

**Yurok Tribal Code, Taxation**

**YUROK TRIBE SALES 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 tax on retail sales on Yurok lands:*

GENERAL PROVISIONS..... 2

SECTION 3001. Short Title..... 2

SECTION 3002. Findings..... 2

SECTION 3003. Purpose ..... 3

SECTION 3004. Scope ..... 3

SECTION 3005. Sovereign Immunity Preserved ..... 3

SECTION 3006. Severability..... 3

SECTION 3007. Effective Date..... 3

SECTION 3008. Repeal of Conflicting Ordinance Provisions..... 3

SECTION 3009. Definitions..... 3

CHAPTER 1. RETAIL SALES TAX..... 4

SECTION 3101. Imposition of Sales Tax..... 4

SECTION 3102. Calculation of Sales Tax..... 4

SECTION 3103. Responsibility for Sales Tax Payment..... 4

SECTION 3104. Exempt Retail Sales..... 5

CHAPTER 2. ADMINISTRATION OF RETAIL SALES TAX ..... 5

SECTION 3201. Administration ..... 5

SECTION 3202. Collection of Sales Tax ..... 5

SECTION 3203. Quarterly Remittance ..... 5

SECTION 3204. Quarterly Tax Return ..... 5

SECTION 3205. Confidentiality of Tax Returns ..... 6

SECTION 3206. Record Keeping Requirements..... 6

SECTION 3207. Audit..... 6

CHAPTER 3. USE OF RETAIL SALES TAX REVENUES..... 6

SECTION 3301. Separate Account..... 6

SECTION 3302. Allocation of Revenue To Visitor Industry ..... 6

CHAPTER 4. REFUNDS..... 6

SECTION 3401. Overpayment.....	6
SECTION 3402. Operator Refund .....	6
SECTION 3403. Buyer Refund .....	7
CHAPTER 5. ENFORCEMENT .....	7
SECTION 3501. Penalties .....	7
SECTION 3502. Failure to Collect and Report Tax.....	7

**GENERAL PROVISIONS**

**SECTION 3001. Short Title**

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

**SECTION 3002. Findings**

Tribal Council finds and declares that:

- (a) The Tribe maintains the power to tax transactions occurring on Yurok lands is 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 3003. Purpose**

The purpose of this ordinance is to assess and collect a tax on retail sales by Tribal entities on Yurok lands within the Reservation, which includes sales of food, non-alcoholic beverages, and on-premises alcohol but sales to Tribal members and of off-premises alcohol, tobacco products, gasoline, and communication services are exempt.

**SECTION 3004. Scope**

This ordinance shall govern the assessment and collection of a tax on retail sales by a Tribal entity on Yurok lands within the Reservation.

**SECTION 3005. 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 3006. 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 3007. Effective Date**

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

**SECTION 3008. 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 3009. Definitions**

- (a) *Buyer* means any person who receives goods or services from a seller in exchange for a promise to deliver to the seller, or for the actual delivery to the seller, of money or other goods or services of value to the seller.
- (b) *Council* or *Tribal Council* means the Yurok Tribal Council.
- (c) *Reservation* or *Yurok Reservation* means all lands within the exterior boundaries of the Yurok Reservation.
- (d) *Retailer* means the Tribe or Tribal entity making a retail sale to a buyer on Yurok lands within the Reservation.
- (e) *Retail Sale* means any transfer of ownership of, title to, or possession of tangible personal property, including food and beverages, for valuable consideration and

includes the sale, lease, or rental of tangible personal property for any purpose other than for resale, sublease, or subrent.

- (f) *Sales Tax* or *Retail Sales Tax* means the tax imposed on retail sales pursuant to this ordinance.
- (g) *Tribal Court* means the Yurok Tribal Court, which was established by the Yurok Tribe Judicial Branch Ordinance.
- (h) *Tribal Employee* means an employee of the Tribe or a Tribal entity.
- (i) *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.
- (j) *Tribal Member* means a duly enrolled member of the Yurok Tribe listed on the Yurok Tribal Membership Roll.
- (k) *Tribe* means the Yurok Tribe acting at the direction of Council.
- (l) *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.
- (m) *Yurok Lands* means all lands within the Reservation, trust lands, and lands owned by the Tribe or a Tribal entity.

## **CHAPTER 1. RETAIL SALES TAX**

### **SECTION 3101. Imposition of Sales Tax**

A Tribal sales tax is imposed on buyers for retail sales by a Tribal entity on Yurok lands within the Reservation that are not subject to California sales or use tax. The sales tax rate shall be 100 percent of the combined state and local retail sales tax rate. If the state or local retail sales tax rate increases or decreases, the Tribal sales tax shall increase or decrease by 100 percent of the increase or decrease in the combined state and local tax rate. Council by resolution may set a sales tax rate other than that specified in this section.

### **SECTION 3102. Calculation of Sales Tax**

The sales tax shall apply only to retail sales. The sales tax shall be calculated as a percentage of the selling price of any retail sale. The amount of the sales tax shall be added to the total selling price of the retail sale.

### **SECTION 3103. Responsibility for Sales Tax Payment**

The sales tax shall be imposed upon the buyer and it shall be the buyer's responsibility to pay the sales tax to the retailer.

## **SECTION 3104. Exempt Retail Sales**

- (a) Tribal Members. Retail sales to Yurok Tribal members providing valid Tribal identification are exempt from the sales tax.
- (b) Complimentary Food and Beverages. Retail sales of food and beverages provided at no charge on a complimentary basis are exempt from the sales tax.
- (c) Alcohol. Retail sales of alcohol are exempt from the sales tax, except for on-premises sales by Redwood Hotel Casino.
- (d) Tobacco and Cigarettes. Retail sales of cigarettes and other tobacco products are exempt from the sales tax.
- (e) Motor Vehicle Fuel. Retail sales of gasoline and diesel fuel are exempt from the sales tax.
- (f) Communications Services. Retail sales of communication services, including telephone, internet, cable, satellite, and cellular services, are exempt from the sales tax.

## **CHAPTER 2. ADMINISTRATION OF RETAIL SALES TAX**

### **SECTION 3201. Administration**

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

### **SECTION 3202. Collection of Sales Tax**

The retailer shall collect the sales tax at the time the retailer collects the selling price amount. The sales tax shall be stated separately on the retailer's records and on any sales receipt, slip, charge ticket, invoice, statement of account, or other tangible evidence of sale provided to the buyer by the retailer.

### **SECTION 3203. Quarterly Remittance**

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

### **SECTION 3204. Quarterly Tax Return**

The retailer shall file a return with the Yurok Tribe Fiscal Department on or before the date on which the sales tax is due. The return shall show the total retail sales for the applicable quarter, any retail sales exempted from the sales tax and reason for the exemption for that quarter, the sales tax collected for that quarter, and any other non-confidential information that the Yurok Tribe Fiscal Department deems necessary.

**SECTION 3205. 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 3206. 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 sales tax, or exemption from the sales tax, in accordance with standard accounting procedures and any additional forms that the Yurok Tribe Fiscal Department may require.

**SECTION 3207. Audit**

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

**CHAPTER 3. USE OF RETAIL SALES TAX REVENUES**

**SECTION 3301. Separate Account**

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

**SECTION 3302. Allocation of Revenue To Visitor Industry**

Sales 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 3401. Overpayment**

When the amount of the sales tax has been overpaid, paid more than once, or has been erroneously collected or received by the Tribe, the sales 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 3402. Operator Refund**

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

**SECTION 3403. Buyer Refund**

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

**CHAPTER 5. ENFORCEMENT**

**SECTION 3501. Penalties**

Any retailer who fails to remit any sales 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.

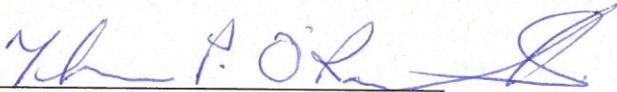
**SECTION 3502. Failure to Collect and Report Tax**

- (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 retailer's last known address, by first class certified mail, to the retailer 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**

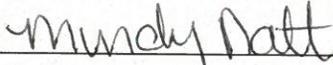
THE FOREGOING ORDINANCE, ENTITLED THE YUROK TRIBE SALES TAX ORDINANCE, WAS PASSED AT A REGULARLY SCHEDULED MEETING OF THE YUROK TRIBAL COUNCIL ON MARCH 26, 2014, AT WHICH A QUORUM WAS PRESENT, AND THIS ORDINANCE WAS ADOPTED BY CONSENSUS IN ACCORDANCE WITH TRIBAL TRADITION AND ARTICLE V, SECTION 6 AND 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