

**Yurok Tribal Code, Agriculture**

**YUROK TRIBE HEMP 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 Hemp.*

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## **GENERAL PROVISIONS**

### **SECTION 4001. Short Title**

This Ordinance shall be referred to as the “Yurok Tribe Hemp Ordinance.”

### **SECTION 4002. Legislative Findings**

The Yurok Tribal Council hereby finds and declares that:

- (a) This Yurok Tribe Hemp Ordinance was adopted pursuant to Section 1.25.090 of the Yurok Public Hearing Ordinance in order to protect the health, safety, and welfare of the Tribe by becoming the primary regulatory authority over the production of Hemp; and
- (b) Within the territories of the Tribe, and having an ordinance governing the growing and processing of Hemp is in the Yurok Tribe’s best interest; and
- (c) The Agriculture Improvement Act of 2018 (commonly known as the 2018 Farm Bill) allows for the growth and processing of Hemp, subject to regulations, so long as the hemp has a THC concentration of less than the Acceptable Hemp THC Level.

### **SECTION 4003. Purpose**

The purpose of this Ordinance is to assert tribal sovereignty and to:

- (a) Create a Department of Agriculture to manage the Yurok Tribe Hemp Program; and
- (b) Regulate Hemp as an agricultural commodity in compliance with tribal and federal law; and
- (c) Promote economic development for the Yurok Tribe through the production/processing of Hemp and the development of new commercial markets for farmers and businesses through the sale of Hemp Products; and
- (d) enable the Yurok Tribe, its Licensees, and any potentially affiliated Institutions of Higher Education, to conduct research regarding the production of Hemp within the Territories of the Tribe; and
- (e) Promote this territory’s Hemp industry; and
- (f) Encourage and empower research into Hemp production and the creation of Hemp Products at Institutions of Higher Education and in the private sector.

### **SECTION 4004. Sovereign Immunity Preserved**

In accordance with the Yurok 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 4005. 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 not be affected, and to this end, the provisions of this Ordinance are severable.

### **SECTION 4006. Effective Date**

This Ordinance shall take effect immediately upon its adoption by Council.

## **SECTION 4007. 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. This Ordinance is, however, intended to be read in conjunction with certain existing ordinances, including, but not limited to: the Yurok Cultural Resources Protection Ordinance and the Yurok Tribe Environmental Protection Code.

## **SECTION 4008. Licensee Agreement**

All Hemp growers, producers, processors, handlers, Applicants and agents are bound to all Yurok ordinances, codes, laws, and Department policies and procedures. By applying for a license, Hemp Growers, producers, processors, handlers, Applicants, and agents submit to the jurisdiction of the Yurok Tribe and Yurok Tribal Court. All Hemp grown, processed, produced, handled within the Territories of the Tribe is controlled by all Yurok ordinances, codes, laws, and Department policies and procedures. All codes are available at the Yurok Justice Center or online at <https://Yurok.Tribal.Codes>

## **SECTION 4009. Definitions**

- (a) **“Acceptable Hemp THC Level”** for the purpose of compliance with the requirements of the Yurok Tribal hemp plan is when the application of the measurement of uncertainty to the reported delta-9 tetrahydrocannabinol content concentration level on a dry weight basis produces a distribution or range that includes 0.3% or less. For example, if the reported delta-9 tetrahydrocannabinol content concentration level on a dry weight basis is 0.35% and the measurement of uncertainty is +/- 0.06%, the measured delta-9 tetrahydrocannabinol content concentration level on a dry weight basis for this sample ranges from 0.29% to 0.41%. Because 0.3% is within the distribution or range, the sample is within the Acceptable Hemp THC level for the purpose of compliance with this Ordinance. For purposes of clarity, if 0.3% or less is within the distribution or range, then the sample will be considered to be Hemp for the purpose of compliance with the requirements of this Ordinance.
- (b) **“Applicant”** means a person, or a person who is authorized to sign for a business entity, who submits an application to participate in the Yurok Tribe Hemp programs.
- (c) **“Commercial Sales”** means the sale of a product in the stream of commerce at retail or at wholesale, including sales on the Internet.
- (d) **“Consumable Product”** means a Hemp Product Intended for Consumption.
- (e) **“Culpable Mental State Greater Than Negligence”** means to act intentionally, knowingly, willfully, recklessly, or with criminal negligence.
- (f) **“Cultivate”** means to plant, water, grow, or harvest a plant or crop.
- (g) **“Department”** means the Yurok Department of Agriculture.
- (h) **“Director”** means the Director of Yurok Agriculture and Production programs.
- (i) **“GPS”** means Global Positioning System.
- (j) **“Handle”** means to harvest or store hemp plants or hemp plant parts prior to the delivery of such plants or plant parts for further processing. “Handle” also includes the disposal of cannabis plants that are not hemp for purposes of chemical analysis and disposal of such plants.

- (k) **“Harvest Lot”** means a quantity of Hemp, of the same Variety, harvested in a distinct time frame that is: (1) Cultivated in one contiguous production area within a Production Site; or (2) Cultivated in a portion or portions of one contiguous production area within a Production Site. Harvest Lot does not include a quantity of Hemp comprised of Hemp produced in noncontiguous production areas.
- (l) **“Harvest Lot Identifier”** means a unique identifier used by the Yurok Tribe to identify the Harvest Lot.
- (m) **“Hemp”** means the plant *Cannabis sativa L.*, and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not with a THC concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis.
- (n) **“Hemp Crop”** means one (1) or more unprocessed Hemp plants or plant parts.
- (o) **“Hemp Grower”** means a Person licensed by the Yurok Tribe to Cultivate Hemp within the Territories of the Tribe.
- (p) **“Hemp Ingredient”** means all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers of any part of the Hemp plant included in the definition of “Hemp.”
- (q) **“Hemp Plan”** means the USDA Approved Yurok Tribal Hemp Plan for domestic production of hemp within the territories of the Yurok Tribe. The program includes provisions for maintaining information on the land where hemp is produced, testing the levels of delta-9 tetrahydrocannabinol, disposing of plants not meeting necessary requirements, licensing requirements, and ensuring compliance with the 2018 Farm Bill, federal regulations and Yurok laws, ordinances, policies and procedures.
- (r) **“Hemp Producer”** means a Person licensed by the Yurok Tribe to Cultivate Hemp within the Territories of the Tribe in accordance with the provisions of this Ordinance.
- (s) **“Hemp Product”** means a finished product with the Acceptable Hemp THC Level that is derived from, or made by, processing a Hemp Crop, and that is prepared in a form available for commercial sale. The term includes, but is not limited to cosmetics, personal care products, Consumable Products, cloth, cordage, fiber, fuel, paint, paper, particleboard, plastics, and any product containing one or more Hemp Ingredients such as cannabidiol.
- (t) **“Industrial Hemp”** has the same meaning as “Hemp” as that term is defined in this Section, above.
- (u) **“Institution of Higher Education”** has the meaning assigned to it by 20 U.S.C. § 1001, and 25 U.S.C. § 1801(a)(5) et sec.
- (v) **“Intended for Consumption”** means intended for a human or animal to ingest, inhale, topically apply to the skin or hair, or otherwise absorb into the body.
- (w) **“Laboratory”** means allowable for Hemp Producers laboratories which use appropriate, validated methods and procedures for all testing activities and who also evaluate measurement of uncertainty, meet the Association of Official Agricultural Chemists (“AOAC”) International standard method performance requirements for selecting an appropriate method, and are registered by the Drug Enforcement Agency (“DEA”) to conduct chemical analysis of controlled substances.
- (x) **“Licensee”** has the same meaning as “Hemp Producer” as that term is defined in this Section,

above.

- (y) “**Measurement of Uncertainty**” means the parameter associated with the result of a measurement that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to measurement.
- (z) “**Negligence**”, “**Negligent**”, or “**Negligently**” is defined as a failure to exercise the level of care that a reasonably prudent person would exercise in complying with this ordinance and all related ordinances, policies and procedures including the Federal regulations on Industrial Hemp.
- (aa) “**Non-commercial Personal Possession or Use**” means possession and use of Hemp without the intent to transfer by anyone in the household, but does not include sale, trade or any other type of commercial use.
- (bb) “**Person**” means a natural person, corporation, foundation, organization, business trust, estate, limited liability company, licensed corporation, trust, partnership, limited liability partnership, association, or other form of legal business entity, as well as a state or local government entity.
- (cc) “**Process**” means to convert any portion of a Hemp Crop into a Hemp Ingredient, Hemp Product, or other marketable form.
- (dd) “**Production Site**” has the same meaning as “Registered Land Area” as that term is defined in this Section, below.
- (ee) “**Reasonable Efforts**” means to find the Hemp Producer exercised a level of care that a reasonably prudent person would have exercise when the Hemp Producer took the necessary steps and precautions to produce hemp, such as using certified seed, using other seed that has reliably grown compliant plants in other parts of the country, or engaging in other best practices, yet still produced plants that exceed the Acceptable Hemp THC level, and the plant does not have a THC concentration of more than 0.5 percent on a dry weight basis.
- (ff) “**Registered Land Area**” means a contiguous lot, parcel, or tract of land registered with the Yurok Tribe on which a Licensee may Cultivate Hemp. A Registered Land Area may include land and buildings that are not used to Cultivate Hemp.
- (gg) “**THC**” means tetrahydrocannabinol and has the same meaning as delta-9 THC, measured post-decarboxylation or other similarly reliable method allowed under the USDA hemp regulations at 7 CFR Part 990, *et seq.* from time to time.
- (hh) “**USDA**” means the United States Department of Agriculture.
- (ii) “**Variety**” means a group of plants or an individual plant that exhibits distinctive observable physical characteristic(s) or has a distinct genetic composition.

## **CHAPTER 1. POLICIES AND PROCEDURES**

### **SECTION 4101. Policies and Procedures set by the Department**

This Ordinance creates the Department of Agriculture. The Department shall set the policies and procedures for all Hemp production.

- (a) Tribal Council hereby delegates to the Department the authority to modify, adapt or amend their policies and procedures as necessary, to keep them in line with best practices and procedures.
- (b) All modifications, adoptions, or amendments by the Department of policies and procedures

must be approved by Tribal Council through resolution.

- (c) The Department shall produce and maintain the following forms:
  - (1) “Producer License Application Packet”
  - (2) “Field Planting Report”
  - (3) “Greenhouse/Indoor Planting Report”
  - (4) “Harvest/Destruction Report”
  - (5) “Producer Production Report Form”
  - (6) “Process/Handler Production Report and Annual License Renewal”
  - (7) “Site Modification Request Form”
  - (8) “Domestic Seed/Propagule Request Requirements”
  - (9) “International Seed Request Requirements”
  - (10) “Processor/Handler License Application”
- (d) The Department shall set administrative procedures for and may impose damages, fines, and fees for violations of this Ordinance.
- (e) Fees and Forms
  - (1) Schedule of fees
    - (i) The Department shall set and maintain a fee schedule for all applicable fees, including but not limited to, license application fees, testing fees, modification fees, and all other appropriate fees.

#### **SECTION 4102. Recordkeeping and Reporting**

- (a) The Department shall retain for a period of at least three (3) calendar years, all information required to be collected by this Ordinance, for every Registered Land Area approved by the Department.
- (b) Within fifteen (15) calendar days after the date on which the information is received, or within such other period of time set forth in the USDA hemp regulations at 7 CFR Part 990, *et seq.* from time to time, the Yurok Tribe shall submit to the U.S. Secretary of Agriculture the following information for each Hemp Producer within the Territories of the Tribe:
  - (1) Contact information for each Hemp Producer, including the legal entity name, full name of all authorized representatives, the street address of each Registered Land Area, or other identifier such as an APN, the business telephone number, and email address of each Licensee (to the extent available); and
  - (2) A legal description of the Registered Land Area; and
  - (3) The status of a license or other required authorization from the Department.
- (c) The Tribe will report for each tribal producer what was included in the previous report and whose reported information has changed. The report shall include the previously reported information and the new information.
- (d) The Department will fulfill information sharing obligations under the USDA hemp regulations,

including requiring tribal producers to report their hemp crop acreage to the USDA Farm Service Agency per 7 CFR Part 990.7, including:

- (1) Street address and to the extent practicable geospatial location for each lot/greenhouse where tribal producer will grow hemp,
  - (2) Total hemp acreage/greenhouse indoor square footage, and
  - (3) Tribal license number.
- (e) The Department shall assign each tribal producer with a license identifier in format compliant as prescribed by USDA; and
- (f) Tribal producers shall report the total acreage of hemp planted, harvested, and disposed to the Department.
- (g) The Department shall then collect this info and report to Agricultural Marketing Service (“AMS”), and the administration of the Seed Regulatory & Testing Division (“S&T”).

### **SECTION 4103. Licensee Recordkeeping and Reporting**

- (a) Hemp Producers must report any changes of contact information to the Department in writing within fourteen (14) calendar days of the change.
- (b) Hemp Producers who are entities must report any change in control, change in business structure, sale of business, or change in control.
- (c) Licenses are non-transferrable.
- (d) Harvest Producers must identify the Designated Harvest Lot using the Yurok Harvest Identifier format included in the policies and procedures for the Department
  - (1) A Designated Harvest Lot is an area of land that the Hemp Producers designate themselves in which the Hemp Producer produces a quantity of Hemp, of the same Variety, harvested in a distinct time frame that is: (1) Cultivated in one contiguous production area within a Production Site; or (2) Cultivated in a portion or portions of one contiguous production area within a Production Site. Harvest Lot does not include a quantity of Hemp comprised of Hemp produced in noncontiguous production areas.
  - (2) Planting Report: Within fourteen (14) calendar days after planting any Industrial Hemp, each Hemp Producer shall submit a Planting Report to the Department that includes the GPS coordinates and a map showing the location and actual acreage or square feet of Hemp planted.
  - (3) Pre-Harvest Notification: At least fourteen (14) calendar days prior to harvest, each Hemp Producer shall submit a Pre-Harvest Notification to the Department, on a form provided by the Department that includes the projected harvest date(s) and location(s) of each Variety of Hemp Cultivated within a Registered Land Area. A Hemp Producer must notify the Department immediately of any changes in the reported harvest dates in excess of seven (7) calendar days.
  - (4) Post-Harvest Report: Within fourteen (14) calendar days post-harvest, each Hemp Producer shall submit a Post-Harvest Report to the Department, on a form provided by the Department that includes the actual harvest date(s) and location(s) of each Variety of Hemp harvested within a Registered Land Area. A Hemp Producer is not

required to document the removal of male Hemp plants on a Post-Harvest Report if the male Hemp plants are destroyed or utilized on the Registered Land Area and are not transferred or sold.

- (5) Each Hemp producer shall ensure that the DEA-registered lab that conducts the test samples shall report those test results to the USDA.
- (6) A Hemp Producer must retain all documentation of sampling and testing for at least three (3) calendar years in a manner such that it can be readily provided to the Department upon request.
- (7) The Department shall submit a tribal hemp producer report, disposal report, and annual report to the USDA Secretary not more than 30 days after the date on which the information is received.
- (8) The Department will use the information it collects under this section for purposes of reporting and information sharing with USDA. All such information shall be submitted to the USDA in a format that is compatible with USDA's information sharing system.

#### **SECTION 4104. Procedure for Inspecting, Sampling, and Testing**

- (a) The Department shall conduct regular inspections of Hemp Producers to ensure compliance with this Ordinance, applicable federal regulations, and required THC Concentration.
  - (1) Inspections will be at least annually, may be randomly selected, and performed without notice.
  - (2) Inspectors shall be certified pursuant to the USDA and Yurok laws and regulations.
  - (3) During a scheduled sample collection, the tribal producer or an authorized representative of the tribal producer must be present at the growing site.
  - (4) During inspection and sampling that inspection/sampling representatives must be provided with complete and unrestricted access during business hours to all hemp and other cannabis plants, whether growing or harvested, and all land, buildings, and other structures used for the cultivation, handling, and storage of all hemp and other cannabis plants, and all locations listed in the tribal producer license.
  - (5) All Licensees shall grant the Department unrestricted access to the Registered Land Area(s) and accompanying facilities, any piece of land, building, greenhouse, and other structures used for the cultivation, handling, and storage of all hemp and other cannabis plants, and all locations listed in the producer license.
  - (6) Hemp plant materials from one lot cannot be commingled with hemp plant material from other lots.



- (7) All samples collected by the Department shall become the property of the Department and no compensation shall be owed by the Department for such samples.
  - (8) Violations section, Chapter 4, and inspections will enforce the terms of that section.
- (b) A Hemp Producer must arrange for and ensure the sampling of each Harvest Lot no more than fifteen (15) calendar days prior to harvest, or within such other period of time set forth in the USDA hemp regulations at 7 CFR Part 990, *et seq.* from time to time, for the purpose of ensuring that the Harvest Lot does not exceed permissible THC concentration on a dry weight basis. If the producer fails to complete harvest within fifteen (15) days of sample collection, or within such other period of time set forth in the USDA hemp regulations at 7 CFR Part 990, *et seq.* from time to time, a secondary pre-harvested sample of the lot shall be required to be submitted for testing.
  - (c) A Hemp Producer shall not remove a Harvest Lot from a Registered Land Area that has not been sampled and tested for compliance in accordance with this Section.
  - (d) Compliance and safety testing for Hemp and Hemp Products required by these rules shall be conducted by Federally designated or independent laboratories accredited to ISO/IEC 17025, the standard published by the International Organization for Standardization (the “ISO”) titled “General requirements for the competence of testing and calibration laboratories,” or an accreditation standard approved by the Department because the laboratory uses appropriate, validated methods and procedures for all testing activities and who also evaluate measurement of uncertainty as controlled by the USDA federal regulations.
  - (e) A producer must have an approved Yurok law enforcement agency pursuant USDA regulations and Yurok laws and regulations collect samples from the flower material of such cannabis material for delta-9 tetrahydrocannabinol concentration level testing
  - (f) For each sample tested pursuant to this Section, the Hemp Producer shall obtain from a laboratory a certificate of analysis that includes, at a minimum, the following information:
    - (1) General information identifying that the Hemp that is the subject of the certificate of analysis is the product of a sample tested by the independent testing laboratory; and
    - (2) The procedure for testing was able to accurately identify whether the sample contains a delta-9 tetrahydrocannabinol content concentration level that exceeds the Acceptable Hemp THC level.
    - (3) The procedure shall include a validated testing methodology that uses postdecarboxylation or other similarly reliable methods with AMS and S&T or as otherwise permitted under the USDA hemp regulations at 7 CFR Part 990, *et seq.* from time to time.
    - (4) The methodology shall consider the potential conversion of delta-9 tetrahydrocannabinolic acid (THC-A) in hemp into THC and the test result

measures total available THC derived from the sum of the THC and THC-A content, or shall abide by such other testing requirements permitted under the USDA hemp regulations at 7 CFR Part 990, *et seq.* from time to time.

- (5) The testing methodologies meeting the requirements of this paragraph (f)(4) include, but are not limited to, gas or liquid chromatography with detection.
  - (i) Any test of a representative sample resulting in higher than the Acceptable Hemp THC Level shall be conclusive evidence that the lot represented by the sample is not in compliance with this part.
  - (ii) Lots tested and not certified by the DEA-registered laboratory, or such other laboratory permitted under the USDA hemp regulations at 7 CFR Part 990, *et seq.* from time to time, at or below the Acceptable Hemp THC Level may *not* be further handled, processed or enter the stream of commerce and the producer shall ensure the lot is disposed of in accordance with 7 CFR Part 990.27 of the USDA federal regulations, and the Yurok Laws, regulations, and policies and procedures.
- (6) The testing procedures shall determine the total the THC concentration on a dry weight basis.
- (7) Analytical testing for purposes of detecting the concentration levels of THC shall meet the following standards:
  - (i) Laboratory quality assurance must ensure the validity and reliability of test results;
  - (ii) Analytical method selection, validation, and verification must ensure that the testing method used is appropriate (fit for purpose), and that the laboratory can successfully perform the testing;
  - (iii) The demonstration of testing validity must ensure consistent, accurate analytical performance;
  - (iv) Method performance specifications must ensure analytical tests are sufficiently sensitive for the purposes of the detectability requirements of this part; and
  - (v) An effective disposal procedure for hemp plants that are produced that do not meet the requirements of this part.
    - (i) The procedure must be in accordance with DEA reverse distributor regulations found at 21 CFR 1317.15, and Yurok laws, regulations and policies and procedures.
    - (ii) Measurement of uncertainty (MU) must be estimated and reported with test results. Laboratories shall use appropriate, validated methods and procedures for all testing activities and evaluate measurement of uncertainty.
- (g) The Department shall promptly notify the Administrator by certified mail or electronically of any occurrence of cannabis plants or plant material that exceed the Acceptable Hemp THC Level, and attach the records demonstrating the appropriate

disposal of all of those plants and materials in the lot from which the representative samples were taken.

- (1) The measurement of uncertainty will be included as part of any hemp test results; and
  - (2) The date the Hemp was sampled, the date testing was performed, and methodology used to analyze the sample; and
  - (3) The THC concentration contained in the test sample; and
  - (4) A statement indicating whether the sample contained a THC concentration of not more than the Acceptable Hemp THC Level.
  - (5) The Yurok Hemp plan relies on the same standard as the USDA definition of “acceptable hemp THC level” to account for the uncertainty in the test results.
- (h) One sample per lot of hemp shall be collected pursuant to USDA Sampling guidelines for hemp growing facilities.
- (i) The method used for sampling from the flower material:
- (1) Must ensure that a representative sample is collected that represents a homogenous composition of the lot; and
  - (2) Must be sufficient at a confidence level of 95% that no more than 1% of plants would exceed Acceptable Hemp THC Level.
- (i) A Hemp Producer may apply to the Department for retesting and/or resampling of any non-compliant Harvest Lot, which may be approved or denied at the Department’s discretion.
- (j) Nothing in this Section shall prevent a Hemp Producer from voluntarily collecting samples and testing Hemp for quality assurance and research and development purposes.

#### **SECTION 4105. Procedure for Disposal**

- (a) Hemp that tests higher than the Acceptable Hemp THC Level shall be disposed of by the Hemp Producer in compliance with Department rules and all applicable tribal and federal laws, regulations, rules and other requirements.
- (b) The disposal methods shall be in compliance with DEA Laboratory requirements, and the Controlled Substance Act (“CSA”) requirements that are applicable and appropriate.
- (c) If a hemp producer has produced cannabis exceeding the Acceptable Hemp THC Level, the material must be disposed of in accordance with the CSA and DEA regulations because such material constitutes marijuana, a schedule I controlled substance under the CSA.
  - (1) The material must be collected for destruction by a person authorized under the CSA to handle marijuana, such as a DEA-registered reverse distributor, or a duly authorized Yurok Tribal Police enforcement officer.
- (d) The Tribe will promptly notify the AMS Administrator of any occurrence of cannabis plants or plant material that exceed the Acceptable Hemp THC Level, and attach disposal records of all plants and materials from lot in which defective samples were taken.

- (e) If a Harvest Lot tests higher than the Acceptable Hemp THC Level the Harvest Lot shall be promptly disposed of by the Hemp Producer.
- (f) All Hemp plant material not disposed of pursuant to the above Sections must be destroyed or utilized on site in a manner approved of and verified by the Department.
  - (1) The Department will authorize and arrange for the material to be collected for destruction by a person authorized under the CSA to handle marijuana, such as a DEA-registered reverse distributor, or a duly authorized Federal, State, local law enforcement officer, or Yurok Police Officer.
  - (2) The Producer is responsible for the costs of disposal.
- (g) Hemp Producers shall have fourteen (14) calendar days from the date of notification of test results for Harvest Lots that are higher than the Acceptable Hemp THC Level to contact the Department in writing and apply for retesting or propose a method for destruction.
- (h) Hemp subject to destruction pursuant to this Section shall not be removed from the Registered Land Area unless otherwise authorized by the Department.
- (i) Lots tested and not certified by the DEA-registered laboratory, or such other laboratory permitted under the USDA hemp regulations at 7 CFR Part 990, *et seq.* from time to time, at or below the Acceptable Hemp THC Level may not be further handled, processed or enter the stream of commerce and the producer shall ensure the lot is disposed of.
- (j) The Hemp Producer shall provide any and all evidence requested by the Department to verify disposal to the satisfaction of the Department.

## **CHAPTER 2. YUROK TRIBE HEMP PROGRAM**

### **SECTION 4201. Application**

- (a) Any Person desiring to Cultivate or Process Hemp within the Territories of the Tribe must obtain a license from the Yurok Tribe prior to engaging in such activity. Persons seeking to Cultivate Hemp shall provide to the Department:
  - (1) The legal description and/or geospatial location sufficient for locating the Registered Land Area and each field, greenhouse, or structure where the Person Cultivates Hemp, or intends to Cultivate Hemp; and
  - (2) Contact information for each Individual Hemp Producer, including full name of all authorized representatives, the street address of each Registered Land Area, the business telephone number, and email address of each Licensee; and
  - (3) Contact information for each Entity Hemp Producer, including EIN, full name of all authorized representatives, the street address of each Registered Land Area, the business telephone number, and email address of each Licensee; and
  - (4) Individual hemp producer applicants since information provided will differ slightly. Also, request EIN from entity applicants.
  - (5) A completed criminal background check report for the Applicant, and key participant on a form determined by the Department, and a notarized attestation that Applicant does not have any disqualifying felony drug convictions pursuant to this Ordinance.

- (b) The Tribe shall perform all background checks to support the Yurok Hemp Plan.
  - (1) The Department will determine which tribal producer employees will be considered to be participating in the plan and subject to the felony restrictions which at a minimum shall include a review of the criminal history reports for each applicant and key participant; and
  - (2) When an applicant is a business entity, the Tribe shall review the criminal history report for each key participant in the business.
  - (3) Any person found by the Tribe to have materially falsified any information submitted to this program will be ineligible to participate.
- (c) Ineligible Applicants.
  - (1) A Hemp Producer that Negligently violates a State, Tribal, or USDA plan 3 times in a 5-year calendar period shall be ineligible to produce hemp for a period of 5 calendar years beginning on the date of the third violation; or
  - (2) Any person convicted of a felony relating to a controlled substance under Tribal, State or Federal law in the 10-year calendar period prior to the application date shall be ineligible to produce Hemp under the Yurok Tribe Hemp Program; or
  - (3) Any Person who materially falsifies any information contained in an application to participate in the Program established under this Ordinance shall be ineligible to produce Hemp under the Yurok Tribe Hemp Program.
  - (4) Exception to Ineligibility:
    - (i) A person who was lawfully growing hemp under the 2014 Farm Bill before December 20, 2018, and whose conviction also occurred before that date.
- (d) Private Use.
  - (1) No license is required by any Person for Non-Commercial Personal Possession or Use of Hemp or Hemp products.

**CHAPTER 3. PROHIBITED PRODUCTS**

**SECTION 4301. Products Not to be Sold to Members of the Public.**

- (a) Any Hemp Product in excess of Acceptable Hemp THC Level shall not be sold to members of the public or publicly offered for sale.
- (b) Industrial Hemp without approved application
- (c) Industrial Hemp (Hemp) processing and production for sale, or cultivate, handle, store or transport all hemp and other cannabis plants are wholly prohibited without an application approved by the Department.

**CHAPTER 4. VIOLATIONS AND CORRECTIVE ACTION PLANS**

**SECTION 4401. Negligent Violation**

- (a) A Hemp Producer shall be subject to this Section if the Department determines that the

Hemp Producer has Negligently violated the requirements of this Chapter, including by Negligently:

- (1) Failing to provide a legal description of land on which the Hemp Producer Cultivates Hemp; and
- (2) Failing to obtain a license or other required authorization from the Department as applicable; and
- (3) Failing to reasonably cultivate, handle, store or transport all hemp and other cannabis plants; and
- (4) Producing *Cannabis sativa L.* with a THC concentration of more than the Acceptable Hemp THC Level.

(b) A Hemp Producer that Negligently violates this Ordinance shall not, as a result of that violation, be subject to any criminal enforcement action by the federal government or any state government, tribal government, or local government.

(c) A Hemp Producer that Negligently violates this Ordinance under this Section 4401 three (3) times in a five (5)-year calendar period shall be ineligible to produce Hemp for a period of five (5) calendar years beginning on the date of the third violation.

(d) Hemp producers do not commit a Negligent violation if they produce plants that exceed the Acceptable Hemp THC Level and use reasonable efforts to grow hemp and the plant does not have a THC concentration of more than 0.5 percent on a dry weight basis, or such other percentage on a dry weight basis permitted under the USDA hemp regulations at 7 CFR Part 990, *et seq.* from time to time.

- (1) The Tribe recognizes that hemp producers may take the necessary steps and precautions to produce hemp, such as using certified seed, using other seed that has reliably grown compliant plants in other parts of the country, or engaging in other best practices, yet still produce plants that exceed the Acceptable Hemp THC Level.
- (2) The Department can consider other reasonable efforts.
- (3) Although a producer would not be considered “Negligent,” they would still need to dispose of the plants if the THC concentration exceeded the Acceptable Hemp THC Level in accordance with the terms of this Ordinance.

**SECTION 4402. Negligent violations defined.**

(a) Producer violations as defined under this part. Negligent violations shall include, but not be limited to:

- (1) Failure to provide a legal description of land on which the producer produces hemp; and
- (2) Failure to obtain a license or other required authorization from the Department of agriculture of the Tribe; or

- (3) Production of cannabis with a delta-9 tetrahydrocannabinol concentration exceeding the Acceptable Hemp THC Level. Hemp producers do not commit a negligent violation under this paragraph (b)(3) if they make reasonable efforts to grow hemp and the cannabis (marijuana) does not have a delta-9 tetrahydrocannabinol concentration of more than 0.5 percent on a dry weight basis, or such other percentage on a dry weight basis permitted under the USDA hemp regulations at 7 CFR Part 990, *et seq.* from time to time.

**SECTION 4403. Negligent Violation Corrective Action Plans**

- (a) A Hemp Producer described in this Section shall comply with a plan established by the Department to correct the Negligent violation, including:
  - (1) A reasonable date by which the Hemp Producer shall correct the Negligent violation; and
  - (2) A requirement that the Hemp Producer shall periodically report to the Department on the compliance of the Hemp Producer with this Chapter for a period of not less than the next two (2) calendar years from the date of the Negligent violation.
- (b) Department will conduct an inspection to determine if the tribal producer is implementing the corrective action plan.

**SECTION 4404. Culpable Mental State Greater Than Negligence Violations**

- (a) If the Department determines that a Hemp Producer in the territories of the Tribe has violated this Chapter with a Culpable Mental State Greater Than Negligence, the Department shall immediately report the Hemp Producer to:
  - (1) The United States Attorney General; and
  - (2) Yurok Tribe Public Safety Department.

**SECTION 4405. Other Violations**

- (a) In addition to being subject to the license suspension, license revocation, and monetary civil penalty procedures set forth in the Policies and Procedures promulgated by the Department, a Person who is found by the Department to have violated this regulation with a Culpable Mental State Greater Than Negligence shall be subject to the reporting requirements set forth in this Ordinance.

**CHAPTER 5. MATERIALS INCORPORATED BY REFERENCE**

**SECTION 4501. Incorporation by Reference.**

- (a) The following material, developed by the Department, is incorporated by reference:
  - (1) Department of Agriculture Hemp Policies and Procedures; and
  - (2) The Tribe certifies that it has the resources and personnel to carry out the practices and procedures of its tribal hemp plan, and that the Tribe will commit adequate resources to effectively administer this Ordinance.

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

THE FOREGOING ORDINANCE, ENTITLED THE YUOK TRIBE HEMP ORDINANCE, WAS PASSED PURSUANT TO SECTION 1.25.090 OF THE YUOK TRIBE PUBLIC HEARING ORDINANCE AT A REGULARLY SCHEDULED MEETING OF THE YUOK TRIBAL COUNCIL ON **DECEMBER 5, 2019**, AT WHICH QUORUM WAS PRESENT, AND THIS ORDINANCE WAS ADOPTED BY A VOTE OF **5** FOR, **0** OPPOSED, AND **0** ABSTENTION IN ACCORDANCE WITH ARTICLE IV, SECTIONS 5(j) OF THE CONSTITUTION OF THE YUOK TRIBE.

**DATED THIS \_\_\_\_\_ DAY OF January 14, 2020**



Joseph L. James, Chairperson

Yurok Tribal Council

**ATTEST:**



Sherri K. Provolt, Secretary

Yurok Tribal Council