

Annex 1 | *Relevant Laws*

Relevant Articles within National and State Constitutions and Codes

FSM Constitution Article 5: Traditional Rights

Section 1. Nothing in this Constitution takes away a role or function of a traditional leader as recognized by custom and tradition, or prevents a traditional leader from being recognized, honored, and given formal or functional roles at any level of government as may be prescribed by this Constitution or by statute.

Case annotations: Defendants are not within coverage of FSM Const. art. V, § 1, preserving "the role or function of a traditional leader as recognized by custom and tradition," simply by virtue of their status as municipal police officers. *Teruo v. FSM*, 2 FSM Intrm. 167, 172 (App. 1986).

Section 2. The traditions of the people of the Federated States of Micronesia may be protected by statute. If challenged as violative of Article IV, protection of Micronesian tradition shall be considered a compelling social purpose warranting such governmental action.

Section 3. The Congress may establish, when needed, a Chamber of Chiefs consisting of traditional leaders from each state having such leaders, and of elected representatives from states having no traditional leaders. The constitution of a state having traditional leaders may provide for an active, functional role for them.

Pohnpei Constitution Article 5: Tradition

Section 1. Customs and Traditions.

This Constitution upholds, respects, and protects the customs and traditions of the traditional kingdoms of Pohnpei.

Case annotations: The court must try to apply the Court Rules of Civil Procedure in a way that is consistent with local customary practice. *Hadley v. Board of Trustees*, 3 FSM Intrm. 14, 16 (Pon. S. Ct. Tr. 1985).

Judicial decisions, including interpretations of rules of civil procedure, should be consistent with the Constitution and with the Pohnpeian concept of justice. *Hadley v. Board of Trustees*, 3 FSM Intrm. 14, 16 (Pon. S. Ct. Tr. 1985).

The Pohnpeian custom of "Ke pwurohng omw mwur," according to which one reaps the fruit of one's misdeed, requires the lessor to bear the consequences of his failure to repossess the rented vehicle from the lessee. *Phillip v. Aldis*, 3 FSM Intrm. 33, 38 (Pon. S. Ct. Tr. 1987).

Customary law takes precedence over the common law, according to Pon. Const. art. 5, § 1; 1 TTC 103; 1 F.S.M.C. 203. *Phillip v. Aldis*, 3 FSM Intrm. 33, 38 (Pon. S. Ct. Tr. 1987).

The Pohnpei Supreme Court may look to Pohnpeian customs and concepts of justice when there are no statutes governing the subject matter, but it may also draw from common law concepts when they are appropriate. *Koike v. Ponape Rock Products, Inc.*, 3 FSM Intrm. 57, 64 (Pon. S. Ct. Tr. 1986).

The common Pohnpeian custom of assisting a person in need should not be dispensed with in order to allow the defense of contributory negligence or assumption of risk to be raised. *Koike v. Ponape Rock Products, Inc.*, 3 FSM Intrm. 57, 67 (Pon. S. Ct. Tr. 1986).

According to the Pohnpeian view of civil wrongs, if one damages another's property, he must repair or replace it; if one injures another person, he must apologize and provide assistance to the injured person and his family; if one kills another person, he must provide the assistance that the victim would have provided and may have to offer another person to take the place of victim in his family. *Koike v. Ponape Rock Products, Inc.*, 3 FSM Intrm. 57, 70-71 (Pon. S. Ct. Tr. 1986).

The Pohnpei Supreme Court declines to adopt the "collateral source" rule, according to which alternative sources of income available to a victim are not allowed to be deducted from the amount the negligent party owes, because it does not want to discourage customary forms of family restitution. *Koike v. Ponape Rock Products, Inc.*, 3 FSM Intrm. 57, 74 (Pon. S. Ct. Tr. 1986).

Under Pohnpeian state law after confirmation of a customary separation or divorce under 39 TTC 5, the court may order custody and child support under 39 TTC 103. *Pernet v. Aflague*, 4 FSM Intrm. 222, 225 (Pon. 1990).

Although under historical Pohnpeian customary law only the husband had rights over the children of the marriage, now both parents have rights and responsibilities in connection with a marriage and the court should take this into consideration in determining child custody rights and support payment

obligations in cases of customary divorce. *Pernet v. Aflague*, 4 FSM Intrm. 222, 225 (Pon. 1990).

The doctrine of comparative negligence is more consistent with life in Pohnpei in that the doctrine recognizes that injuries and damages are often caused through a combination of errors and misjudgments by more than one person. Nothing in Pohnpei custom absolves a party who caused injury to another from the customary obligations of apology and reconciliation because the injured party's negligence contributed to the injury. *Alfons v. Edwin*, 5 FSM Intrm. 238, 242 (Pon. 1991).

The Pohnpei court system has to be extra cautious applying the foreignly developed concepts of criminal justice into its own, so that in adopting or applying such concepts it does so without doing injustice to Pohnpeian culture and traditional values. *Pohnpei v. Weilbacher*, 5 FSM Intrm. 431, 449 (Pon. S. Ct. Tr. 1992).

The Pohnpeian customary practice of quickly resolving conflict resulting from the commission of an act is closely related to, if not the counterpart of the Western concept of a speedy trial. *Pohnpei v. Weilbacher*, 5 FSM Intrm. 431, 450 (Pon. S. Ct. Tr. 1992).

Section 2. Protection of Customs and Traditions.

The Government of Pohnpei shall respect and protect the customs and traditions of Pohnpei. Statutes may be enacted to uphold customs or traditions. If such a statute is challenged as violating the rights guaranteed by this Constitution, it shall be upheld upon proof of the existence and regular practice of the custom or tradition and the reasonableness of the means established for its protection, as determined by the Pohnpei Supreme Court.

Yap Constitution Article 3: Traditional Leaders and Traditions

Section 1. Due recognition shall be given to the Dalip pi Nguchol and their traditional and customary roles.

Constitutional amendment: New Section 1 was added by a constitutional amendment adopted by Yap State voters on November 7, 2006 and certified by the Yap State Election Commissioner on November 24, 2006. The amendment was set forth in Proposal No. 2004-65, D2 of the 2004 Yap Constitutional Convention.

Section 2. There shall be a Council of Pilung and Council of Tamol which shall perform functions which concern tradition and custom.

Constitutional amendment: Section 1 was renumbered as Section 2 by a constitutional amendment adopted by Yap State voters on November 7, 2006 and certified by the Yap State Election Commissioner on November 24, 2006. The amendment was set forth in Proposal No. 2004-65, D2 of the 2004 Yap Constitutional Convention.

Section 3. Due recognition shall be given to traditions and customs in providing a system of law, and nothing in this Constitution shall be construed to limit or invalidate any recognized tradition or custom.

Case annotations: Since under Yapese custom a daughter in her adult years may be expected to provide certain services for her mother, the loss of such customary services should be considered in calculating the mother's pecuniary injury resulting from her daughter's death. *Leeruw v. FSM*, 4 FSM Intrm. 350, 365 (Yap 1990).

Given that a 19-year old daughter is considered a child under Yapese custom, that the decedent was a 19-year old daughter who up to the time of her death continued to live with her parents in Yap and to perform those household chores expected under custom of young female persons within families in Yap, and that the parents were accompanying their daughter en route to obtain medical services when she died, the daughter was a child within the meaning of 6 FSMC 503. *Leeruw v. FSM*, 4 FSM Intrm. 350, 366 (Yap 1990).

Constitutional amendment: Section 2 was renumbered as Section 3 by a constitutional amendment adopted by Yap State voters on November 7, 2006 and certified by the Yap State Election Commissioner on November 24, 2006. The amendment was set forth in Proposal No. 2004-65, D2 of the 2004 Yap Constitutional Convention.

Yap Constitution Article 15: Transition

Section 1. The Legislature [shall] may provide for the codification of traditional laws of the State of Yap [within a reasonable time after the effective date of this Constitution].

Constitutional amendment: Section 1 was amended as set forth above (with added language underlined and deleted language bracketed) by a constitutional amendment adopted by Yap State voters on November 7, 2006 and certified by the Yap State Election Commissioner on November 24, 2006. The amendment was set forth in Proposal No. 2004-40, D2 of the 2004 Yap Constitutional Convention.

Chuuk Constitution Article 4: Traditional Rights

Section 1. Existing Chuukese custom and tradition shall be respected. The Legislature may prescribe by statute for their protection. If challenged as violative of Article III, protection of Chuukese custom and tradition shall be considered a compelling social purpose warranting such governmental action.

Case annotations: In Trukese society, the husband, as the head of the household, is responsible for taking care of the family legal matters such as signing of documents, and overseeing all family financial matters. *O'Sonis v. Truk*, 3 FSM Intrm. 516, 518 (Truk S. Ct. Tr. 1988).

Either the husband or the wife may prosecute or defend a civil action in which one or both are parties, provided that he or she has informed his or her spouse of the representation. *O'Sonis v. Truk*, 3 FSM Intrm. 516, 518 (Truk S. Ct. Tr. 1988).

Even when the parties have not raised an issue of custom or tradition, the court has an obligation of its own to consider custom and tradition. *O'Sonis v. Truk*, 3 FSM Intrm. 516, 518 (Truk S. Ct. Tr. 1988).

Since the judicial system and customary settlement in Truk are fundamentally different and serve different goals, the primary concern of customary settlement being community harmony rather than compensation for loss, the use of one should not prevent the use of the other. *Suka v. Truk*, 4 FSM Intrm. 123, 128 (Truk S. Ct. Tr. 1989).

To the extent that customary settlements are given any binding effect at all, they should be only binding as to those persons that are part of custom; state agencies and non-Trukese persons are not part of that system. *Suka v. Truk*, 4 FSM Intrm. 123, 129 (Truk S. Ct. Tr. 1989).

Offers or acceptances of customary settlement should neither be used in court to prove liability on the part of the wrongdoer, nor be deemed the same as a legal release on the part of the plaintiff. *Suka v. Truk*, 4 FSM Intrm. 123, 129 (Truk S. Ct. Tr. 1989).

The traditional remedy for the original landowners in an "ammot" transaction when the grantee no longer used the land for the purpose for which it was given was repossession of the land and nothing more. *Wito Clan v. United Church of Christ*, 6 FSM Intrm. 129, 134 (App. 1993).

Patrilineal descendants — or afokur — have no rights to lineage land in Chuuk. They only enjoy permissive rights of usage from the members of the lineage. Mere usage of lineage land by afokur does not constitute title of any sort even if the usage lasts a lifetime. Transfer of lineage land to any descendants of male members requires the clear agreement of the Clan. *Chipuelong v. Chuuk*, 6 FSM Intrm. 188, 196 (Chk. S. Ct. Tr. 1993).

It is an established principle of Chuukese land tenure, that lineage land is owned by the matrilineal descendants and not by the patrilineal descendants or "afokur." *Chipuelong v. Chuuk*, 6 FSM Intrm. 188, 197 (Chk. S. Ct. Tr. 1993).

The sanction imposed on one who controls and manages the land of a group who does not fairly and according to custom concern himself with the rights of the other members or another member of the group is the censure of the community. *In re Estate of Hartman*, 6 FSM Intrm. 326, 328 (Chk. 1994).

When the children of a landowner with full title to land inherit the land they form a land-owning group ("corporation"). The senior male, the mwääniichi, is required to manage the property in the interest of the "corporation." The corporation owns the land even if one part or another is allotted to a member for his use. *In re Estate of Hartman*, 6 FSM Intrm. 326, 329 (Chk. 1994).

Individuals have full title to the improvements (as distinguished from the soil) made upon land owned by a land-owning group or "corporation." *In re Estate of Hartman*, 6 FSM Intrm. 326, 330 (Chk. 1994).

The property owned in full title by one who dies is inherited by the children of the deceased. Personal property suited for use by women is inherited by daughters and sisters. *In re Estate of Hartman*, 6 FSM Intrm. 326, 330 (Chk. 1994).

An adoption of an adult may qualify for recognition by the court if done under Chuukese custom. In re Jae Joong Hwang, 6 FSM Intrm. 331, 332 (Chk. S. Ct. Tr. 1994).

Section 2. Nothing in this Constitution takes away the role or function of a traditional leader as recognized by Chuukese custom and tradition, or prevents a traditional leader from being recognized, honored, and given formal or functional roles in government.

Section 3. The Legislature may appropriate funds annually for a traditional leaders conference.

Section 4. Traditional rights over all reefs, tidelands, and other submerged lands, including their water columns, and successors rights thereto, are recognized. The Legislature may regulate their reasonable use.

Case annotations: The people of Chuuk have always considered themselves to have rights and ownership of the tidelands, and thereby hold the property rights in them, throughout all of the several foreign administrations. These traditional and customary claims came down from time immemorial. Nimeisa v. Department of Public Works, 6 FSM Intrm. 205, 208 (Chk. S. Ct. Tr. 1993).

The Chuuk State Constitution recognizes all traditional rights and ownership over all reefs, tidelands, and other submerged lands subject to legislative regulation of their reasonable use. Nimeisa v. Department of Public Works, 6 FSM Intrm. 205, 209 (Chk. S. Ct. Tr. 1993).

It was the intent of the framers of the Chuuk State Constitution to return the rights and ownership of all reefs, tidelands (all areas below the ordinary high watermark), and other submerged lands to the individual people of Chuuk State. Nimeisa v. Department of Public Works, 6 FSM Intrm. 205, 210 (Chk. S. Ct. Tr. 1993).

The constitutional grant of ownership of the tidelands back to the rightful individual owners, shall be given prospective application only. Nimeisa v. Department of Public Works, 6 FSM Intrm. 205, 212 (Chk. S. Ct. Tr. 1993).

When the language of the Chuuk Constitution does not define the term "tidelands" contrary to the common usage of the word or its accepted legal definition, and the legislative history does not indicate that the framers intended another meaning the court will employ the meaning of the term

consistent with its legal usage at the time of the Constitution's enactment. *Nena v. Walter*, 6 FSM Intrm. 233, 236 (Chk. S. Ct. Tr. 1993).

The reversion of reefs, tidelands and other submerged lands to private owners granted by art. IV, § 4 of the Chuuk Constitution does not apply to any tidelands that were previously filled or reclaimed. *Nena v. Walter*, 6 FSM Intrm. 233, 236 (Chk. S. Ct. Tr. 1993).

Tideland is land below the ordinary high water mark. Filled or reclaimed land, by its nature, is not land below the ordinary high water mark, and it cannot be considered tideland or submerged land. *Nena v. Walter*, 6 FSM Intrm. 233, 236 (Chk. S. Ct. Tr. 1993).

The Chuuk State Constitution, effective on October 1, 1989, recognizes traditional rights over all reefs, tidelands, and other submerged lands. Tidelands, including man-made islands, that were filled prior to this effective date are no longer classed as tidelands and have become dry land. *Sellem v. Maras*, 7 FSM Intrm. 1, 3-4 (Chk. S. Ct. Tr. 1995).

Tidelands traditionally are those lands from the dry land to the deep water at the edge of the reef, and must be shallow enough for Chuukese women to engage in traditional methods of fishing. *Sellem v. Maras*, 7 FSM Intrm. 1, 4 (Chk. S. Ct. Tr. 1995).

A deep water passage through a reef too deep for Chuukese women to engage in their traditional fishing methods is not a tideland. While under Chuukese tradition and custom channels may have been owned, the constitution does not recognize traditional rights over channels. The state thus retains ownership of the channels, as was the situation prior to the adoption of the Chuuk Constitution. *Sellem v. Maras*, 7 FSM Intrm. 1, 5 & n.9 (Chk. S. Ct. Tr. 1995).

Tidelands within the meaning of art. IV, § 4 of the Chuuk Constitution are those marine lands from the shore to the face of the reef that are shallow enough for traditional fishing activity by women. The constitutional recognition of traditional rights in tidelands does not include deep water channels or tidelands that have become dry land prior to the effective date of the constitution, through filling or other activity that raised the level of the marine lands above the mean high tide mark. *Sellem v. Maras*, 7 FSM Intrm. 1, 7 (Chk. S. Ct. Tr. 1995).

FSM Code Title 26: Historical Sites & Antiquities

Chapter 1. General Provisions

§ 101. Declaration of policy.

It is the policy of the Federated States of Micronesia to protect and preserve the diverse cultural heritage of the peoples of Micronesia and, in furtherance of that policy, to assist in the identification and maintenance of those areas, sites, and objects of historical significance within the Federated States of Micronesia.

Source: COM PL 3-34 § 1; TT Code 1970, 67 TTC 251; TT Code 1980, 67 TTC 251; PL 1-48 § 1.

Cross-reference: The statutory provisions on Environmental Protection are found in title 25 of this code.

§ 102. Definitions.

Whenever used in this title, unless the subject matter, context, or sense otherwise requires:

- (1) “Cultural attribute” means all aspects of local culture, tradition, arts, crafts, all social institutions, forms of expression, and modes of social interaction.
- (2) “Historic property” means sites, structures, buildings, objects, and areas of significance in local history, archeology, or culture.
- (3) “Historical artifact” means an object produced by human beings 30 or more years previously.

Source: PL 1-48 § 2.

Editor’s note: Subsections rearranged in alphabetical order in 1982 edition of this code.

Cross-reference: The statutory provisions on Environmental Protection are found in title 25 of this code.

Chapter 2. Institute for Micronesian History & Culture

§ 201. Authorization.

The Director of Administrative Services shall oversee the identification, conservation, and protection of historic properties and cultural attributes

within the Federated States of Micronesia through the effective administration of funds from various sources. As used herein, "Institute" means the Director of Administrative Services or his designee.

Source: COM PL 3-34 § 2; COM PL 4-1 § 1; TT Code 1970, 67 TTC 252(part); TT Code 1980, 67 TTC 252(part); PL 1-48 § 3(part); PL 5-21 § 3.

Editor's note : Former section 202 on Director and section 203 on Advisory Panel were repealed and sections 204 and 205 were renumbered as sections 202 and 203 by PL 5-21 § 13.

§ 202. Powers and duties.

The Institute shall have the following powers and duties:

- (1) to provide professional assistance to historic and cultural preservation programs in the several states;
- (2) to provide professional guidance regarding historic and cultural affairs and recommendations to all levels of Government and the agencies thereof, as well as to foreign governments and private businesses operating in Micronesia;
- (3) to advise the executive and legislative branches of the National Government concerning public and private actions which may affect historic properties or cultural attributes;
- (4) to secure and administer grants and private contracts for research and other activities promoting the preservation of Micronesian historic properties and cultural attributes;
- (5) to prepare and submit a report at least once a year to the President and the Congress of the Federated States of Micronesia setting forth the activities of the Institute during the period since its last report and its plans for the future;
- (6) to establish facilities and acquire equipment and supplies as may be necessary for the effective implementation of its mandate, taking all reasonable steps to guard against unnecessary duplication of facilities and materials at the State and National level;
- (7) to establish and maintain a National Archives for the Federated States of Micronesia at the Community College of Micronesia, to be a depository for

documents and other articles of historic or cultural significance and to be made available to scholars and others interested in researching the history and cultures of the Federated States of Micronesia;

(8) to monitor the activities of the National Government and its agencies and private individuals or groups of individuals which could have an impact on historic properties or cultural attributes;

(9) to prepare and promulgate rules, regulations, and guidelines necessary to the effective implementation of this section; and

(10) to engage in such other activities as are not inconsistent with the purposes of this title

Source: COM PL 3-34 § 2; COM PL 4-1 § 1; TT Code 1970, 67 TTC 252(part); TT Code 1980, 67 TTC 252(part), 254; PL 1-48 § 3(part); renumbered by PL 5-21 § 13.

Cross-reference: The statutory provisions on Environmental Protection are found in title 25 of this code.

§ 203. Cooperative agreements.

(1) The Institute is authorized to enter into cooperative agreements with, and to seek and accept financial, technical, or other assistance from, any agency of the Government of the Federated States of Micronesia, agencies of local or State governments, and educational or scientific institution, any corporation or foundation, any private party, or any foreign government and its agencies, provided such assistance or cooperation is not in conflict with a specific provision contained in a Compact of Free Association between the Government of the Federated States of Micronesia and the Government of the United States of America.

(2) Any agreement or contract with a foreign government or its agencies shall be negotiated in conjunction with the executive branch of the Government of the Federated States of Micronesia and consummated only with the express written permission of the President of the Federated States of Micronesia.

Source: COM PL 3-34 § 4; TT Code 1970, 67 TTC 255; TT Code 1980, 67 TTC 255; PL 1-48 § 5; renumbered by PL 5-21 § 13.

Cross-reference: The statutory provisions on Foreign Relations are found in title 10 of this code.

Chapter 3. Historical Preservation Procedures

§ 301. Review of historical and cultural effects of Government activity — Government information.

The National Government of the Federated States of Micronesia and its agencies, as well as agencies or other parties, public or private, foreign or domestic, operating with the financial assistance or permission of the National Government, shall submit plans and proposals for any undertaking as early as is possible to the Institute for its review and shall conduct such studies or assist the Institute and the appropriate State preservation program in conducting such studies as may be necessary to determine the effects of their undertakings on historic properties and cultural attributes.

Source: PL 1-48 § 4(part).

§ 302. Institute's review — Responsibilities of Institute.

Whenever the Institute is notified or learns of any activity or proposed activity of the National Government of the Federated States of Micronesia and its agencies, as well as agencies or other parties, public or private, foreign or domestic, operating with the financial assistance or permission of the National Government which may have an impact on historic properties or cultural attributes, it shall take all steps reasonable and necessary to determine the nature and magnitude of the impact such activities are likely to have on the historic property or cultural attribute.

Source: PL 1-48 § 4(part).

§ 303. Institute's review — Consultations.

(1) Should the Institute determine that significant effects are likely, the Institute shall initiate consultations with the agency or individual engaging or proposing to engage in the activity, other concerned agencies, the coordinators of affected State preservation programs, as well as the public, to clearly identify the historic properties or cultural attributes subject to impact.

- (2) It shall be the goal of the Institute to maximize beneficial effects and eliminate or mitigate any harmful effects to Micronesian historic properties or cultural attributes.
- (3) Any agency or party, public or private, foreign or domestic, operating with the financial assistance or permission of the National Government, upon receipt of notification that consultation is necessary in the opinion of the Institute, shall enter into such consultation.
- (4) Action on the undertaking which is the subject of consultation shall be suspended if there is a threat of immediate and irreparable harm to an historic property or artifact. Any undertaking so suspended shall not be resumed until approval of the undertaking has been given by the President.

Source: PL 1-48 § 4(part).

§ 304. Institute's review — Submission to President.

If an irresolvable conflict arises between the preservation of historic properties or cultural attributes and the plans of an agency or a party, the Institute and the agency or party concerned shall prepare and submit reports setting forth the facts of the situation and all other relevant facts, opinions, and recommendations to the President of the Federated States of Micronesia.

Source: PL 1-48 § 4(part).

§ 305. President's ruling.

- (1) The President shall review both sides of the conflict and prepare a ruling within seven days resolving the conflict, such ruling to be binding on both the Institute and the agency or party.
- (2) The President, in reaching a decision, shall take into account the value of the undertaking in question to the economic and general development of the Federated States of Micronesia or to its defense and the value of the historic property or cultural attribute involved to the maintenance of Micronesia's cultural integrity and to the scientific and humanistic understanding of Micronesia's cultures and history.
- (3) Upon reaching a decision in any dispute referred to him, the President shall issue a public announcement setting forth the decision and its bases. Such decisions shall be binding on the parties concerned.

Source: PL 1-48 § 4(part).

Cross-reference: The statutory provisions on Environmental Protection are found in title 25 of this code.

Chapter 4. Protection of Artifacts

§ 401. Destruction, transportation, or exportation of historical artifacts prohibited.

- (1) No person shall willfully transport any historical artifacts in interstate or foreign commerce without the express written permission of the Governor and two-thirds of the legislature of the State in which such artifacts were found.
- (2) No person shall willfully deface, disfigure, disturb, or destroy any historic property within the control and jurisdiction of the National Government of the Federated States of Micronesia without the express written permission of the President and the Speaker of the Congress of the Federated States of Micronesia.
- (3) Upon receiving a request for permission to export, deface, disfigure, disturb, or destroy any historic property or artifact with the control and jurisdiction of the National Government of the Federated States of Micronesia, the President shall consult with the Institute and the State or States affected and secure the approval of both, prior to granting such requests. Within one year of the act codified in this section becoming law, the Institute, together with the President, shall make all reasonable efforts to recover and return to the State of origin any and all known historical artifacts, documented or otherwise, which were allowed to be exported out of the Federated States of Micronesia in the past.

Source: PL 1-48 § 6; PL 3-76 § 1.

Cross-reference: The statutory provisions on Environmental Protection are found in title 25 of this code.

§ 402. Penalties.

Any person violating any provision of section 401 of this chapter or the rules and regulations issued pursuant to authority vested by this chapter shall be punished by a fine of no less than \$300 nor more than \$1,000 for each violation.

Source: COM PL 3-34 § 2; COM PL 4-1 § 1; TT Code 1970, 67 TTC 252(part); TT Code 1980, 67 TTC 252(part); PL 1-48 § 7.

Cross-reference: The statutory provisions on Environmental Protection are found in title 25 of this code.

Yap State Code Title 5: Traditional Leaders & Traditions

Chapter 1 Councils of Traditional Leaders

§101. Appointment and standing members.

The Council of Pilung and Council of Tamol shall file with the Legislature, Governor, and State Court a document or documents certifying the membership of each Council, the manner in which each member was appointed, the date of such appointment, and the traditional standing of each member within the municipality and village of residence. The certified documents shall be filed by the Council on or before September 30, 1979, and within 30 days after any change of membership on a Council or the traditional standing of member on a Council.

Source: YDC §1252, as enacted by YSL 1-6 §2, modified.

Cross-reference: The constitutional provisions regarding councils of traditional leaders and traditions are found in Yap Const., Art. III, sections 1 and 2. Those sections state:

Section 1. There shall be a Council of Pilung and Council of Tamol which shall perform functions which concern tradition and custom.

Section 2. Due recognition shall be given to traditions and customs in providing a system of law, and nothing in this Constitution shall be construed to limit or invalidate any recognized tradition or custom."

§102. Additional functions.

In addition to those functions exercised by the Council of Pilung and Council of Tamol by virtue of the Constitution of the State of Yap, the Councils shall exercise the following functions as they may concern tradition and custom:

- (a) To advise and make recommendations to the Governor and Legislature;
- (b) To advise and make recommendations to the departments and offices of the Executive branch of the State Government;
- (c) To resolve problems and assist in matters concerning the municipalities and islands of the State; and
- (d) To promote and preserve the traditions and customs of the people of the State in a manner consistent with the Constitution of the Federated States of Micronesia and the Constitution of the State of Yap.

Source: YDC §1253, as enacted by YSL 1-6 §2, modified.

Cross-reference: The constitutional provisions on Traditional Leaders and Traditions are found in Yap Const., Art. III.

§103. Operations and rules.

The manner in which the Council of Pilung and Council of Tamol shall operate, including rules of procedure, shall be determined by the respective councils.

Source: YDC §1254, as enacted by YSL 1-6 §2.

§104. Administration.

The Council of Pilung and Council of Tamol may appoint such administrative and clerical assistants as may be necessary and as provided for under appropriations made by the Legislature or funded by another source.

Source: YDC §1255, as enacted by YSL 1-6 §2.

Cross-reference: The constitutional provisions on the Legislature are found in Yap Const., Art. V. The statutory provisions on the Legislature are found in Title 2 of this Code.

§105. Support from State Government.

Officers and employees of the State Government shall cooperate with the Council of Pilung and Council of Tamol, and shall, upon the written request to the Governor from either council, furnish information and other assistance as may be called for in connection with the activities of the councils.

Source: YDC §1256, as enacted by YSL 1-6 §2.

Cross-reference: The statutory provisions on the Executive branch are found in Title 3 of this Code.

§ 106. Compensation and expenses.

Compensation, allowances, per diem, and travel expenses of members of the Council of Pilung and Council of Tamol shall be determined and expended by each council as provided by appropriations made by the Legislature or funded by another source; except that no member of either council who receives compensation as an official or employee of the State Government, State agencies or political subdivisions of the State, may receive compensation as a member of a council.

Source: YDC §1257, as enacted by YSL 1-6 §2, and amended by YSL 4-41 §1, modified.

Cross-reference: The statutory provisions on Public Officers and Employment are found in Title 8 of this Code.

Chapter 4: Historic Preservation

§401. Short title.

This chapter shall be known and may be cited as the "State Historic Preservation Act of 1989".

Source: YSL 2-56 §1, modified.

Commission Comment: The original State Historic Preservation Act was enacted in YSL 1-58. Section 2 of YSL 2-56 repealed that Act in its entirety and provided that its provisions supersede it. Section 1 of YSL 2-56 explain that its provisions make necessary modifications and adjustments to the Act so as to be consistent with the Executive Branch Reorganization Act.

§402. Findings.

The Legislature finds that:

- (a) The people of the State have an ancient and distinguished history which have played an important role in the history of Micronesia.
- (b) Sites, structures, buildings, objects and areas of historic and cultural significance within the State have been damaged and destroyed, and objects removed from the State.
- (c) Traditions, arts, crafts, stories, and songs of historic and cultural significance are in danger of being lost as elders pass away and their knowledge with them.
- (d) The spirit and direction of the State are founded upon and reflected in its historic past.

Source: YSL 2-56 §2, modified.

Cross-reference: The constitutional provisions on Traditional Leaders and Traditions is found in Yap Const., Art. III. The statutory provisions on the councils of traditional leaders is found in chapter 1 of this title.

§403. Declaration of policy.

The State Government is empowered by the Constitution of the Federated States of Micronesia and the Constitution of the State of Yap to protect, conserve, and develop objects and places of historic and cultural interest within the State. It is the policy of the State to exercise that power to preserve the sites, structures, buildings, objects, areas, traditions, arts, crafts, stories, and songs of historic and cultural significance for the benefit of present and future generations.

Source: YSL 2-56 §2, modified.

§404. Definitions.

As used in this chapter, unless the context otherwise requires, the term:

- (a) "Director" means the Director of Youth and Civic Affairs.
- (b) "Division" means the Division of Civic Affairs within the Department of Youth and Civic Affairs.
- (c) "Historic property" means any site, structure, building, object or area of significance in the history, archaeology or culture of the people of the State of Yap.
- (d) "Traditional culture" means any tradition, art, craft, song, story or technology indigenous to the people of the State of Yap.

Source: YSL 2-56 §2, modified.

§405. Implementation of policy.

- (a) The State Government, including its agencies and political subdivisions shall implement a program to identify, protect, preserve, and develop historic properties and traditional culture. The program shall be known and referred to as the "Yap Historic Preservation Program".
- (b) The State Government, including its agencies and political subdivisions, prior to permitting, assisting or engaging in any activity which may have an impact on historic properties shall notify the Division of Civic Affairs.
- (c) The Division shall take all steps reasonable and necessary to determine the nature and magnitude of the impact such activities are likely to have on historic property or traditional culture. Should the Division determine that significant effects are likely, it shall initiate consultation with any concerned agency, political subdivisions, or person to clearly identify the historic properties or traditional culture subject to impact.
- (d) The Division shall maximize beneficial effects and eliminate or mitigate any harmful effects to historic properties or traditional culture.
- (e) Any agency, political subdivision or person, upon receipt of notification that consultation is necessary in the opinion of the Division, shall enter into such consultation. Any activity which is the subject of consultation shall cease if there is a threat of immediate and irreparable harm to an historic property or traditional culture.
- (f) If an irresolvable conflict arises between the preservation of historic properties or traditional culture and the activity which is the subject of consultation, all parties to the consultation shall submit reports of their

findings and recommendations to the Director of the Department of Youth and Civic Affairs and the Governor.

- (g) The Director and Governor shall review the conflict and enter a decision to resolve the conflict. The decision shall be binding upon all parties to the activity which is the subject consultation.
- (h) Prior to entering a decision, the Director and Governor shall consider the value of the activity to the economic and social development of the State and the value of the concerned historic property or traditional culture.

Source: YSL 2-56 §2, modified.

Cross-reference: The constitutional provisions on Traditional Leaders and Traditions are found in Yap Const., Art. III. The statutory provisions on the councils of traditional leaders is found in chapter 1 of this title. The statutory provisions on the Executive are found in Title 3 of this Code.

§406. Powers and duties of the Division.

With the approval of the Director of Youth and Civic Affairs, the Division shall have these powers and duties:

- (a) Participate in programs and activities of the Institute of Micronesian History and Culture;
- (b) Conduct and support archaeological surveys for identification of historic properties;
- (c) Acquire and preserve documents and oral statements on the history and traditional culture of the State;
- (d) Promote, conduct, and support the restoration, stabilization and maintenance of historic properties;
- (e) Conduct studies, surveys, and investigations on public or private activities that may have impact on historic properties or traditional culture;
- (f) Promote the establishment of a State Museum and operate or support the operation of the museum;
- (g) Promote the establishment of a State Historic Park System and administer or support the administration of the system;
- (h) Promote, conduct, and support education programs on historic preservation;
- (i) Coordinate public and private activities to preserve historic properties and traditional culture;

- (j) Promulgate rules and regulations, subject to the approval of the Governor, necessary for the effective implementation of this chapter;
- (k) Receive and administer grants and funds; and
- (l) Enter into contracts, to exercise powers and perform duties enumerated in this section, and engage in such other activities consistent with the purposes of this chapter.

Source: YSL 2-56 §2, modified.

§407. Councils of traditional leaders.

- (a) The Council of Pilung and Council of Tamol shall advise the Division on matters and activities that concern historic properties and traditional culture.
- (b) The Division shall deliver reports on the activities of the Division that concern historic properties and traditional culture to the Council of Pilung and the Council of Tamol upon the request of the council.

Source: YSL 2-56 §2, modified.

Cross-reference: The constitutional provision establishing the Council of Pilung and the Council of Tamol is found in Yap Const., Art. III, Sect. 1. The statutory provisions on the councils of traditional leaders is found in chapter 1 of this title.

§408. Harming or removing historic property prohibited.

No person shall wilfully remove, or cause to be removed, historic property from the State or the public domain, or wilfully deface, disfigure, disturb, damage or destroy such property.

Source: YSL 2-56 §2, modified.

§409. Penalties.

A person who violates any provision of this chapter, or rules and regulations promulgated pursuant to this chapter, shall upon conviction be punished as follows:

- (a) If the value of the historic property involved is less than \$1,000.00, by imprisonment of not more than one year, or fined not more than \$1,000.00, or both; or

(b) If the value of the historic property involved is \$1,000.00 or more, by imprisonment for not more than five years, or fined not more than the value of the property, or both.

(c) The value of the property involved shall be deemed to be the highest value, by reasonable standard, of the property.

Source: YSL 2-56 §2, modified.

Cross-reference: The statutory provisions on Crimes and Punishment are found in Title 11 of this Code.

§410. Severability.

If any provision of this chapter, or amendments thereto, or application thereof to any person, thing or circumstances is held invalid, the invalidity does not affect the provisions or application of this chapter, or amendments, that can be given effect without the invalid provision or application, and to this end the provisions of this chapter, and the amendments thereto, are severable.

Source: YSL 2-56 §2, modified.

Chapter 5. Tradition Award Fund

§501. Intent of the Legislature.

It is the intent of the Legislature of the State of Yap to encourage the citizens of the State of Yap to promote, support and preserve Yapese traditions and customs and heritage. The Legislature intends to create a fund from which awards would be made to individual municipality, village or community for the construction and completion of its own traditional men's or meeting house. This program is designed to provide an incentive for those members of the respective communities who possess skills and expertise in traditional construction of men's or meeting houses to pass on such traditional skills and expertise to the younger generation through usage and actual practice. This program is beneficial to the State of Yap since it will provide for (1) preservation of traditions and customs, (2) tourists attraction, and (3) teaching of traditions and customs.

Source: YSL 2-102 §1, modified.

Cross-reference: The constitutional provisions on Traditional Leaders and Traditions are found in Yap Const., Art. III. The full text of the Yap State Constitution is found following the Introduction to this Code.

§502. Creation of Tradition Award Fund.

There is created a fund to be known as the Tradition Award Fund, herein referred to as the "Fund".

Source: YSL 2-102 §1, modified.

Cross-reference: The statutory provisions of the State Financial Management Act of 1983 are found in chapter 12 of Title 13 of this Code.

§503. Financial matters and appropriation.

- (a) The sum of \$100,000.00, or so much thereof as may be necessary, is appropriated from the General Fund of the State of Yap for the purpose of providing funds for initial deposit into the Fund.
- (b) The sum appropriated under subsection (a) of this section shall be accounted for in accordance with the provisions of applicable law, including, but not limited to, the State Financial Management Act of 1983, as amended.
- (c) The sum appropriated shall be allotted to the Governor or his designee who shall be responsible for ensuring these funds are used only for the purpose specified in subsection (a) of this section and that no obligations are incurred in excess of the sum appropriated. The sum appropriated shall not revert to the General Fund of the State of Yap.

Source: YSL 2-102 §1, modified.

Cross-reference: The statutory provisions of the State Financial Management Act of 1983 are found in chapter 12 of Title 13 of this Code. The statutory provisions on the General Fund are found in subchapter II of chapter 12 of Title 13 of this Code.

§504. Annual reports.

The Governor or his designee shall file a report with the Legislature each year during its regular session, showing the status of funds appropriated under subsection (a) of section 503 of this chapter, the amount of money in the Fund, and the detail breakdown of all payments made from said Fund.

Source: YSL 2-102 §1, modified.

§505. Authority to disburse funds; procedures.

The Governor or his designee is hereby authorized to award to a municipality, village or community of the State of Yap such sum as may be required, out of the Fund, provided that the municipality, village or community has met the requirements set forth below. The amount to be awarded to a municipality, village or community shall be computed at the rate of \$2,000.00 per fathom of the respective traditional house. The requirements are:

- (a) Yap Proper:

- (1) Identify the "Salap" (architect/engineer) of the construction work. The community through its chief or whoever is traditionally responsible for initiating such construction shall identify the "Salap" for the work.
- (2) Determine the exact number of fathoms of the structure. This is the traditional measurement of traditional houses which is called "Ralap" and is determined prior to commencement of construction and without the extensions or the "Rach".
- (3) The total amount of the award shall be based on the number of fathoms ("dirii"), and the payment shall be made in three equal parts as follows:
 - (i) First payment shall be made upon the completion of the roof;
 - (ii) Second payment shall be made upon the completion of the foundation ("def" or "dayif") and the rest of the required platform ("wunbey", "chabag", etc.).
 - (iii) Last payment shall be made upon completion of the whole structure, i.e., walls, etc.

(b) Outer Islands:

- (1) The planning and designing of the structure, identifying the architect or engineer for the construction, and measuring the structure must all conform to traditional and customary practices and procedures.
- (2) Award and actual payments shall be made in similar manner as described in subsection (a)(3); there shall be three equal payments whereby each of the first two is made upon the completion of a major portion of the structure and the final payment made upon the completion of the whole traditional house including all customary requirements.
- (3) Notwithstanding the requirement of three equal payments for an award, the payments under this subsection may be combined into one or two payments whenever the traditional and customary construction of such houses consists of one or two major phases.

(c) Additionally, in order for a community to qualify for an award, the community through its municipality chief, or his designee, representing the municipality to the Council of Pilung or Council of Tamol, shall inform the Governor, in writing, the community's intention to construct such houses. Such writing shall include the following:

- (1) The kind of traditional house to be constructed;
- (2) The measurement of the structure;

(3) The identity of the "Salap", his residence, and the basis for which he has been determined to be the "Salap" of the intended structure; and

(4) The amount of the anticipated award.

Source: YSL 2-102 §1, as amended by YSL 3-58 §1, modified.

§506. Awards; funds disbursement.

The amount of the award shall be paid in three equal payments subject, however, to the following requirements which shall be met before each payment is made:

(a) The municipality chief, who shall also be a member of the Council of Pilung or Council of Tamol, shall present to the Governor a request for payment and a written statement by the chief certifying to the Governor that the requirements under section 505 are met.

(b) The Governor may require any other relevant information which he deems necessary before making an award.

Source: YSL 2-102 §1, modified.

§507. Severability.

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, such holding shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Source: YSL 2-102 §1, modified.

Chapter 6. Researcher Registration

§601. Title.

This chapter may be known and cited as the "State Researcher's Registration Act."

Source: YSL 4-33 §1 (Section 601), modified.

§602. Findings.

The Legislature finds that:

(a) Throughout the course of the State's recent history, many scholars and scientists from a variety of academic fields have come to Yap State to study its unique society, culture and traditions.

- (b) Yap State has always welcomed, and will continue to welcome, such persons, including, but not limited to, anthropologists, archaeologists, marine specialists, historians, lawyers, and other social scientists.
- (c) Yap has a strong State interest in ensuring that all such researchers are able to access the data which they need, that they are able to be apprised of any inaccuracies in data collected, that they provide Yap with at least two copies of their final work product, and that they pay Yap a royalty fee on the sale of their final work product.

Source: YSL 4-33 §1 (Section 602), modified.

Cross-reference: The constitutional provision on tradition and custom is found in Yap Const., Art. III. The statutory provisions on Traditional Leaders and Traditions are found in Title 5 of this Code.

§603. Purpose; intent.

It is the intent of the Legislature to require that all researchers, as so defined herein, register with the Division of Civic Affairs to ensure that the State may assist the researchers whenever possible and to provide a mechanism whereby a researcher's data may be confirmed, verified and cross-checked so as to prevent the dissemination of misinformation, and to insure that Yap State receives a royalty payment on each final work product sold.

Source: YSL 4-33 §1 (Section 603), modified.

Cross-reference: The statutory provisions on the Department of Youth and Civic Affairs are found in section 126 of Title 3 (The Executive) of this Code.

§604. Definitions.

As used in this chapter, unless the context otherwise requires, the term:

- (a) "Division of Civic Affairs" means the Division of Civic Affairs within the Department of Youth and Civic Affairs.
- (b) "Chief" means the Chief of the Division of Civic Affairs under whose supervision and direction the Yap Historic Preservation Program is administered.
- (c) "Researcher" means any person actively and exclusively engaged in the full-time academic study of any aspect of Yap State's history, culture, customs, or traditional skills, songs, myths, chants or dances for the purpose of disseminating the results of that study in any tangible medium of expression from which they can be perceived, reproduced or otherwise communicated, either directly or with the aid of a machine or device. "Researcher" shall include, but not limited to, all those persons who are entering the State pursuant to a researcher's entry permit issued in

accordance with the relevant requirements of FSM National law codified at 50 FSM section 103. "Researcher" shall not include any citizen of the FSM, or any employee or agent of the State or FSM national government engaged in such research or study on behalf of the State or national government, or any agency or instrumentality thereof.

- (d) "Research" or "study" means the active and direct pursuit of information or data concerning any aspect of Yap's history, culture, customs, or traditional songs, myths, chants or dances by generally accepted methods of eliciting such information or data, including, but not limited to, interviewing State residents, distributing questionnaires among State residents, taking photographs or making audio/visual recordings, digging or excavating and/or examining any area of land or historic property, as defined in chapter 4 of this title, on such land.
- (e) "Final work product" means the complete and final work of authorship containing the results of the researcher's study in Yap. In the category of literary works intended for mass circulation, the "final work product" shall be that work of authorship in the form issued by the publisher. In the category of academic dissertations or scholarly articles or papers intended to be submitted for purposes of advanced academic degrees, the "final work product" shall be that work of authorship in the form submitted to the academic institution. In the category of scholarly, academic or scientific articles intended for publication in specialized journals or magazines published on a monthly, quarterly or periodic basis, the "final work product" shall be in the form issued by the publisher. In the category of audio-visual tapes or other such audio-visual recording media, the "final work product" shall be a copy of the tape or other device.
- (f) "Royalty fee" means a compensation from the researcher to the State of Yap for the use of Yap's resources in his research and which compensation is ten percent of each final work product sold.
- (g) "FSM" means the Federated States of Micronesia.

Source: YSL 4-33 §1 (Section 604), modified.

Cross-reference: The statutory provisions on the Department of Youth and Civic Affairs are found in section 126 of Title 3 (The Executive) of this Code. The constitutional provision on the Council of Pilung and the Council of Tamol is found in Yap Const., Art. III, Sect. 1. The statutory provisions on the councils of traditional leaders are found in chapter 1 of this title.

§605. Registration required; royalty agreement.

- (a) All researchers shall, before commencement of the research project, register with the Division of Civic Affairs.

- (b) Researchers shall provide the Division of Civic Affairs with the following data:
- (1) Name and permanent address;
 - (2) Purpose and scope of research;
 - (3) Intended method(s) of research;
 - (4) Intended duration of stay in Yap;
 - (5) Local address in Yap;
 - (6) School, university, foundation or other professional affiliation through which entity or for which entity the research is being conducted and address of such entity;
 - (7) Name and address of publisher, if available;
 - (8) A signed statement by the researcher promising to pay Yap State a ten percent royalty fee on any final work product sold; and
 - (9) Any other data which the Chief believes relevant.
- (c) Upon receipt of the data required to be submitted in subsection (b) of this section, the Chief shall inform the traditional leader of the municipality or island where the researcher will be working of the researcher's purpose and scope of study, intended method(s) of research and intended duration of stay in Yap. In the event that the researcher will be focusing on several municipalities or islands, the Chief shall notify the Council of Pilung and/or Council of Tamol, as appropriate.
- (d) Upon submission of the data required by subsection (b) of this section, notification required by subsection (c) of this section, and payment of a non-refundable registration fee in the amount of \$500.00, the researcher shall be issued a permit to conduct his or her research for a period of one year. Such permits may be automatically renewed for another year by paying a non-refundable renewal fee of \$250.00 upon the expiration of the initial one year term.
- (e) All researchers shall consult with the Chief and the members of the Councils of Pilung and Tamol to verify, confirm, cross-check and clarify any data derived in the course of their research in the State.
- (f) All researchers shall provide the Division of Civic Affairs with at least two copies of their final work product. One copy shall be maintained by the Division of Civic Affairs. The second copy shall be given to the Council of

Pilung, if the research was conducted only in Yap Proper, or the Council of Tamol if the research was conducted in the Outer Island. If the research was conducted in both areas, then the second copy shall also be maintained by the Division.

Source: YSL 4-33 §1 (Section 605), modified.

Cross-reference: The statutory provisions on the Department of Youth and Civic Affairs are found in section 126 of Title 3 (The Executive) of this Code.

§606. Deposits to General Fund of the State of Yap.

All funds collected pursuant to the provisions of this chapter shall be deposited into the General Fund of the State of Yap within five days of collection.

Source: YSL 4-33 §1 (Section 606), modified.

Cross-reference: The statutory provisions on the General Fund of the State of Yap are found in subchapter II of chapter 12 of Title 13 (Taxation and Finance) of this Code.

§607. Prohibited Acts.

In addition to any other acts which may be prohibited pursuant to any other provision of State law, including those prohibited by 5 YSC 408 and the applicable rules and regulations, it shall be unlawful for any researcher:

- (a) To engage in research or study without securing the permit required by section 605 of this chapter; and
- (b) To provide false information to the Chief for purposes of Researcher Registration pursuant to section 605 of this chapter.

Source: YSL 4-33 §1 (Section 607), modified.

Cross-reference: Section 408 of chapter 4 of this title is on harming or removing historic property prohibited. Section 605 of this chapter is on registration required; royalty agreement.

§608. Penalties.

- (a) There shall be a civil penalty of not more than \$100.00 for providing false information to the Chief for purposes of Researcher Registration pursuant to section 605 of this chapter.
- (b) There shall be a civil penalty of not more than \$200.00 for actively engaging in research or study without registering and securing the permit as provided in section 605 of this chapter.

(c) In addition to any other penalty provided herein, the permit of any researcher, who fails to provide the Chief with at least two copies of his or her final work product within two months of the publication of that work of authorship, or who fails to pay a royalty fee within one year of the publication of that work of authorship, shall be immediately revoked and such researcher shall not be entitled to renew or reapply for another permit for a period of ten years.

Source: YSL 4-33 §1 (Section 608), modified.

§609. Severability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Source: YSL 4-33 §1 (Section 609), modified.

Yap State Code Title 16: Education
Chapter 1. Traditions and Customs

§101. Culture teachers.

There is hereby created the position of culture teachers. The local school board of each elementary school in the Yap Islands Proper may employ a person as a culture teacher to instruct students in various aspects of Yapese heritage and culture.

Source: YDC §3103.

Cross-reference: The constitutional provision on education is found in Yap Const., Art. XII, Sect. 2. That section states: "The State Government shall provide for public education and schools. Public elementary education shall be free. Traditions and customs of the people of this State shall be taught in public schools as provided by law." The constitutional provisions on Traditional Leaders and Traditions are found in Yap Const., Art. III. The statutory provisions on Traditional Leaders and Traditions are found in Title 5 of this Code.

§102. Supervision.

The local school board shall have complete supervision of the culture teacher it hires and may remove a culture teacher from his position at any time.

Source: YDC §3104.

Yap State Code Title 18: Conservation & Resources

Chapter 10. Wildlife Conservation

§1001. Hunting season: wild pigeon.

The season for hunting of wild pigeon shall be from October 1 to December 31 of each year and during that period any person with a valid firearm may hunt wild pigeon. It shall be unlawful for any person to hunt wild pigeon at any other time of the year.

Source: YDC §2200.

Cross-reference: The statutory provisions of the Weapons Prohibition Act are found in chapter 9 of Title 11 (Crimes and Punishment) of this Code.

§1002. Sale of wild pigeon.

Sale of wild pigeon shall be prohibited at all times.

Source: YDC §2201.

§1003. Declaration of wildfire emergency.

The Governor is hereby authorized to declare a period of wildfire emergency and during such an emergency suspend the pigeon hunting season in specific localities threatened by such wildfire emergency.

In considering the declaration of wildfire emergency, the Governor will be guided by such considerations as long periods of extremely dry weather, periods with large number of wildfires occurring in the forests, grasslands, and savannas, or any combination of conditions or circumstances that can reasonably be construed to constitute a period of extreme wildfire danger.

The purpose and intent of suspending hunting during a period of wildfire emergency is to cause fewer people to enter the forests, grasslands, and savannas and by so doing remove one of the possible causes or hazards of causing wildfires.

Source: YDC §2202, modified.

§1004. Protection of coconut crab.

(a) No coconut crab, *Birgus latre* or "ayuy" whose shell is less than three inches in diameter measured at the base, shall be taken or killed within the State

nor shall any such crabs be taken or killed during their breeding season each year and from June 1st to September 30th nor shall any such crabs be sold commercially in any wholesale or retail store licensed to do business in the State.

(b) Penalties. Any person who violates any of the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100.00, or imprisoned for not more than 30 days, or both.

Source: YDC §2204, as amended by YDL 4-28 §1, modified.

§1005. Protection of turtles.

Turtle meat and turtle eggs shall not be sold commercially by any wholesale or retail store licensed to do business in the State.

Source: YDC §2207, as enacted by YDL 4-28 §2, modified.

§1006. Protection of clams.

The Governor is authorized to declare a harvesting season and to set a size limit for the taking or harvesting of clams. Clam meat shall not be sold commercially by any wholesale or retail store licensed to do business in the State.

Source: YDC §2208, as enacted by YDL 4-28 §3, modified.

§1007. Penalties.

Any person who violates any of the provisions of this chapter, shall, unless a section specifically provides otherwise, be guilty of a misdemeanor and, upon conviction thereof shall be punished by a fine of not more than \$500.00, or imprisoned for not more than 60 days, or both.

Source: YDC §2209, as enacted by YDL 4-28 §4, modified.

§1008. Prohibited fishing methods.

(a) Except as provided in subsection (b) of this section, no person shall knowingly catch any fish or other marine life by means of explosives, poisons, chemicals or other substances which kill fish or marine life, nor shall any person knowingly possess or sell any fish or other marine life caught by means of explosives, poisons, chemicals, or other substances which kill fish or marine life. The terms "poisons," "chemicals," or

"substances" include but are not limited to hypochlorous acid or any of its salts, including bleaches commonly sold under various trade names, such as Clorox, and bleaching powders, preparations containing rotenone, tephrosin or plant material from *Barringtonia asiatica*, *Coculus ferrandianus*, *Hura crepitans*, *Piscidia erythrina*, *Tephrosia purpurea*, and *Wilkstremia* spp.

- (b) The provisions of subsection (a) shall not apply where the Governor has given advance written permission to use the means prohibited, when determined to be in the public interest.
- (c) Nothing in this section shall be construed to prohibit any fishing method used under custom and tradition, including use of local roots, nuts or plants.
- (d) Criminal penalties. Any offense described as a prohibited act by subsections (a), (b), or (c) of this section, is punishable by a fine of not less than \$100.00 or more than \$2,000.00, or imprisonment for not less than six months or more than two years, or both.

Source: Part C of Chapter 2 of the Yap District Code, as amended by YSL 2-23 §1 that creates new YDC §2210, modified.

Commission Comment: Reference in subsection (d) to "section 1008(a)" is revised to refer to "subsections (a), (b), or (c)" in line with relettering and renumbering revisions made to this section.

§1009. Protection of trochus.

- (a) The harvesting of or in any way intentionally interfering with the growth of trochus in the waters of the State of Yap is prohibited except as provided in this section.
- (b) The Governor may designate and vary from year to year an open season or seasons for such period of time as deemed advisable for the harvesting of trochus in the State. The open season may vary in different areas or islands within the State, and may identify certain reefs or sections thereof that shall be closed for the harvesting of trochus, notwithstanding the fact that the season is open. The Governor may place any and all restrictions on the size of trochus to be taken during the open season, and in enforcement of the open season the Governor may punish the harvesting, taking, purchasing, or selling of trochus outside the legal size limits or from a designated

sanctuary. Public notice shall be given of the dates designated for the harvesting of trochus, the restricted sizes, and the reefs or islands that have been declared closed, if any.

- (c) The Governor may, if it is deemed advisable, prohibit the harvesting of trochus during any given calendar year or years. Public notice shall be given of the prohibition.

Source: Part C of Chapter 2 of the Yap District Code, as amended by YSL 2-23 §2 that creates new YDC §2211, modified.

§1010. Protection of seeded or planted species.

No person shall take or harvest any species which has been seeded or planted by or on behalf of the State of Yap, knowing or having reason to know that such species was seeded or planted, except where the Governor has given express written permission authorizing the taking or harvesting.

Source: Part C of Chapter 2 of the Yap District Code, as amended by YSL 2-23 §2 that creates new YDC §2212, modified.

§1011. Temporary moratorium for protection of species.

The Governor may, upon convincing evidence that the population of a species, subspecies, or class of marine life is in imminent danger of dropping below a minimum desirable maintenance level, declare a temporary moratorium prohibiting the taking or harvesting of said marine life. The Declaration of Moratorium shall state any and all restrictions imposed on the taking and harvesting of marine life, including, but not limited to, size limitations and areas affected. Public notice shall be given of the moratorium. No person shall violate the Declaration of Moratorium.

Source: Part C of Chapter 2 of the Yap District Code, as amended by YSL 2-23 §2 that creates new YDC §2213, modified.

Yap State Code Title 18: Conservation & Resources

Chapter 11. Fruitbats

§1101. Protection of fruitbats.

- (a) The taking, hunting, exporting, purchasing or selling of or in any way intentionally interfering with the population growth of fruitbats in the State of Yap is prohibited except as provided in this section.
- (b) The Governor may declare an open season for the taking and hunting of fruitbats in the State each year. The open season shall not exceed thirty days, and the time of the year for the open season may vary from year to year. Public notice shall be given of the open season declaration. The open season declaration however, does not permit any person to export, purchase or sell fruitbats.
- (c) For purpose of this Section, it shall be rebuttable presumption that all fruitbats found in one's possession outside the open season were taken or hunted in violation of this section except as provided in subsection (e) of this section.
- (d) The open season may vary in different areas or islands within the State, and may identify certain areas or islands that shall be closed for fruitbat taking and hunting notwithstanding the fact that the season is open.
- (e) The prohibition against the taking and hunting of fruitbats shall not apply to:
 - (1) Those persons whose custom and tradition include taking and hunting fruitbats;
 - (2) Taking and hunting of fruitbats for scientific purposes;
 - (3) Taking and hunting of fruitbats to be used for tourist attractions; and
 - (4) Taking and hunting of fruitbats for pets.
- (f) Any person who violates any provision of this section shall, upon conviction, be fined not less than \$50.00 and not more than \$200.00, or imprisoned for not less than one month and not more than six months, or both.

Source: Part C of Chapter 2 of the Yap District Code, as amended by YSL 2-27 §1 that creates new YDC §2206, and YSL 4-6 §1, modified.

Cross-reference: The constitutional provisions on Conservation and Development of Resources are found in Yap Const., Art. XIII. Section 1 of Article XIII states: "The State Government shall promote the conservation and development of agricultural, marine, mineral, forest, water, land and other natural resources."

Kosrae State Code Title 11: Land and Environment

Chapter 14. Antiquities

Section 11.1401. Impact review.

Before the Government begins to undertake, assist, participate in, or license action that might affect the land or State waters the Department of Agriculture, Land and Fisheries considers the impact of the action on antiquities and traditional culture, reporting its findings to the Governor, the Legislature, and components of Government involved in the proposed action.

Background

Amended by State Law 7-1.

Section 11.1402. Regulation.

By regulation the Director of the Department of Agriculture, Land and Fisheries states the classes of structures, artifacts, or other objects which constitute State antiquities, and provides for authorization of the use of antiquities for scholarly research, museum display or educational purposes.

Background

Amended by State Law 7-1.