

Yurok Tribal Code, Cultural Resources

YUROK TRIBE CULTURAL ARTS ORDINANCE

Pursuant to its authority under Article IV, Section 5 of the Yurok Constitution, as certified on November 24, 1993, the Yurok Tribal Council hereby enacts the following ordinance to promote the on-going development of cultural resources by Tribal members and provide for the cultural, social, and economic well-being of Tribal member families:

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GENERAL PROVISIONS

SECTION 4001. Short Title

This ordinance shall be referred to as the “Yurok Tribe Cultural Arts Ordinance” or “Yurok Arts Ordinance.”

SECTION 4002. Findings

The Tribal Council finds and declares that:

- (a) Yurok Tribal members have been engaged in creating arts and crafts since time immemorial and continue to create traditional and contemporary arts and crafts;
- (b) Arts and crafts created by Tribal members constitute cultural resources, which are vital to the preservation and promotion of Yurok culture;
- (c) There currently exists a lack of adequate retail space and opportunities for the sale and promotion of arts and crafts within the Yurok Reservation and the promotion of tourism within Yurok ancestral territory;
- (d) Tourism within Yurok ancestral territory provides income to Tribal member families and deserves support and promotion in order to further the economic well-being of Tribal member families;
- (e) The provision of retail space and opportunities for the sale of arts and crafts by Tribal members and spouses of Tribal members will promote these cultural resources; and
- (f) The provision of retail space and opportunities for the sale of Tribal member arts and crafts and other goods promoting tourism in Yurok ancestral territory further the cultural, social, and economic well-being of Tribal members, Tribal member families, and future Tribal members.

SECTION 4003. Purpose

The purpose of this ordinance is to promote the cultural, social, and economic well-being of Tribal member families and support the creation, display, and sale of cultural arts and crafts by Tribal members by ensuring adequate retail opportunities within the Yurok Reservation for the display and sale of Tribal member arts and crafts and goods promoting tourism within Yurok ancestral territory.

SECTION 4004. Scope

This ordinance shall govern the display and sale of Yurok Tribal member arts and crafts and retail goods promoting tourism within Yurok ancestral territory at hotels with at least 60 rooms on Yurok lands within the Reservation.

SECTION 4005. Sovereign Immunity Preserved

Except as judicial review is specifically authorized in this ordinance, and in accordance with the Yurok Tribe’s Supreme Ordinance, nothing in this ordinance shall be interpreted as a waiver of

sovereign immunity from unconsented lawsuit, or as authorization for a claim for monetary damages against the Tribe.

SECTION 4006. Severability

If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or application of its provisions to other persons or circumstances shall not be affected, and to this end, the provisions of this ordinance are severable.

SECTION 4007. Definitions

- (a) *Artisan* means a Tribal member or an individual certified as a Yurok artisan by the Yurok Tribe.
- (b) *Council* means the Yurok Tribal Council.
- (c) *Hotel* means a building, group of buildings, or RV park that is owned or operated by the Yurok Tribe or a Tribal entity at which the public may obtain temporary accommodations for consideration, including, without limitation, such establishments as hotels, RV parks, inns, motels, tourist homes, tourist houses, or bed and breakfast establishments and any other building in which accommodations are available to the public.
- (d) *Non-Tribal Member Artisan* means a spouse of a Yurok Tribal member, a member of a federally recognized tribe, or an individual certified as an Indian artisan by a federally recognized tribe.
- (e) *Operator* means any person or entity operating a hotel that at least 60 rooms.
- (f) *Reservation* or *Yurok Reservation* means all lands within the boundaries of the Yurok Reservation.
- (g) *Room* means any room, or space or site at an RV park, of any kind and in any part or portion of a hotel let out for temporary use or possession for lodging or meeting purposes.
- (h) *Tribal Court* means the Yurok Tribal Court, which was established by the Yurok Tribe Judicial Branch Ordinance.
- (i) *Tribal Member* means a duly enrolled member of the Yurok Tribe listed on the Yurok Tribal Membership Roll.
- (j) *Tribe* means a federally recognized tribe.
- (k) *Yurok Lands* means all lands within the Reservation, trust lands, and lands owned by the Tribe or a Tribal entity.

- (l) *Yurok Ancestral Territory* means those ancestral lands described in the Yurok Constitution Article I, Section I.

CHAPTER 1. RETAIL SPACE

SECTION 4101. Retail Space Requirements

An operator shall provide at least 450 square feet of retail space for the display and sale of artisan arts and crafts and retail goods promoting tourism within Yurok ancestral territory.

CHAPTER 2. TRIBAL MEMBER CULTURAL ARTS AND CRAFTS

SECTION 4201. Sales of Artisan Arts and Crafts

An operator shall allow for and give preference to the sale of arts and crafts by artisans in the retail space specified in section 4101. An operator may purchase arts and crafts, or accept them for sale on a consignment basis, for display in the retail space.

SECTION 4202. Consignment Sales

For consignment sales, the operator and artisan shall agree upon a price to be paid to the artisan upon the sale of the item. Within 30 days after the sale of the item, the operator shall pay the artisan the agreed price with a statement identifying the item by its description.

SECTION 4203. Arts and Crafts Selected for Sale

The operator in his or her reasonable discretion may accept or reject any arts or crafts offered for display and sale based on quality, quantity, price, or other criteria.

SECTION 4204. Display of Arts and Crafts

Decisions regarding display, sales, and marketing of the items shall be made at the reasonable discretion of the operator.

SECTION 4205. Return of Unsold Arts and Crafts

Prior to the sale of an art or craft that is on consignment, an artisan may request in writing the item's return and the operator shall make the item available for pick up within five days of the artisan's written request. If an item remains unsold for at least 90 days, an operator may notify the artisan by mail of the operator's intent to return the item and the artisan shall have 30 days from the date the notice is mailed to pick up the item.

CHAPTER 3. GOODS PROMOTING TOURISM IN YUOK ANCESTRAL TERRITORY

SECTION 4301. Sales of Retail Goods

An operator may offer for sale retail goods promoting tourism in Yurok ancestral territory in the retail space specified in section 4101.

SECTION 4302. Sales of Non-Tribal Member Artisan Arts and Crafts

For purposes of this ordinance, goods promoting tourism in Yurok ancestral territory shall include arts and crafts produced by a non-Tribal member artisan. An operator shall comply with chapter 2 for sales of non-Tribal Member artisan arts and crafts.

CHAPTER 4. MARKETING OF CULTURAL ARTS AND CRAFTS

SECTION 4401. Truth in Advertising

A person shall not knowingly offer or display for sale, or offer to another for sale on a consignment basis, any art or craft in a manner that falsely suggests it is produced by or the product of an artisan, non-Tribal Member artisan, or tribe if that artisan, non-Tribal member artisan, or tribe did not actually create the art or craft.

SECTION 4402. Cause of Action for Misrepresentation

A civil action seeking monetary, injunctive, or equitable relief may be filed in Tribal Court against any person who violates section 4401 by:

- (a) A tribe, on behalf of itself or a member of that tribe;
- (b) An artisan; or
- (c) A non-Tribal member artisan.

CHAPTER 5. TRIBAL COURT REVIEW AND ENFORCEMENT

SECTION 4501. Tribal Court Review

The Tribal Court shall have jurisdiction to hear violations of this ordinance or disputes arising out of any agreement between an operator and artisan for the display or sale of an art or craft.

SECTION 4502. Remedies

Ruling on matters arising under this ordinance, the Tribal Court shall have the authority to assess and collect civil penalties, to enjoin or mandate actions to enforce the provisions of this ordinance, and to provide any other relief, including awarding exemplary or punitive damages and costs or fees, that the Tribal Court deems lawful and equitable.

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

THE FOREGOING ORDINANCE, ENTITLED THE YUROK CULTURAL ARTS ORDINANCE, WAS PASSED AT A REGULARLY SCHEDULED MEETING OF THE YUROK TRIBAL COUNCIL ON FEBRUARY 5, 2015, AT WHICH A QUORUM WAS PRESENT, AND THIS ORDINANCE WAS ADOPTED BY A VOTE OF 5 FOR, 1 OPPOSED AND 0 ABSENTIONS IN ACCORANDANCE WITH ARTICLE IV, SECTION 5(j) OF THE CONSTITUTION OF THE YUROK TRIBE.

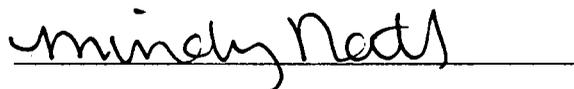
DATED THIS 5th DAY OF FEBRUARY 2015



Thomas P. O'Rourke, Sr., Chairperson

Yurok Tribal Council

ATTEST:



Mindy Natt, Secretary

Yurok Tribal Council