

YUROK TRIBAL CODE
1-11

YUROK TRIBAL PUBLIC HEARING ORDINANCE

Section 1. Authority

This ordinance setting forth the guidelines for public hearings by the Yurok Tribal Council and its designees is established by the Yurok Tribal Council under the authority delegated to it by Article IV, Section of the Constitution of the Yurok Tribe, as ratified on November 19, 1993.

The Yurok Tribal Council hereby enacts the following Public Hearing Ordinance, in order to establish procedures to be followed in enacting legislation or in taking other major tribal action that would change existing ordinance, laws, codes or, annual budget of the Yurok Tribe.

Section 2. Purpose

The purpose of this Public Hearing Ordinance is to set forth a comprehensive and systematic process for the Tribal Council, its programs, and its entities chartered or established under the authority of the Tribal Council. to establish, review, amend or modify policies, ordinances and acts, or to take other major governmental actions on behalf of the Yurok Tribe.

Section 3. Intent

The intent of this ordinance is to establish a check and balance system for the Tribal Council and its entities and departments, provide a mechanism for review and consideration of Tribal Council action by those persons affected, thereby, including programs which are intended to enforce such action; enable Council to gain maximum benefit of the expertise of the professional staff employed by the Tribe; facilitate adequate input from the tribal membership, and where appropriate the general reservation community regarding proposed actions of the Tribal Council in a manner that permits fair consideration of the concerns from the membership and the community.

Section 4. Major Action

The definition of the term "major action" as used in this Ordinance shall be left the reasonable interpretation of the Tribal Council as per Section 5 (a) of the Yurok Constitution.

Section 5. Proposed Action

A written proposal to establish, amend or modify a policy or ordinance may be submitted to the Yurok Tribal Council for consideration by any department, committee, Tribal Council Member or duly established entity of the Yurok Tribe.

5.1 Proposed action must be submitted typed in its entirety.

5.2 Proposed action will be submitted on the appropriate forms to the Recording Secretary in time for inclusion on the Tribal Council agenda.

5.3 The Yurok Tribal Council by motion may set the proposed and refer it to the appropriate departments, committees or entities.

5.4 The Yurok Tribal Council shall be prohibited from taking action on the proposal at the same meeting in which it was proposed.

Section 6. Referral

At the meeting in which proposed action was accepted by the Yurok Tribal Council, the Council shall identify those departments, committees or entities that shall review the proposed action.

6.1 The Recording Secretary shall route a full and complete copy of the proposed action with complete instructions from the Yurok Tribal Council to those departments, committees or entities identified by the Yurok Tribal Council.

6.2 The Recording Secretary shall note in the minutes all departments, committees or entities that have been referred the proposed action.

6.3 The Yurok Tribal Council shall identify the department responsible for drafting the language of the proposal and the associated costs.

Section 7. Department, Committee Action

Upon receiving the proposed action that has been accepted by the Yurok Tribal Council each department director or committee chairperson shall be responsible for assuring that a timely response is made.

7.1 Departments and committees that have been referred proposed action shall submit responses in writing to the Yurok Tribal Council no more than fifteen days after the conclusion of the meeting cycle at which it was accepted.

7.2 Department and committee responses shall be submitted to the Recording Secretary for inclusion with the proposed action in the Council Meeting packet.

7.3 The Chairperson shall set time on the agenda to review responses by departments and committees.

Section 8. Council Modification

After reviewing all responses from departments and committees, the Yurok Tribal Council may make such language changes to the original proposal as it is deemed necessary.

8.1 A draft of the proposed action, incorporating all modifications made by the Yurok Tribal Council shall be prepared by the department that has been designated responsible for drafting the language of the proposal, as set forth in Section 6 (6.3) of this ordinance.

8.2 The Yurok Tribal Council shall set the matter for public hearing and schedule a hearing date.

Section 9. Notice

9.1 Notice of a public hearing shall be made not less than two (2) weeks prior to the hearing date.

9.2 Notice shall include the date, time and place of the hearing and location of where draft proposals may be obtained.

9.3 Notice shall be posted in all Yurok Tribal Offices and any other manner deemed appropriate by the Yurok Tribal Council.

9.4 Notice shall include the address at which written comment may be submitted and the last date that written comment will be accepted.

Section 10. Hearing

All hearings shall be conducted in accordance with the procedure enumerated here

10.1 The hearing shall take place on the date, time and place as indicated on the hearing notice.

10.2 Copies of the proposal shall be available at the hearing.

10.3 The hearing officer shall open the hearing by stating the purpose of the hearing and the rules by which the hearing is governed, including the final date of written comments.

10.3 Minutes of the hearing shall be maintained by the hearing officer and presented to the Yurok Tribal Council.

Section 11. Hearing Commission

The Yurok Tribal Council shall appoint a hearing commission to take public comment on proposed actions.

11.1 The Yurok Tribal Council may appoint a standing committee to serve as the hearing commission or a group of not less than five commissioners.

11.2 The hearing commission shall have a hearing officer appointed by the Yurok Tribal

Council.

11.3 The Hearing Officer shall present a full record of the proceedings of the commission to the Yurok Tribal Council.

Section 12. Hearing Rules

12.1 The hearing officer shall be the preside over the hearing

12.2 Those making public comment shall state their name for the record and be limited to five (5) minutes of speaking time.

12.3 All comments made shall be recorded verbatim in the hearing minutes along with all written comments that have been submitted.

12.4 The Hearing Officer and Hearing Commission shall not respond to public comment.

12.5 Members of the hearing commission shall have the right to ask questions of those making public comment for clarification purposes.

12.6 The hearing commission shall submit a report including the majority and minority opinions to the Yurok Tribal Council

Section 13. Council Review

Comments received during the hearing, written comment received before the deadline set for their receipt, and all documentation submitted during the referral process shall be compiled by the hearing officer into one packet for Council review.

13.1 The proposed action will be placed on the next Tribal Council agenda.

13.2 Council may determine that more information is necessary and refer the proposal back any department, committee, entity or hearing with specific issues to resolve.

13.3 Council shall take action on the proposal or set a date at which to take action on the proposal provided that it does not exceed thirty (30) days.

Section 16. Legal Review

At the direction of the Yurok Tribal Council the proposal will be forwarded to legal counsel for review and comment. Legal counsel shall respond no later than fifteen days from receipt of proposal.

Section 15. Final Action

Once the Yurok Tribal Council has determined it has adequately considered the proposal as provided for in this ordinance, it shall take action on the proposal according to constitutional

procedures.

15.1 Upon approval the Chairperson shall direct the appropriate departments to begin implementation and enforcement of the enactment.

Section 16. Emergency Action

16.1. Enactment of Emergency Regulation:

Whenever it determines that there is an immediate threat to the Tribe or any of its resources or assets, the Council may enact emergency regulations or take other emergency action. Such regulations or action shall be valid for not longer than thirty (30) days from the date of enactment, after which such regulations or actions shall no longer be effective, unless upon the expiration of this 30 day period, the Council expressly finds that the emergency situation necessitates extension of such regulations or actions for another period not to exceed 30 day Emergency regulations or action pursuant to this Section must accompanied by a duly adopted Council resolution which specifies the need and intent of such regulations or action.

16.2. Emergency Regulation Limitations:

This emergency section is intended to be used only when adherence to the other requirements of this Ordinance would result in significant injury to the interests of the Tribe, and shall not be used to frustrate the general purposes of this Ordinance as set forth in Section 2. It is expected that the Council will, the time that any emergency action is taken as provided herein, propose additional action in accordance with the process established under this Ordinance.

16.3. Emergency Regulation Expiration Date:

No emergency regulation shall remain valid if allowed to stand longer than 30 days without an official extension provided under this section. The enforceability of an emergency regulation shall expire 30 days after its enactment date and such emergency regulation shall be deemed null and void.

Section 17. Public Notice

Once action is taken by the Council under this Ordinance, the Recording Secretary shall be responsible for notifying all appropriate departments as to who shall be responsible for posting such public notices as may be required by the action taken.

Section 18. Judicial Review

The Yurok Tribal Court shall have authority to issue declaratory judgments regarding violations of this Ordinance, any action taken by the Council shall not substantially in accordance with this Ordinance shall be declared null and void. Except to the extent that this section provides for

judicial review by the Tribal Court, the Council does not waive the sovereign immunity of the Yurok Tribe or that of any of its departments or entities from unconsented lawsuit.

Section 19. Severability

If any part of this Ordinance is held to be invalid, it is the intent of the Council that the remainder shall continue to be in full force and effect to the maximum extent possible.

Section 20. Effective Date

This ordinance shall be effective upon adoption by the Yurok Tribal Council and certification by the Chairperson and Recording Secretary.


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

This is to certify that Yurok Tribal Code 1-11, Yurok Tribal Public Hearing Ordinance was adopted at a regularly scheduled meeting of the Yurok Tribal Council on July 23, 1997 at which a quorum was present and that this ordinance was approved by a vote of 6 Yes, 0 No and 1 Abstention in accordance with Article 4, Section 5 (J) of the Constitution of the Yurok Tribe.

Dated this 23rd day of July, 1997


Susie L. Long Chairperson
Yurok Tribal Council

ATTEST:


Cynthia Carlson, Recording Secretary
Yurok Tribal Council