

Yurok Tribal Code, Natural Resources

YUROK TRIBE EMERGENCY LEAD AMMUNITION PROHIBITION 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 regulating the use of lead ammunition:

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GENERAL PROVISIONS

SECTION 2001. Short Title

This ordinance shall be referred to as the “Yurok Tribe Emergency Lead Ammunition Prohibition Ordinance.”

SECTION 2002. Findings

The Council hereby finds as follows:

- (a) Since time immemorial prey-go-neesh (California condors, or condors) and pergeesh (eagles), as well as a variety of raptor and corvid species have been deeply important to the Yurok People, for cultural, ceremonial, religious, and other purposes fundamental to the Tribe’s way of life.
- (b) Community concerns describe an imbalance in traditionally and ecologically important wildlife species in Yurok Ancestral Territory. A community survey found that this imbalance was due to changes in hunting practices, and habitat modification, which have affected wildlife populations within the Yurok Reservation and Yurok Ancestral Territory. These changes were in large part due to restrictions placed on the Yurok people that kept them from engaging in traditional land stewardship.
- (c) Changes in hunting practice that are contributing to wildlife imbalance include, in part: over harvest, imbalanced harvest, introduction of toxic lead into the environment through use of lead ammunition, and loss of traditional relationships with wildlife.

- (d) Community findings indicate that regulation based on traditional ethics, along with education based on tradition, is the most effective method to restore ecological balance.
- (e) Yurok traditional ecological knowledge recognizes:
 - (1) Yurok people have always managed Yurok ancestral territory, and are necessary to it, both as care takers and as a part of the system;
 - (2) Preservation of Yurok traditional knowledge and way of life is critical to the survival of Yurok people, and traditional teachings remain vital to modern wildlife management;
 - (3) The system of energy which connects all things is called 'O'-loo-lek-wee-sh'on. All parts of the systems, including ourselves, are related to and affect all other parts;
 - (4) There are spiritual and physical consequences to disrespectful or dishonorable conduct that will impact the one acting badly;
 - (5) Our purpose is to balance our world, which includes mental, spiritual, and physical balance, as neither the spirit nor the physical is fulfilled without the other. Hlkey-lo-nah ue meyg-eh-tohl – we take care of the world;
- (f) Traditional hunting ethics and practices of particular importance to the tribal membership include:
 - (1) Recognizing that traditional ethics are a way of life, not just something you put on and take off as desired;
 - (2) Respecting the relationships that exist with wildlife, who were the first people of our world; Praying prior to, during, and after harvest and always remembering to give thanks;
 - (3) Hunting with a good heart;
 - (4) Taking care for the spiritual needs of animals, and the spirit people;
 - (5) Taking action to protect the resource.
- (g) The Yurok Constitution mandates that the Tribe shall “restore, enhance, and manage the tribal fishery, tribal water rights, tribal forests and all other natural resources.” (Yurok Constitution, Preamble).
- (h) The Yurok Constitution also mandates that we preserve and promote our culture, language, and religious beliefs and practices, and pass them on to our children, our grandchildren, and to their children and grandchildren, forever.
- (i) The use of lead ammunition impacts several species of spiritual and cultural importance to the Yurok people, including but not limited to California condor, bald and golden eagles, turkey vultures, and ravens.
- (j) The Yurok Tribe maintains the sovereign right to manage and regulate tribal activities including fishing, hunting, and gathering for subsistence and cultural purposes in all areas within the Tribe’s jurisdiction. The regulation of Tribal activities is a sovereign responsibility of the Yurok Tribe.

SECTION 2003. Purpose

This Emergency Ordinance is enacted for the purpose of responsible management of wildlife, including the soon to be released condor population. It is to be based on traditional ethics, moral practices, and best scientific methods, to ensure condor and other raptor and bird populations on lands within Tribal jurisdiction can be sustainably maintained and utilized for all current and future generations.

SECTION 2004. Ordinance Adopted by Emergency Legislative Act

This Lead Ammunition Prohibition Ordinance was adopted by emergency legislative act, pursuant to Section 5009 of the Yurok Public Hearing Ordinance on February 24, 2022. The Yurok Tribal Council found that there was an immediate and urgent threat to the welfare of Tribal members and the Tribe with the upcoming planned release of condors into Yurok Ancestral Territory and the susceptibility and sensitivity of condors to ingestion of lead ammunition in the environment.

SECTION 2005. Scope

This Ordinance shall govern all persons subject to the jurisdiction within the exterior boundaries of Lands managed by the Yurok Tribe within the Yurok Ancestral Territory.

SECTION 2006. Sovereign Immunity Preserved

Except as judicial review is authorized in this Ordinance, and in accordance with the 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 2007. 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 remain in effect, and to this end, the provisions of this Ordinance are severable.

SECTION 2008. Effective Date

This Ordinance shall be effective immediately upon adoption by Yurok Tribal Council.

SECTION 2009. 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 2010. Definitions

- (a) *Hunt* means to actively engage in the steps, process, or pursuit leading up to harvest.

- (b) *Reservation* or *Yurok Reservation* means all lands within the exterior boundaries of the Yurok Tribe Indian Reservation.
- (c) *Take or harvest* means to intentionally harm, wound, trap, capture, kill or bring about the death of wildlife.
- (d) *Tribe* means the Yurok Tribe acting through the Tribal Council and its authorized entities and programs.
- (e) *Tribal Council* means the Yurok Tribal Council.
- (f) *Tribal Lands* means all fee lands owned or managed by the Tribe or other Tribal entity and any lands held in trust for the Yurok Tribe.
- (g) *Tribal Member* means a duly enrolled member of the Yurok Tribe listed on the Yurok Tribal Membership Roll.
- (h) *Vehicle* means any mechanized mode of transportation including but not limited to, automobiles, watercrafts, motorized bicycles, and all-terrain vehicles.
- (i) *Wildlife* means animals that live in the wild and includes domesticated and feral animals.
- (j) *Wildlife Department* means the Yurok Tribe Wildlife Department, a Natural Resources department of the Yurok Tribe.
- (k) *Yurok Ancestral Territory* means that area as described in the Yurok Constitution Article I, Section 1.

CHAPTER 1. CONDOR MANAGEMENT

SECTION 2101. Non-Lead Ammunition

The use of lead ammunition is prohibited for the take, harvest, or management of wildlife or domestic livestock.

- (a) Lead ammunition may only be utilized if there is reasonable cause to believe the animal poses an immediate threat to life or property, and non-lead ammunition is unavailable.
 - (1) If the take or harvest of an animal is achieved with lead ammunition pursuant to (a) the responsible party must properly dispose of the carcass.
 - (2) Proper disposal means placement of the carcass in a plastic bag labeled “animal waste” and transporting it to a registered disposal site. If there is reasonable cause to believe the animal was rabid, the responsible party must immediately contact the appropriate State/County Animal Control or the Yurok Tribal Police.

- (3) If the responsible party harvests the carcass for personal consumption, all unused remains must be disposed of in the manner described in subsection (2) above.
- (4) If the carcass is too large to remove in its entirety, all meat and organs that have been contaminated with the lead ammunition must be disposed of as described in subsection (2).
- (5) Any harvest of animals with the use of lead ammunition must be reported to the Wildlife Department as soon as practicable, and under no circumstance later than 5 days from the harvest.
- (6) A person commits a level three offense if the person violates Section 2101(a).

SECTION 2102. California Condor.

Take of California condor is strictly prohibited.

A person commits a level four offense if the person violates Section 2102.

CHAPTER 2. ENFORCEMENT SANCTIONS

SECTION 2201. Cooperation with Law Enforcement

Hunters are required to cooperate with enforcement officers. A person commits the level three offense of Non-cooperation with Law Enforcement if the person fails to cooperate as requested or directed by a law enforcement officer or any authorized agent designated by the Chief of Yurok Tribal Police.

SECTION 2202. Prosecution

Any person, including Tribal and non-Tribal members, who violates this ordinance shall be subject to prosecution in Tribal Court.

SECTION 2203. Citations

Law enforcement officers may issue a citation to any person for an alleged violation of this ordinance. Such citation shall state the alleged violation, the date, time, and location of the alleged violation and the name, if known, of the person charged. The citation will also state the appearance date, address, time for the offense charged and/or an address (location) and/or phone number to inquire as to the hearing date.

SECTION 2204. Detention for Investigation

Yurok Tribal Police Officers or any authorized agent designated by the Chief of Yurok Tribal Police may conduct a brief investigatory detention if there is reasonable suspicion that a violation of this ordinance or an adjustment to this ordinance has occurred.

SECTION 2205. Search of Personal Property

Law enforcement officers or any authorized agent designated by the Chief of Yurok Tribal Police who have a probable cause to believe that any personal property contains any wildlife harvested or hunted in violation of this Ordinance, or personal property that was used to harvest or hunt wildlife in violation of this Ordinance, or that may be hiding wildlife from law enforcement may search the property to investigate whether wildlife was harvested or hunted in violation of this Ordinance.

SECTION 2206. Search of Real Property

Law enforcement officers or any authorized agent designated by the Chief of Yurok Tribal Police who have a probable cause to believe that any real property contains any wildlife harvested or hunted in violation of this Ordinance have the authority to secure a warrant to enter real property to determine if wildlife was taken or hunted in violation of this Ordinance to the fullest extent allowed under the law.

SECTION 2207. Search of Vehicle

Law enforcement officers or any authorized agent designated by the Chief of Yurok Tribal Police who have probable cause to believe any transportation vehicle, including a watercraft, contains wildlife illegally harvested or hunted may search the vehicle to determine if wildlife was taken or hunted in violation of such authority.

SECTION 2208. Seizure and Forfeiture of Hunting Gear

Any weapon or gear, including vehicles, used to violate this Ordinance, or any wildlife taken in violation of this Ordinance, may be seized immediately by a law enforcement officer or any authorized agent designated by the Chief of Yurok Tribal Police. A notice of seizure shall be issued to the individual cited for violation of this Ordinance. If no individual is present, a notice of seizure shall be left at the site where weapons, gear or wildlife were confiscated. Weapons and gear so seized shall be held pending disposition by court order. Pursuant to Tribal Court order, any such weapons, gear, or wildlife may be forfeited to the Tribe for a violation of this Ordinance.

SECTION 2209. Forfeiture Proceedings

- (a) **Forfeiture; Identified Owner.** When weapons, gear or wildlife is seized and the owner is identified, the Tribal Prosecutor shall review the case and either:
 - (1) Serve notice of a complaint for forfeiture or violation of this Ordinance, in accordance with Tribal Court Rules, to every person known to have an alleged interest in the property subject to forfeiture; or
 - (2) Authorize law enforcement officers to release, without a court order, any weapons, gear or wildlife seized when the prosecutor declines to prosecute a person for an alleged violation of this Ordinance.
- (b) **Forfeiture; Unidentified Owner.** When weapons, gear or wildlife is seized and the owner is unknown to the enforcement officer, the enforcement officer shall post notice of the seizure in the immediate vicinity of where the weapons, gear or wildlife was seized. The posting of such notice shall constitute notice of forfeiture. Notice of forfeiture may also be perfected by publishing notice of the seizure in the Tribe's

periodic newsletter. The Tribal Prosecutor shall review the case and file a complaint in rem for forfeiture or violation of this Ordinance. The Tribal Prosecutor may authorize law enforcement officers to release, without a court order, any weapons, gear, or wildlife seized.

- (c) **Third Party Interests in Forfeited Property.** Any person asserting a legal interest in weapons, gear, or wildlife that is the subject of a complaint or civil action under subsections (a) or (b) may, within 30 days of the initial filing in the court action, petition the Tribal Court for a hearing to adjudicate the validity of that person's alleged interest in the property. The petitioner shall have the burden of proving by a preponderance of the evidence that the petitioner has a legal right, title, or interest in the items seized, is a bona fide purchaser for value of the right, title, or interest in the items, and is an innocent owner. Any person determined to be the owner of such weapons, gear or wildlife may be held liable for the violation for which the items were seized, unless the items reported as stolen prior to being seized.
- (d) **Clear Title After Forfeiture.** Following the Tribal Court's disposition of the underlying legal action, law enforcement shall have clear title to weapons, gear or wildlife that is forfeited.

SECTION 2210. Use of Seized Wildlife

All seized wildlife may be utilized for subsistence or ceremonial purposes, be donated to an elders' program if edible, or be destroyed if inedible.

SECTION 2211. Officer's Ability to Act under Yurok Constitution

Nothing in Sections 2201 - 2210 shall be interpreted to limit an officer's ability to act under the Yurok Constitution.

SECTION 2212. Sanctions

Any violation of this Ordinance is punishable by a fine in addition to any other specified sanction. The Tribal Court maintains discretion to impose any of the following sanctions for violation of this ordinance, in addition to those fines and penalties specifically prescribed at Section 2216.

- (a) Administrative and enforcement fees and costs;
- (b) Restitution;
- (c) Community Service;
- (d) Civil forfeiture of hunting or fishing gear;
- (e) Suspension of Tribal privileges, including commercial and subsistence fishing rights.

SECTION 2213. Monetary Civil Fines or Penalties

The maximum monetary civil fine or penalty that shall be imposed for a violation of this Ordinance is the maximum permitted under the Indian Civil Rights Act of 1968, 25 U.S.C. § 1302, as amended.

The Tribal Council by resolution and without amending this ordinance may:

- (a) Establish a Fine and Bail Schedule associated with this Ordinance, setting bail, fines, and administrative fees for any violation of this Ordinance; and
- (b) Adjust the minimum monetary civil fine or penalty amounts specified in this Ordinance.

SECTION 2214. Attempted Violation

Any person who intentionally engages in conduct which constitutes a substantial step toward commission of a violation of this Ordinance shall commit the offense of attempt of the underlying violation, which shall be treated as at the same offense level as the underlying violation. Violations will accumulate over a five-year period. If no additional violations occur during that time period, an individual's record will be reset, unless otherwise determined by the Tribal Court. The exception is for level Four violations, which will remain on the permanent record.

SECTION 2215. Multiple Violations

Each violation arising out of a single event shall be treated as a separate offence and penalties shall be imposed accordingly.

SECTION 2216. Offense Levels and Penalties

- (a) **Level Three.** Penalties for a level three offense are:
 - (1) First Offense. Illegally taken wildlife will be seized, and forfeited. Weapons and gear will be seized for potential forfeiture, and the violator will be required to undergo Yurok hunter certification, if available.
 - (2) Second Offense. The illegally taken animal will be seized and forfeited. Weapons and gear will be seized for potential forfeiture, a fine of up to \$500 will be imposed, and the violator's hunting rights will be suspended for 12 months. Violator's commercial fishing license may be suspended for up to 30 days.
 - (3) Third Offense and Subsequent Offenses. The illegally taken animal will be seized and forfeited. Weapons, and gear will be seized for potential forfeiture, a fine of up to \$1,000 will be imposed, and the violator's hunting rights will be suspended for two seasons. Violator's Commercial Fishing License shall be suspended for 30 days and subsistence fishing rights may be suspended for up to 30 days.
 - (4) Fourth offense and Subsequent Offenses. Weapons, gear, and illegally taken wildlife will be seized and forfeited. Hunting and commercial fishing rights and licenses will be suspended for a time length at the discretion of the Tribal Court, and a fine of up to \$2,000 shall be imposed.
- (b) **Level Four.** Penalties for level four offense are:
 - (1) First Offense. Illegally taken wildlife will be seized and forfeited. Weapons and gear will be seized for potential forfeiture, and the violator will be required to undergo Yurok hunter certification, if available. A fine of \$30,000 or greater, depending on the degree of the offense, will be imposed for take of endangered species, per the discretion of the court. Hunting and

commercial fishing rights and licenses will be suspended for a time length at the discretion of the Tribal Court.

CHAPTER 3. JURISDICTION OF THE TRIBAL COURT

SECTION 2301. Tribal Court Jurisdiction

The Tribal Court has jurisdiction over violations of this Ordinance.

SECTION 2302. Consent to Tribal Court Jurisdiction

Hunting by a Tribal member or non-Tribal member within the Yurok Reservation pursuant to this Ordinance shall be deemed to constitute consent to Tribal Court jurisdiction for alleged violations of this Ordinance.

SECTION 2303. Confidentiality of Tribal Court Records for Juveniles

All Yurok Tribal Court and enforcement records concerning violations or alleged violations which occurred when the violators or alleged violators were under the age of 18 shall be strictly confidential. Records for juveniles shall be sealed, except upon order of the Tribal Court upon its own motion or that of a party. Records may only be released to other agencies or persons by petition to and order of the Tribal Court. Nothing in this paragraph shall bar the use of statistical compilations of juvenile records.

SECTION 2304. Tribal Court Discretion

- (a) The Tribal Court maintains discretion to impose any of the fines or penalties in Section 2213 for violation of this Ordinance.
- (b) **Reduced Penalties.** The Tribal Court may convert penalties to community service at its discretion for first time offenders for offenses that do not facilitate or result in the unlawful take of wildlife, with the exception of Level Four offenses. Community service may be ordered as an alternative to all or any part of the penalties which otherwise would be imposed.
- (c) **Community Service.** Imposing community service is left to the discretion of the Tribal Court. If a person does not obey the terms of any order to complete community service then it shall be converted into the penalty specified for the original offense under Section 2216.
- (d) **Prior Convictions.** Prior convictions are calculated from the conviction date of a wildlife ordinance offense within the preceding five-year period.

SECTION 2305. Failure to Appear; Trial in Absentia

Any person who fails to appear in Tribal Court for a violation of this Ordinance after being appropriately noticed may be deemed to have elected to have a trial in absentia.

SECTION 2306. Failure to Obey Tribal Court Order

- (a) Any person who willfully fails to comply with a lawful order of the Yurok Tribal Court shall be fined not more than \$800 on the first offense and may suffer suspension of hunting and/or fishing rights for an additional period not to exceed

365 days for each subsequent offense. If the order of the Yurok Tribal Court is not satisfied within 180 days, any property from that case may be forfeited and disposed of by the Yurok Tribe.

- (b) Any eligible individual who fails to comply with a lawful order of the Yurok Tribal Court suspending that person's hunting and/or fishing rights shall be guilty of a level three offense.

SECTION 2307. Tribal Council as Appellate Court for Certain Matters

Pursuant to the Yurok Constitution Article VII, the Yurok Tribal Council shall serve as the Appellate Court for all appeals arising out of violations of this Ordinance. The Tribal trial court order disposing of such dispute shall be considered a final action and may be appealed to the Tribal Council sitting as the Appellate Court, which shall be the highest judicial body of the Tribe for such disputes.

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

THE FOREGOING ORDINANCE, ENTITLED THE EMERGENCY YUROK TRIBE LEAD AMMUNITION PROHIBITION ORDINANCE, WAS PASSED AT A REGULARLY SCHEDULED MEETING OF THE YUROK TRIBAL COUNCIL ON FEBRUARY 24, 2022, AT WHICH A QUORUM WAS PRESENT, AND THIS EMERGENCY ORDINANCE WAS ADOPTED AS AN ORDINANCE BY A VOTE OF 8 FOR, 0 OPPOSED AND 0 ABSTENTIONS IN ACCORDANCE WITH ARTICLE IV, SECTION 5(j) OF THE CONSTITUTION OF THE YUROK TRIBE.

DATED THIS 24TH DAY OF FEBRUARY, 2022



Joseph L. James, Chairperson

Yurok Tribal Council

ATTEST:



Sherri K. Provolt, Secretary

Yurok Tribal Council