

YUROK TRIBE ABANDONED VEHICLE ABATEMENT ORDINANCE

SECTION 1. AUTHORITY

This Ordinance (AVAO) to abate and remove abandoned and nuisance vehicles within the exterior boundaries of the Yurok Indian Reservation (YIR) is established by the Yurok Tribal Council (Council) pursuant to the authority delegated by Article IV, Section 5 of the Constitution of the Yurok Tribe, as ratified on November 19, 1993.

SECTION 2. PURPOSE

This AVAO establishes a procedure and penalties for abatement and/or removal of abandoned and nuisance vehicles or automobile hulks within the exterior boundaries of the YIR. 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 YIR. 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 intent of this AVAO is not to prohibit home auto repair or hobby auto rebuilding or refinishing, provided that such activities occur within a fenced area with posted notice of intent. Instead, this AVAO is intended to affect vehicles left unattended on the YIR for a prescribed period of time, without the permission of the property owner, or vehicles clearly in violation of this AVAO.

SECTION 3. DEFINITIONS

“Abandoned vehicle” means any vehicle, automobile, or automobile hulk left within the exterior boundaries of the YIR, on Tribal land, any public roadway, or the property of another either without the consent of the owner of said land or in such a manner that it creates a public nuisance. A vehicle shall be deemed *per se* abandoned if there is no visible, current, registration on the license plate and/or no license plates. The fact that a motor vehicle has been so left without permission or notification is *prima facie* evidence of abandonment. Where the owner of the vehicle is temporarily unable to remove the vehicle, it shall not be deemed abandoned until 30 days have passed following the date of issuance of a citation.

“Public roadway” means a way or location, of whatever nature, that is publicly maintained and open to the use of the public for purposes of vehicular travel. A public roadway can include both highways and streets, whether privately-owned, Bureau of Indian Affairs (BIA)-owned, state- or county-owned.

“Nuisance” means vehicles, vehicle parts, or vehicle hulks that create a condition either/or on the land or within a community that is patently dangerous, offensive, annoying, or that, by its mere presence, is either unpleasant or unhealthy.

“Building” means any enclosure having a roof. This definition includes garages, carports, sheds, and maintenance facilities.

“Sold fence” means fencing constructed of brick, wood planks, or another material which obstructs the line-of-sight and which is not readily over perched by children.

“Vehicle Abatement Officer” shall be the title given to any staff of the Yurok Tribe Public Safety Department, the Yurok Tribe Environmental Program, the BIA Police, or any other staff so designated by Tribal Council to carry out the provisions of this Ordinance.

SECTION 4. LIMITATIONS

This AVAO shall not apply to:

- A. Any vehicle, or part thereof, that is completely enclosed within a building in a lawful manner; or
- B. Any vehicle, or part thereof, which is stored within a secure tarpaulin or car cover, and which has been locked or otherwise secured to prevent access to the vehicle by children; or
- C. Any vehicle, or part thereof, that is stored and/or parked on private property, and not otherwise in violation of this AVAO and stored behind a six-foot solid fence; or
- D. Any vehicle, or part thereof, that is stored and/or parked in connection with the business of a licensed or approved dismantler, licensed or approved vehicle dealer, or when such storage or parking is necessary to the operation of a lawfully conducted Tribal, or commercial enterprise.

SECTION 5. VEHICLE ABATEMENT

Except as otherwise provided, the provisions of this AVAO shall be administered and enforced by authorized law enforcement personnel, including BIA Police, the Yurok Tribe Department of Public Safety (YTPS), YTEP, and others as determined by the Council, who shall serve as the vehicle abatement officer. An officer so designated may enter on Tribal, public, or private property within the exterior boundaries of the YIR to examine a vehicle, or parts thereof, or obtain information as to the identity of a vehicle, or part(s) thereof, and to cause the removal of same as a nuisance in accordance with procedures described in this AVAO. Additionally, when the Tribe has contracted with any person or persons for the removal of a vehicle under this Ordinance, such person or persons shall be authorized to enter upon Tribal, public, or private property within the exterior boundaries of the YIR to remove or cause removal of said vehicle.

SECTION 6. AUTHORITY OF VEHICLE ABATEMENT OFFICER

Upon discovering the existence of an abandoned or nuisance vehicle or automobile hulk on Tribal or private land within the exterior boundaries of the YIR, the vehicle abatement officer shall have the authority to issue a citation declaring such vehicle, or part(s) thereof, to be abandoned and a nuisance subject to abatement.

SECTION 7. CITATIONS

A citation, in the form prescribed by the Council, to abate and remove the vehicle, or part(s) thereof, shall be placed upon said vehicle, or part(s), clearly stating that the vehicle, or part(s) thereof, will be removed fifteen (15) days following the date of issuance of the citation. A copy of the citation shall be mailed to the Yurok Tribal Court, if on Tribal land; or to the owner of the private land via certified mail, return receipt requested. A copy of the citation shall also be mailed via certified mail, return receipt requested, to the last registered and/or legal owner of record of the vehicle, or part(s) thereof. If identification of the last registered and/or legal owner cannot be determined, the citation will be sent to the Yurok Tribal Court to be held on file for a period of not less than one (1) year.

Upon expiration of the fifteen (15)-day period, the vehicle abatement officer is authorized to remove the vehicle, or part(s) thereof, to a designated location, garage, authorized auto crusher, or other location designated by the Yurok Tribal Court.

SECTION 8. APPEALS

The registered and/or legal owner of a vehicle, or part(s) thereof, who have received a citation to abate, or the owner of the land on which the vehicle, or part(s) thereof is/are located who disputes the citation, may appeal to the abatement officer's supervisor. If the citation is upheld, the registered and/or legal owner may appeal to the Tribal Court to challenge the citation. When a hearing on appeal has been requested, the vehicle abatement officer will be notified to not remove 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.

SECTION 9. DISPOSAL

Five (5) days following a decision adverse to the appellant, and declaring the vehicle, or part(s) thereof, to be a nuisance, by the Tribal Court, the vehicle, or part(s) thereof will be disposed of by removal.

SECTION 10. RESPONSIBILITY FOR COSTS

Disposal costs are the responsibility of the registered and/or legal owner of the vehicle, automobile hulk, or automobile parts. Subject to future amendment, the cost to remove a vehicle, or part(s) thereof, shall be equal to the actual cost of vehicle removal and disposal plus a twenty percent administration fee to cover staff time and costs of administering this ordinance. In the event that the registered and/or legal owner resides out-of-state and cannot be located; or a bill of sale shows that the vehicle, or part(s) thereof, were transferred to an individual within the exterior boundaries of the YIR, but not registered by that purchaser, the Tribe shall bear the cost of removal subject to reimbursement from the responsible party/parties.

Should the responsible party appeal to the Tribe on grounds of being unable to pay the costs of abatement, the matter will be referred to the Tribal Court. Upon review of the citation and any information supplied by the responsible party, the Tribal Court may, at their 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 performed for every five dollars' fine waived. In determining the amount of community service to be performed, the Tribal Court shall take into account the number of prior offenses by the responsible party, as well as any concurrent citations issued under other ordinances of the Yurok Tribe. Upon such a ruling by the Tribal Court, the responsible party shall be given thirty days to contact YTEP and make arrangements to perform the service. In order to accommodate persons of limited physical capacity, YTEP shall arrange for an 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.

Should the responsible party fail to make arrangements to perform community service, or should the responsible party fail to appear to perform or complete arranged community service after sixty days from the ruling in Tribal Court, YTEP shall appeal to the Tribal Court for assistance. At the discretion of the Tribal Court, any or all of the following may occur until either the fine is paid or the responsible party appears for and completes community service:

- Garnishment of wages, should the responsible party be an employee of the Tribe
- Garnishment of General Assistance monies, should the responsible party receive General Assistance
- Withholding of assistance with reduced-rate vehicle registration, should the responsible party be a Tribal Member
- Penalties or garnishment of payment should the responsible party be a contractor or potential contractor with the Tribe
- Placement of a lien on property should the responsible party be a fee property owner
- Any other manner of suspension of services or assistance as may be appropriate.

SECTION 11. HAZARDOUS MATERIALS CLEANUP

If, following abatement or removal of the vehicle (or parts thereof) by the owner, the abatement officer, following visual inspection, determines that fluids from the vehicle, or part(s) thereof, have soaked into the ground directly under, or adjacent to, the vehicle, or part(s) thereof; or discovers containers for said fluids adjacent to the vehicle, or part(s) thereof, he/she shall make report of same on the citation for abatement. The last registered owner will be liable for cost of cleanup. The site shall then be subject to review by the YTEP staff. Failure to abate and submit proof of proper disposal by way of receipt to the Tribal Court shall result in issuance of a further violation. Once proof of abatement is submitted to the Tribal Court, the case will be closed.

SECTION 12. CONSTRUCTION WITH OTHER LAWS

Nothing in this AVAO supersedes, or serves as a substitute for, any other assessment or finding of violation of any other Yurok Tribal Code provisions. This AVAO shall be liberally construed, and in conjunction with, any and all other Yurok Tribal Code provisions.


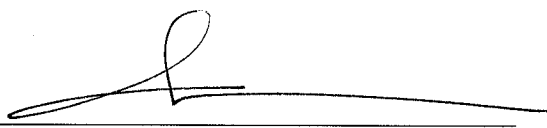
SECTION 13. SEVERABILITY

If any portion of this AVAO is deemed invalid, said portion of the AVAO shall be either stricken, or amended; but under no circumstances shall the remaining portions of the AVAO be affected thereby.

SECTION 14. ANNUAL REVIEWS

This ordinance will be reviewed annually and, if necessary, the fees associated with the ordinance will be revised to improve the cost-effectiveness of the vehicle abatement program. Such revisions will require approval by the Tribal Council.

Approved this 9th day of September, 2004

 
Howard McConnell, Council Chairperson Cynthia Carlson, Recording Secretary

