

## **YUROK TRIBE VEHICLE ABATEMENT ORDINANCE**

### **AUTHORITY:**

Abandoned vehicles are both a public nuisance and health hazard, jeopardizing the health, safety and welfare of individuals residing within the exterior boundaries of the Yurok Indian Reservation. Hazardous materials leak from abandoned vehicles polluting the soil, surface water and groundwater. Trash and garbage deposited inside these vehicles attracts vermin, known vectors of disease, and is, thus, a further source of public health concern.

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:**

This ordinance prohibits abandonment of vehicles within the Yurok Indian Reservation and establishes a procedure for abatement of abandoned vehicles therein and penalties for violation. This ordinance is intended to affect vehicles left unattended on the Yurok Indian Reservation for a prescribed period of time on Tribal lands, roadways, public lands, or on privately held lands without the permission of the property owner.

### **DEFINITIONS:**

- a. Vehicle. A device by which any person or property may be propelled, moved, or drawn upon a highway, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks.
- b. Highway. A way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. Highway includes street.
- c. Public Nuisance Vehicle. Any vehicle that is abandoned, wrecked, dismantled, or any inoperative part thereof that is on public or private property, not including highways, and that creates a condition tending to reduce the value of private property, promotes blight and deterioration, invites plundering, creates fire hazards, constitutes an attractive nuisance endangering the health and safety of minors, harbors rodents and insects, or jeopardizes health, safety, and general welfare is a public nuisance.

d. Abandoned Vehicle. A vehicle is considered to be “abandoned” if it is left on a highway, public property, or private property in such inoperable or neglected condition that the owner’s intent to relinquish all further rights or interests in it may be reasonably concluded. In reaching a reasonable conclusion, one must consider the amount of time the vehicle has not been moved, its condition, statements from the owner and witnesses, etc.

e. Wrecked Vehicle. Any vehicle that is damaged to such an extent that it cannot be operated upon the highway is termed a wrecked vehicle. A vehicle which has been wrecked in a traffic accident, and which has been removed from the roadway to a storage facility, but which has not been claimed by its owner, will not be considered an abandoned vehicle for the purposes of this program.

f. Dismantled Vehicle. Any vehicle which is partially or wholly disassembled.

g. Public Property. This term is commonly used as a designation of those things which are considered owned by “the public,” the state or community, and not restricted to dominion of a private person. It may also apply to any property owned by a state, nation, or municipality.

h. Private Property. Property that belongs absolutely to an individual and that person has the exclusive right of disposition. Property of a specific, fixed, and tangible nature, capable of being possessed and transmitted to another, such as houses, lands, vehicles, etc.

## **SECTION 1. PROHIBITIONS AND EXEMPTIONS**

No person shall abandon any vehicle within the bounds of the Yurok Indian Reservation. Specifically, no person shall leave any vehicle unattended for more than forty-eight (48) hours on any public roadway or on privately held land (including but not limited to fee lands, allotments, assignments, and lands held by Tribal or other government) of another property owner, allottee, assignee or government without the permission of the owner, allottee, assignee or government unless the vehicle is parked legally in a marked parking area or otherwise approved parking area. Any vehicle thus parked and left unattended for a period of not less than 48 hours will be presumed abandoned under this ordinance. Any person intending to leave a vehicle parked for more than 48 hours must obtain permission in writing from the Yurok Tribe Public Safety Department or the property owner upon whose land the vehicle is parked, prior to leaving any vehicle unattended for more than 48 hours, and must notify YTPS of such intention.

## **SECTION 2. ENFORCEMENT**

### **A: ENFORCING OFFICER**

This ordinance shall be enforced by the Yurok Tribal Police with support from the Yurok Tribe Environmental Program and any other Abatement Officer designated by the Tribal Council. Any Tribal Police Officer may issue a citation for violation of this ordinance.

**B: IMMEDIATE HAZARDS**

In the event that an Abandoned Vehicle presents an immediate hazard to the health or safety of the general public, the Yurok Tribal Police may immediately move the vehicle to a secure location and proceed with enforcement under this Ordinance.

**C: NOTICE OF VIOLATION**

Any vehicle or parts thereof found to be in violation shall be posted with a Notice of Violation. A copy of that notice, supporting paperwork, and a letter explaining the notice of violation, and clearly stating the methods for appeal shall be mailed to the last registered and/or legal owner of the vehicle, via certified mail, return receipt requested.

**D: HAZARDOUS WASTE NOTICE**

In the event that the citing officer observes any fluids or other hazardous wastes stored in, leaking from or otherwise attendant to the Abandoned Vehicle the citing officer shall so indicate in the citation and will request inspection by YTEP.

Upon receipt of such a request for inspection, YTEP shall inspect the site and take such enforcement and abatement action as are appropriate under its authority. Such action will be consistent with the appropriate laws, ordinances, and policies of the Yurok Tribe as well as State, Federal, and local hazardous materials laws and regulations pertaining to such sites.

**E: VEHICLE IMPOUNDMENT AND DISPOSAL**

Upon expiration of the 48 hour period following posting of the notice of violation, and where the responsible party has not voluntarily abated the violation or filed an appeal, the vehicle abatement officer is authorized to remove the vehicle, or part(s) thereof, to a designated location, garage, authorized auto crusher, or other legal facility. Said facility shall store the vehicle for a minimum of fifteen (15) days prior to destruction and disposal. During such time, the legal owner of the vehicle may recover the vehicle by providing proof that all fees and penalties associated with abatement and due to any department of the Yurok Tribe have been paid and paying in full reasonable fees associated with the storage of the vehicle after impound.

**SECTION 3. CIVIL PENALTIES AND COURT ORDERS**

**A: Penalties**

The penalty for abandoning a vehicle, or part(s) thereof, shall be \$1000.00. Additionally, the actual costs of removal, disposal, hazardous materials clean up, etc... will be assessed by the Court. The Court shall also impose an administrative fee of \$100 plus

actual staff time spent on abatement of the vehicle(s). Additional penalties may be applied under the following circumstances:

An additional penalty of \$100 shall be applied when an Abandoned Vehicle is found to obstruct, either partially or completely, a highway, roadway, or right-of-way.

Disposal costs are the responsibility of the last registered and/or legal owner of any vehicle, automobile hulk, or automobile parts creating a violation of this ordinance.

In the event that an act of abandonment is witnessed, as evidenced in a sworn or notarized statement to the Yurok Tribal Police or the Yurok Tribal Court, the person identified as conducting the act of abandonment shall bear the penalties as laid out in this ordinance.

In instances where hazardous materials were determined to have been present, additional costs for the continued motoring and testing of the site will be assessed as appropriate.

All fees and penalties assessed under this ordinance will be forwarded to the Yurok Tribe's Fiscal Department for collection.

#### **B: Community Service**

Individuals cited under this ordinance may request community service in lieu of fines based upon financial hardship. Such requests shall be made in writing to the Tribal Court. Upon review of the citation and any information supplied by the responsible party, the Tribal Court may, at its discretion, allow for community service to be performed in lieu of payment due. In the event that community service is offered, no less than one hour of community service shall be ordered for every ten dollars so waived. In determining the amount of community service to be performed, the Tribal Court may take into account any concurrent citations issued under this or other ordinances of the Yurok Tribe.

The Yurok Tribal Court shall determine the manner in which the community service shall be performed. Such manner may include but not necessarily be limited to working for the Yurok Tribe Environmental Program in which case the responsible party shall be given thirty days to contact the Yurok Tribe Environmental Program and make arrangements to perform the service.

In order to accommodate persons of limited physical capacity, the Court may arrange for other appropriate service to be performed, which may include cleanup of illegal dumpsites, other outdoor labor, paperwork or other indoor labor, or services performed for other departments, such as tutoring Tribal youth, donating fish to the elders food program, or other tasks as the Court may find appropriate.

Should the responsible party fail to make arrangements to perform community service, or to appear to perform or complete community service within ninety days from the ruling in Tribal Court, the Yurok Tribe Environmental Program shall refer the matter to the Tribal Prosecutor's Office for refilling the original charges in Tribal Court for collection of the original amount owed in relation to the citation as well as any other sanctions deem proper and necessary.

#### **SECTION 4. CRIMINAL PROSECUTION**

Notwithstanding any of the provisions stated herein, the Yurok Tribe reserves the option to seek criminal prosecution of any person in violation of this ordinance for violation of any applicable criminal law by the appropriate authorities.

#### **SECTION 7. ENVIRONMENTAL PROTECTION FUND**

Any funds collected through this Ordinance shall be deposited into the Environmental Protection Fund of the Yurok Tribe. The Environmental Protection Fund shall be used for expenses related to protecting human health and the environment within the Yurok Indian Reservation, promoting environmental projects, and furthering environmental education for tribal members and residents of the Yurok Indian reservation.

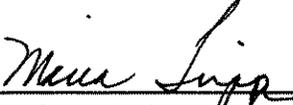
#### **SECTION 8: APPEALS**

The registered and/or legal owner of a vehicle, or part(s) thereof, who has received, and disputes, notice of violation, may appeal to the abatement officer's supervisor. If the notice of violation is upheld, the registered and/or legal owner may appeal to the Tribal Court to challenge the notice of violation. When an appeal has been filed, the vehicle abatement officer will be notified to not dispose of the vehicle, or part(s) thereof, until the appeal is heard and a decision rendered by the Tribal Court. Decisions of the Tribal Court are final.

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

**THE FOREGOING YUOK TRIBAL ORDINANCE, ENTITLED THE YUOK TRIBE VEHICLE ABATEMENT ORDINANCE, WAS PASSED AT A REGULARLY SCHEDULED MEETING OF THE YUOK TRIBAL COUNCIL ON MAY 21, 2009 AT WHICH A QUORUM WAS PRESENT AND THAT THIS ORDINANCE WAS APPROVED BY A VOTE OF 6 FOR, AND 0 OPPOSED, WITH 0 ABSTENTIONS IN ACCORDANCE WITH ARTICLE 4, SECTION 5 OF THE CONSTITUTION OF THE YUOK TRIBE.**

**DATED THIS 21<sup>st</sup> DAY OF MAY, 2009.**

  
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**Maria Tripp, Chairperson  
Yurok Tribal Council**

**Attest:**

  
\_\_\_\_\_  
**Cynthia McKernan, Executive Assistant**

## Section 6

(a) "as written"

(b)(1) Citations: Persons charged with the enforcement of this Ordinance may issue citations to any person(s) reasonably suspected of having violated this Ordinance. Such "reasonable suspicion" will be based upon any of the following grounds: any Enforcement Officer have directly witnessed a violation of this Ordinance; a sworn affidavit executed by a direct witness to a violation of this Ordinance; a preponderance of evidence tending to prove a violation of this Ordinance as collected during the course of an investigation initiated by an enforcement officer into an alleged violation of the Ordinance.

(b)(2) Upon completion of an investigation into an alleged violation of this Ordinance, the Investigation Officer shall cause to be delivered to the Tribal Prosecutor copies of all evidentiary materials including but not limited to, transcriptions of interviews with witnesses, sworn and signed affidavits of witnesses, photographs, physical evidence, and other material evidence which tend to prove a violation of this Ordinance, as well as a copy of any citation(s) served upon the Defendant(s).

(b)(3) Inconclusive investigations may be closed at the discretion and consensus of the Chief of police and the Tribal Prosecutor and may be re-opened at any time upon the discovery of new evidence which tends prove a violation of the Ordinance and links the alleged violation to a suspect or person of interest in the matter.

(c) "as Written"



# YUROK TRIBE

190 Klamath Boulevard • Post Office Box 1027 • Klamath, CA 95548

## RESOLUTION Of The YUROK TRIBAL COUNCIL

**RESOLUTION NO:** 09-48

**DATE APPROVED:** May 21, 2009

**SUBJECT:** Abandoned Vehicles and Illegal Dumpsite Code Revisions

**WHEREAS:** The Yurok Tribe is a Federally recognized Tribe; and,

**WHEREAS:** The Yurok Tribal Council is the governing body of the Yurok Tribe under the authority of the Yurok Constitution of 1993; and,

**WHEREAS:** The Yurok Tribe is eligible for all rights and privileges afforded to federally recognized tribes, including but not limited to, the rights and privileges afforded under the Hoopa-Yurok Settlement Act; and

**WHEREAS:** There exists an endemic problem on the Yurok Reservation with abandoned vehicles and illegal dumpsites; and,

**WHEREAS:** The Yurok Tribal Council endorses and supports the elimination of these abandoned vehicles and illegal dumpsites and wishes to prosecute those responsible to the fullest extent;

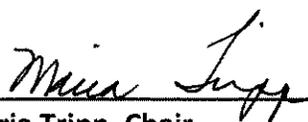
**NOW THEREFORE BE IT RESOLVED:** Council hereby adopts amendments to the Yurok Tribe Prohibition Against Dumping, and adopts the Revised Abandoned Vehicle Code as presented to Council in April 2009 (revisions attached).

**BE IT FURTHER RESOLVED:** That the Chairperson is hereby authorized to sign this resolution and to negotiate all matter pertaining hereto and that the Recording Secretary is authorized to attest.

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

This is to certify that this Resolution Number 09-48 was approved at a duly called meeting of the Yurok Tribe on May 21, 2009 at which a quorum was present and that this Resolution Number 09-48 was adopted by a vote of 7 for and 0 opposed and 0 abstentions. This Resolution Number 09-48 has not been rescinded or amended in any way.

**DATED THIS 21<sup>st</sup> DAY OF MAY, 2009**

  
\_\_\_\_\_  
Maria Tripp, Chair  
Yurok Tribal Council

**ATTEST:**

  
\_\_\_\_\_  
Cynthia McKernan  
Executive Assistant