

**YUROK TRIBAL ORDINANCE RESTRICTING
THE ALIENATION OF CERTAIN TRADITIONAL CULTURAL ITEMS**

No. _____

Section 1. Authority

This Ordinance is established by the Yurok Tribal Council under the authority delegated to it by Article IV, Section 5 of the Constitution of the Yurok Tribe (the "Tribe"), as ratified on November 19, 1993.

Article IV, Section 5 states that: ". . . *the Yurok Tribal Council shall have the authority to enact legislation, rules and regulations not inconsistent with the Constitution to further the objectives of the Yurok Tribe as reflected in the Preamble to this Constitution, [and to] enact civil and criminal laws.*"

Section 2. Findings and Intent

The Yurok Tribal Council finds and declares that:

1. There is a documented history and current practice of wide-spread stealing, converting or otherwise alienating items of traditional Yurok Tribal cultural and sacred significance outside of the Tribal Community;
2. Included within the Tribe's right to sovereignty and self-determination is the right to define and maintain items of cultural significance to the Tribe and to keep these items within the Tribal community;
3. The Tribe's relationship to certain cultural and sacred objects, as defined herein, is part of the Yurok Tribe's legitimate exercise of its spiritual and cultural beliefs;
4. It is customary in traditional Yurok culture to pass certain cultural items down to family members. Traditional Yurok people hold these items in high regard, with much respect for the actual spiritual life of these items;
5. Yurok cultural items were given to Yurok people thousands of years ago for the specific purpose of being part of traditional ceremonies. Thousands of traditional Yurok people today honor the tradition of keeping cultural items within the family to allow the items to fulfill their sacred purpose;
6. This Ordinance expressly states that certain Traditional Cultural items are akin to cultural patrimony, that is they are objects having ongoing

historical, traditional, or cultural importance central to the Yurok Tribal culture, and which, therefore, cannot be alienated, appropriated, or conveyed by any individual regardless of whether or not the individual is a member of the Yurok Tribe, to persons outside of the Tribal community.

7. Certain cultural items are part of the cultural and religious structure of traditional Yurok families; to remove any of the items from their rightful heritage is damaging to the integrity of the traditional Yurok family, the Tribal Community and to the Tribe itself as a sovereign entity; and
8. In order for the Tribe to retain its culture, it is necessary to codify what has previously been tribal law, custom and tradition.

Section 3. Definitions

For the purposes of this Ordinance the following words shall have the following meanings:

1. "Tribal Council" shall mean the duly elected governing body of the Yurok Tribe.
2. "Tribal Community" means the Yurok Tribal community.
3. "Tribal Member" shall mean a duly enrolled member of the Yurok Tribe.
4. "Traditional cultural items" means traditional Yurok baskets, regalia, jewelry, ceremonial items made in the traditional Yurok manner and used or intended for use in traditional Yurok cultural and religious ceremonies. "Traditional cultural items" does not mean those items made specifically for commercial purposes.
5. "Person" means any individual, corporation, firm, partnership, joint venture, association, social club, church, estate, trust, the United States, Tribe, State, County, City, District or other political subdivision of any state, or any other group or combination acting as a unit.

Section 4. Prohibited Activities

No person shall transfer, alienate, sell, or otherwise convey items of cultural significance that "belong" to a Tribal Member or the estate of a Tribal Member to any person outside of the Yurok Tribal Community without written approval from both the affected Tribal Member (Owner), upon a showing of lawful possession, or the Yurok Tribal Council.

Tribal Members who lawfully possess cultural items are not prohibited from the lawful sale thereof.

For purposes of state probate proceedings, traditional cultural items shall not be considered to be personal property of the decedent. Instead, such traditional cultural items shall be considered items held in constructive trust by the traditional Yurok family for the preservation of traditional Yurok religious and cultural practices and beliefs.

Section 5. Civil Penalty

Any person unlawfully alienating traditional cultural items shall pay a civil fine of up to five thousand dollars (\$5,000) for each item that is sold, stolen or otherwise transferred outside of the Tribal Community. This civil fine shall be imposed by any court of competent jurisdiction.

Section 6. Court Action and Injunctions

Upon failure of any person to comply with any of the provisions of this Ordinance, the Tribal Prosecutor shall petition a court of competent jurisdiction for the issuance of an injunction requiring such person to comply therewith. In any such suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, and to levy such fines in accordance with Section 5 of this Ordinance, as the facts may warrant.

Section 7. Notice of Violation

Upon discovered violation of this Ordinance, a notice of violation shall be issued, describing the specific violation, the amount of the monetary penalty and, if applicable, shall order the violation to cease and desist or, in appropriate cases, require corrective action to be taken within a specific and reasonable time. The notice shall be given to the person directly or by certified mail with return receipt requested.

Section 8. Appeal from Penalty

Within thirty days after the notice is received, the person incurring the penalty may appeal as set forth in the notice of violation.

Section 9. Sovereign Immunity

The sovereign immunity of the Yurok Tribe is in no manner waived by this Ordinance. The employees and appointees of the Yurok Tribe, the members of the Yurok Tribal Council, and the personnel of the Yurok Tribal Court are cloaked with the sovereign immunity of the Yurok Tribe. No person named above shall be liable for his or her actions or failure to act under this Ordinance.

Section 10. Severability

If any provision of this Ordinance or its application to any person, entity, or circumstance is held to be invalid, the remainder of the Ordinance shall not be affected.

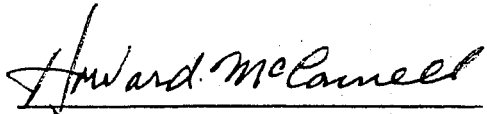
Section 7. Effective Date

This Ordinance shall take effect immediately upon passage by the Tribal Council, and shall be given full force and effect in any pending state probate proceedings or other currently pending sales, discovered thefts, transactions or other conveyances.

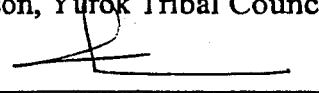
CERTIFICATION

The Foregoing YTC No. ⁰⁴⁻031, titled the Yurok Tribal Ordinance Restricting the Alienability of Certain Cultural Items, was passed at a regularly scheduled meeting of the Yurok Tribal Council on 6-10, 2004, at which a quorum was present and that this Ordinance was approved by a vote of 7 for, 0 opposed, with 0 abstentions, in accordance with Article IV, Section 5(j) of the Constitution of the Yurok Tribe.

Dated this 4th Day of Oct., 2004.



Howard McConnell
Chairperson, Yurok Tribal Council

Attest: 
Recording Secretary
Yurok Tribal Council