person commissioning such work.

This section shall not apply where the original author has an agreement, in writing, with his/her employer, or other person commissioning a work which states that the original author shall retain title and copyright of such work. Such agreement shall be executed and signed by both parties prior to beginning work on the commissioned work.

SECTION 6 VIOLATION OF ORDINANCE:

Anyone who violates or claims rights of copyright, except the owner of such copyright as provided in sections 1 and 5, is an infringer on the copyright of the legal owner, and, as such, is civilly liable under this ordinance.

SECTION 7 REMEDIES:

Remedies for violation of this ordinance shall exist only with the Yurok Tribal Court shall include:

1. Injunctive and/or declaratory relief as issued by the Yurok Tribal Court
2. Impounding and/or return of unauthorized materials
3. Monetary damages equivalent to loss of profit from loss of sales/sales made without authorization (if sellable work)
4. Punitive damages of not less that \$200 nor more than \$500

SECTION 8 REGISTRATION OF COPYRIGHT:

To assert rights of ownership under this ordinance the original author or any work deemed copyrightable under this ordinance must register said work with the Yurok Tribe Executive Office.

To register an original work one must provide:

1. A copy of the work to be registered,
2. Title of work to be copyrighted
3. A signed statement of ownership/authorship,
4. Name and address of owner
5. If it is a work for hire, a statement to that effect
6. A registration fee of \$10

A certificate of Registered Copyright will be mailed within 1 month of registration.

Notice of copyright is not required however if it is used it shall be in the form of a circle with a "c" in side (©) or a variation of the word "copyright," with the date of registration with "Yurok Tribe" immediately following.

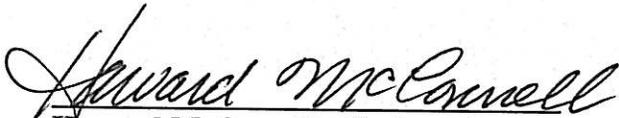
SECTION 9 CONTESTED OWNERSHIP/COPYRIGHT:

Any contest to any claim of ownership/authorship of any work registered under this ordinance shall be adjudicated solely in the Yurok Tribal Court

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**THE FOREGOING ORDINANCE, ENTITLED THE YUROK TRIBE
COPYRIGHT PROTECTION ORDINANCE, WAS PASSED AT A REGULARLY
SCHEDULED MEETING OF THE YUROK TRIBAL COUNCIL ON AUGUST
9TH 2006, AT WHICH A QUORUM WAS PRESENT AND THAT THIS
ORDINANCE WAS APPROVED BY A VOTE OF 8 FOR, 0 OPPOSED, WITH
NO ABSTENTIONS.**

DATED THIS 9th DAY OF AUGUST, 2006.



**Howard McConnell, Chairman
Yurok Tribal Council**

Attest:



**Cynthia McKernan
Executive Assistant**