

Yurok Tribal Code, Taxation

YUROK TRIBE ROOM OCCUPANCY TAX 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 establishing a room occupancy tax for temporary lodging of transients on Yurok lands:

GENERAL PROVISIONS..... 2

 SECTION 4001. Short Title..... 2

 SECTION 4002. Findings..... 2

 SECTION 4003. Purpose 2

 SECTION 4004. Scope 3

 SECTION 4005. Sovereign Immunity Preserved 3

 SECTION 4006. Severability..... 3

 SECTION 4007. Effective Date 3

 SECTION 4009. Definitions 3

CHAPTER 1. ROOM OCCUPANCY TAX..... 4

 SECTION 4101. Imposition of Room Tax 4

 SECTION 4102. Calculation of Room Tax 4

 SECTION 4103. Responsibility for Room Tax Payment 4

 SECTION 4104. Exempt Transients 4

CHAPTER 2. ADMINISTRATION OF ROOM OCCUPANCY TAX..... 5

 SECTION 4201. Administration 5

 SECTION 4202. Collection of Room Tax..... 5

 SECTION 4203. Quarterly Remittance 5

 SECTION 4204. Quarterly Tax Return..... 5

 SECTION 4205. Confidentiality of Tax Returns 5

 SECTION 4206. Record Keeping Requirements..... 5

 SECTION 4207. Audit..... 5

CHAPTER 3. USE OF ROOM OCCUPANCY TAX REVENUES 6

 SECTION 4301. Separate Account..... 6

 SECTION 4302. Allocation of Revenue To Visitor Industry 6

CHAPTER 4. REFUNDS..... 6

 SECTION 4010. Overpayment..... 6

SECTION 4401. Operator Refund	6
SECTION 4402. Transient Refund.....	6
CHAPTER 5. ENFORCEMENT	7
SECTION 4501. Penalties	7
SECTION 4502. Failure to Collect and Report Tax.....	7

GENERAL PROVISIONS

SECTION 4001. Short Title

This ordinance shall be referred to as the “Yurok Room Occupancy Tax Ordinance.”

SECTION 4002. Findings

Tribal Council finds and declares that:

- (a) The Tribe maintains the power to tax transactions occurring on Yurok lands as a fundamental attribute of sovereignty. The United States Supreme Court has affirmed the Tribe’s power to tax nonmember activities on Indian lands as an essential attribute of Indian sovereignty in *Washington v. Confederated Tribes of the Colville Reservation*, 447 U.S. 134 (1980), *Merrion v. Jicarilla Apache Tribe*, 455 U.S. 130 (1982), and *Kerr-McGee Corp. v. Navajo Tribe*, 471 U.S. 195 (1985).
- (b) Tax revenues are essential to the Tribe’s ability to provide services to Tribal members and to finance government operations and economic development for the health and welfare of the Tribe, Tribal members, and those who live on, work on, or visit the Reservation.
- (c) Tribal members and the Reservation community benefits from Tribal governmental services and programs, which supplement or replace other governmental programs and relieve other governments from the full burden of these programs.
- (d) Tribal members, the Reservation community, and others visiting or conducting business on the Reservation benefit from various Tribal governmental services, including Tribal law enforcement, water systems to provide safe drinking water, comprehensive land use planning and regulation, Tribal roads, Tribal fisheries enforcement, fire protection, and social services and education programs.
- (e) The full cost of these benefits are not covered by the programs and services and it is necessary for the Tribe to raise supplemental revenues locally to continue to provide these public services that are essential to the health, safety, welfare, and economic well-being of Tribal members, the Reservation community, and others visiting or conducting business on the Reservation.

SECTION 4003. Purpose

The purpose of this ordinance is to regulate the rental of Tribal hotels, RV parks, and other temporary lodging businesses on Yurok lands and to impose, collect, assess, and administer taxes on room occupancy.

SECTION 4004. Scope

This ordinance shall govern the collection of a room occupancy tax from transients on Yurok lands within the Reservation that rent a room from a hotel or a site at an RV park owned or operated by a Tribal entity.

SECTION 4005. Sovereign Immunity Preserved

Except as judicial review is 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 the Tribe's 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. Effective Date

This ordinance shall take effect immediately after its adoption by Council.

SECTION 4008. Repeal of Conflicting Ordinance Provisions

All prior ordinance provisions previously enacted by the Tribal Council and inconsistent with the provisions of this ordinance are hereby repealed. If the provisions of this ordinance conflict with the provisions of any other previously enacted ordinance, the provisions of this ordinance shall control.

SECTION 4009. Definitions

- (f) *Council* or *Tribal Council* means the Yurok Tribal Council.
- (g) *Hotel* means a building, group of buildings, or RV park that is owned or operated by the Yurok Tribe or a Tribal entity and at which the public may obtain temporary accommodations for consideration, including, without limitation, such establishments as hotels, RV park, inns, motels, tourist homes, tourist houses, or bed and breakfast establishments and any other building in which accommodations are available to the public.
- (h) *Operator* means any person or entity operating a hotel.
- (i) *Rent* means the total amount charged for a room before applicable taxes.
- (j) *Reservation* or *Yurok Reservation* means all lands within the exterior boundaries of the Yurok Reservation.
- (k) *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.
- (l) *Room Occupancy Tax* or *Room Tax* means the tax imposed by this ordinance.

- (m) *Transient* means any person who occupies or is entitled to occupy a room for a period of 30 consecutive calendar days or less, counting portions of days as full days.
- (n) *Tribal Court* means the Yurok Tribal Court, which was established by the Yurok Tribe Judicial Branch Ordinance.
- (o) *Tribal Employee* means an employee of the Tribe or a Tribal entity.
- (p) *Tribal Entity* means the Redwood Hotel Casino, the Yurok Economic Development Corporation, and any other agency, entity, subdivision, instrumentality, or non-profit or for-profit corporation that acts at the direction of Council and that has been approved by Council resolution to collect the sales tax pursuant to this ordinance.
- (q) *Tribal Member* means a duly enrolled member of the Yurok Tribe listed on the Yurok Tribal Membership Roll.
- (r) *Tribe* means the Yurok Tribe acting at the direction of Council.
- (s) *Trust Lands* means all land the fee title to which is owned by the United States of America and held in trust for the benefit of the Tribe or a Tribal member.
- (t) *Yurok Lands* means all lands within the Reservation, trust lands, and lands owned by the Tribe or a Tribal entity.

CHAPTER 1. ROOM OCCUPANCY TAX

SECTION 4101. Imposition of Room Tax

A room tax is imposed on the privilege of occupying a room on Yurok lands within the Reservation at an hotel owned or operated by a Tribal entity. The room tax rate shall be 100 percent of the local room tax rate. If the local room tax rate increases or decreases, the Tribal room tax shall increase or decrease by 100 percent of the increase or decrease in the local tax rate. Council by resolution may set a room tax rate other than that specified in this section.

SECTION 4102. Calculation of Room Tax

The room tax shall apply only to the rent and not to charges for ancillary services. The room tax shall not apply to a room provided at no charge. An operator shall not advertise that the room tax or any part of the room tax will be assumed or absorbed by the operator, that the room tax will not be added to the rent, or that any part of the room tax will be refunded if added to the rent.

SECTION 4103. Responsibility for Room Tax Payment

The room tax shall be imposed upon the transient for whom the room is provided and it shall be this transient's responsibility to pay the room tax to the operator.

SECTION 4104. Exempt Transients

Yurok Tribal members providing valid Tribal identification are exempt from the room tax.

CHAPTER 2. ADMINISTRATION OF ROOM OCCUPANCY TAX

SECTION 4201. Administration

The Yurok Tribe Fiscal Department shall administer the room tax and remittances to the Tribe.

SECTION 4202. Collection of Room Tax

The operator shall collect the room tax at the same time the operator collects the rent. The room tax shall be stated separately on the operator's records and on any rental receipt provided to the occupant by the operator.

SECTION 4203. Quarterly Remittance

The room tax collected by an operator is due and payable on the last day of the quarter following the quarter in which it was collected. The operator shall remit the room tax to the Yurok Tribe Fiscal Department.

SECTION 4204. Quarterly Tax Return

The operator shall file a return with the Yurok Tribe Fiscal Department on or before the date on which the room tax is due. The return shall show the rent for the applicable quarter, the room tax collected for that quarter, and any other non-confidential information that the Yurok Tribe Fiscal Department deems necessary.

SECTION 4205. Confidentiality of Tax Returns

All tax returns or documents relating to tax returns filed with the Yurok Tribe Fiscal Department are deemed to be confidential, but may be divulged upon the request of the Council, the Tribe's Executive Director, or the Tribe's Senior Attorney.

SECTION 4206. Record Keeping Requirements

Every operator shall keep or cause to be kept records, receipts, invoices, and other pertinent papers relating to the payment of the room tax in accordance with standard accounting procedures and any additional forms that the Yurok Tribe Fiscal Department may require.

SECTION 4207. Audit

The Tribe may retain a third-party independent auditor for the purposes of verifying compliance with this ordinance.

CHAPTER 3. USE OF ROOM OCCUPANCY TAX REVENUES

SECTION 4301. Separate Account

All room tax collected pursuant to this ordinance shall be deposited in a separate Tribal account.

SECTION 4302. Allocation of Revenue To Visitor Industry

Room tax revenue shall be allocated for marketing the Yurok Reservation visitor industry or administration of such marketing or for maintenance and operation of facilities essential to the visitor industry.

CHAPTER 4. REFUNDS

SECTION 4010. Overpayment

When the amount of the room tax has been overpaid, paid more than once, or has been erroneously collected or received by the Tribe, the tax may be refunded if a claim is filed in writing with the Yurok Tribe Fiscal Department within one year of the date of payment. The claim shall be on a form acceptable to the Yurok Tribe Fiscal Department

SECTION 4401. Operator Refund

An operator may claim a refund, or take a credit against room tax collected and remitted, an amount overpaid, paid more than once, or erroneously collected or received by the Tribe. To receive a refund, the operator must prove that the person from whom the tax was collected was not a transient and that the amount was either refunded to the transient or credited to rent subsequently payable by the transient to the operator.

SECTION 4402. Transient Refund

A transient may obtain a refund of taxes overpaid, paid more than once, or erroneously collected or received by the Tribe. To receive a refund, the transient must prove that the transient has been unable to obtain a refund from the operator who collected the tax.

CHAPTER 5. ENFORCEMENT

SECTION 4501. Penalties

Any operator who fails to remit any room tax imposed by this ordinance within the time required may be assessed a penalty by the Tribe of up to 10% of the amount of the tax. Any penalty imposed shall become part of the tax required to be paid. An additional penalty may be assessed for each subsequent instance that a remittance is overdue by more than 30 days.

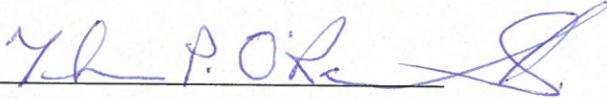
SECTION 4502. Failure to Collect and Report Tax

- (a) Failure to Remit Tax. If a retailer fails or refuses to collect the room tax or to make any report or remittance required under this ordinance, the Office of the Tribal Attorney may proceed in such a manner as the Office of the Tribal Attorney deems best to obtain facts and information on which to estimate the tax due.
- (b) Determination of Tax Due. The Office of the Tribal Attorney shall proceed to determine and assess against the operator the tax and penalties provided for by this ordinance.
- (c) Notice. The Office of the Tribal Attorney shall give notice at the operator's last known address, by first class certified mail, to the operator of the amount assessed.
- (d) Hearing. Within 15 calendar days of notice being mailed, the operator may file a civil action in Yurok Tribal Court to request a hearing and contest the amount assessed.
- (e) Court Determination. After the hearing, the Tribal Court shall determine the proper tax to be remitted and any appropriate penalties. The amount shall be due and payable within 15 calendar days after the Tribal Court's final determination.
- (f) Lien on Assets. Upon motion of the Office of the Tribal Attorney, the Tribal Court may order a lien on a retailer's assets to satisfy a Tribal Court determination that is not timely paid.

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

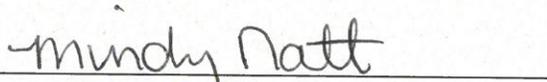
THE FOREGOING ORDINANCE, ENTITLED THE YUROK TRIBE ROOM OCCUPANCY TAX ORDINANCE, WAS PASSED AT A REGULARLY SCHEDULED MEETING OF THE YUROK TRIBAL COUNCIL ON MARCH 26, 2014, AT WHICH A QUORUM WAS PRESENT, AND THIS ORDINANCE WAS ADOPTED BY CONSENSUS IN ACCORDANCE WITH TRIBAL TRADITION AND ARTICLE V, SECTION 6 AND ARTICLE IV, SECTION 5(j) OF THE CONSTITUTION OF THE YUROK TRIBE.

DATED THIS 26th DAY OF MARCH 2014



Thomas P. O'Rourke, Sr., Chairperson
Yurok Tribal Council

ATTEST:



Mindy Natt, Secretary
Yurok Tribal Council