



Yankee Hill Fire Safe Council Fire and Weather Watch WebCam Terms of Service

LAST UPDATE OF THESE TERMS AND CONDITIONS: **June 15, 2011**

THIS IS A LEGAL AGREEMENT BETWEEN YOU AND YANKEE HILL FIRE SAFE COUNCIL (HEREINAFTER "the COUNCIL") STATING THE TERMS THAT GOVERN YOUR USE OF THE YANKEE HILL FIRE SAFE COUNCIL FIRE AND WEATHER WATCH WEBCAM SERVICE (HEREINAFTER THE "SERVICE"). PLEASE READ THE FOLLOWING TERMS OF SERVICE CAREFULLY BEFORE ENTERING OR USING THE SERVICE. THESE TERMS OF SERVICE (HEREINAFTER THE "AGREEMENT") - TOGETHER WITH ALL UPDATES, ADDITIONAL TERMS, SOFTWARE LICENSES, AND ALL OF THE COUNCIL'S RULES AND POLICIES - COLLECTIVELY CONSTITUTE THE AGREEMENT BETWEEN YOU AND THE COUNCIL. IN THIS AGREEMENT, THE COUNCIL, ITS SUCCESSORS AND ASSIGNS WILL BE REFERRED TO AS "US" OR "WE," AND YOU WILL BE REFERRED TO AS "YOU." TO AGREE TO THESE TERMS, CLICK "I AGREE." IF YOU DO NOT AGREE TO THESE TERMS, YOU WILL NOT BE PERMITTED TO USE THE SERVICE. YOU MUST ACCEPT AND ABIDE BY THESE TERMS AS PRESENTED TO YOU: CHANGES, ADDITIONS, OR DELETIONS WILL NOT BE ACCEPTED AND WILL UNDER NO CIRCUMSTANCES BECOME PART OF THIS AGREEMENT. THE COUNCIL MAY REFUSE ACCESS TO THE SERVICE FOR NONCOMPLIANCE WITH ANY PART OF THIS AGREEMENT.

Definition of the Service. The Council is the provider of the Service. The Service permits users, through limited, licensed access through The Council's website by use of a password, to a portal where two or more remote cameras capture continuous live video images of the forests around Yankee Hill and Concow including the Plumas and Lassen National Forests. The high placement of the cameras gives the viewer a "bird's-eye view" of the surrounding landscape with its primary mission of providing advance warning of fires or other natural disasters that may be approaching the residential areas. The viewer has no control over the direction of the camera(s), and certain commercial licensees may have preferential directional control of the cameras for their commercial purposes by agreement with the Council to be able to see their equipment or installations as viewable from the vantage point of the cameras. Annual subscribers have no such direct say over which direction the cameras will point at any given time. The Service's primary mission is safety from fires and natural disasters, and the images are meant to be used to formulate evacuation strategies in the event of fire or natural disaster.

Payment of the fees to obtain a password is a license agreement between You and the Council for access to the images broadcast by The Council from its observation cameras, no other membership or subscription is included, implied or provided except by separate engagement through other written agreements.

What the Council and/or the Service DO NOT do. The Council does not use its cameras in any way that will impose on any person's private property unless it is necessary during an emergency event such as a wildfire. We are not in the private investigation or spying business, and will not tolerate misuse of the observation cameras in any way that would be offensive or illegal. The Council does record moving images and will collect certain still images that happen to be caught by volunteers, the Council Board members, employees (if any) and reflect the beauty of our natural surroundings such as sunrise or sunset images, eclipses, wildlife and other natural phenomena that are caught, essentially, by accident when someone working for the Council is viewing the images. All images broadcast on the website are Copyrighted images owned by the Council. Any rebroadcast, retransmission or unauthorized use of the Copyrighted images without the express written consent of the Council is prohibited.

What You Receive Upon Registration. Clicking “I AGREE” below means you agree to the terms and conditions stated herein and that you have applied to the Council for a license to use the Service. The Council may, at its sole discretion, deny or otherwise decline to accept your application. Upon the Council’s acceptance of your application, you will be issued a password and login. Upon receipt of payment of the annual fee, the Council grants you a non-exclusive, personal, revocable, non-transferable license to use the Service, under the condition that you adhere to the terms and conditions herein and that you agree not to copy or record our images, or modify or reverse engineer our software. You further agree that you will always access our Service through the customer interface; entering into our proprietary software or Service through any other means is prohibited, will be considered trespass, and will be prosecuted to the full extent of the law.

This license allows you to use the Service for your personal non-commercial use. Any commercial and/or non-personal use of the Service is prohibited.

Warnings: You are solely responsible for having ready access to the Service, and you are responsible for the payment of all third party service provider fees to have the Service available, including but not limited to, internet service provider fees and/or cellular or personal device service fees. THE SERVICE IS OFFERED ON AN “AS-IS,” “WHERE-IS,” “AS AVAILABLE” AND “WITH ALL FAULTS” BASIS AND THE COUNCIL IS NOT RESPONSIBLE FOR COMMUNICATION ERRORS OR LAPSES IN YOUR PROVIDER’S COMMUNICATION NETWORK OR YOUR DEVICE’S RELIABILITY AND/OR SERVICE FAILURES. The Council does not guarantee that the service will be available at all times due to reliability of the equipment, or failure of the connection providing bandwidth and/or communication service. The Council reserves the right to temporarily disrupt service at any time due to maintenance, repairs, software upgrades, equipment upgrades or for reason of vandalism or damage to the observation cameras, electric lines, communication lines or to the posts, trees or towers where the cameras are mounted. The Council reserves the right to add additional cameras and to replace cameras for any reason at any time.

THE SERVICE IS AUTOMATED, AND IS PURELY INFORMATIONAL IN NATURE. THERE IS NO ONE ON 24-HOUR DUTY AT THE COUNCIL OFFICES WHO IS TRAINED TO FIELD OR RESPOND TO ANY CALLS OF EQUIPMENT FAILURE OR THAT THE SYSTEM IS DOWN. REPAIRS TO THE SYSTEM WILL BE MADE AS SOON AS PRACTICABLE BASED UPON THE AVAILABILITY OF PERSONNEL, PARTS AND SPECIAL PERSONNEL SUCH AS ELECTRICIANS, UTILITY PERSONS OR PROGRAMMERS.

THE VIEWING RANGE OF THE OBSERVATION CAMERAS IS LIMITED AND VIEWING MAY BE OBSCURED BY ANY NUMBER OF MAN-MADE OR NATURALLY OCCURRING CAUSES SUCH AS FOG, FIRES, SNOW OR BIRDS.

Age Requirements for Establishment of the Service. This Service is available only to individuals aged 18 years or older. Persons under the age of 18 certainly may and are encouraged to use the Service; but this Agreement must be approved by the underaged person’s parent or guardian to make sure that the child’s parent(s) or guardian(s) understand the terms and conditions herein.

Responsibility for Information Sent. User understands that the Council is not responsible to User for any losses, actions or claims arising from loss of transmission of the Council’s camera images.

Code of Conduct. In using the Service, you agree to obey all laws with respect to the Service and to adhere to any Code of Conduct we will post from time-to-time in a separate tab on our home page. You agree not to resell or redistribute our Service unless you have negotiated a separate written agreement with us. You will not, under any circumstances, modify, reprogram or employ any device such as a spider or bot to gain illegal access to our programming or our files or the source code operating the Service. As a user of the Service, you agree not to use the Service in any way that harms the Service, the site, and/or the reputation of us, our affiliated entities, our agents, resellers or others employed or under agreement with the Council.

You agree to notify the Council promptly in the event you know of or discover a security breach or a person or person(s) intentionally trying to cause harm to the Council's site or any of its content.

System Requirements. Use of the Service requires one or more compatible devices, Internet access (fees may apply), and certain software (fees may apply). Use of the Service may also require obtaining updates or upgrades from time to time. Because use of the Service involves hardware, software, and Internet access, your ability to use the Service may be affected by the performance of these factors. High speed Internet access is strongly recommended, but not required, for use of the Service. You acknowledge and agree that such system requirements, which may be changed from time to time, are your responsibility. The Service is not part of any other product or offering, and no purchase or obtaining of any other product shall be construed to represent or guarantee you access to the Service.

Passwords and Confidentiality. Upon registering for the service, you will be prompted to create a unique password and a User ID for encryption/decryption purposes. You are solely responsible for safeguarding the confidentiality of these pieces of information.

Policies and Rules. We reserve the right to change the terms of this Agreement at any time. You will be notified of any changes to this Agreement at your next login following the uploading of the new terms. The Council is not responsible if several weeks or months pass between the times you access the site in the event modification have occurred in our Terms of Use and you do not receive the notification timely because you did not access the site regularly.

The Council's Privacy Policy. Your privacy and the confidentiality of your personal information is our utmost concern. Except as otherwise expressly provided for in this Agreement, the Service is subject to the Council's Privacy Policy at www.YankeeHillFireSafe.org/privacypolicy.php , which is expressly made a part of this Agreement. Since your agreement to these Terms of Service includes an agreement to the Council's Privacy Policy, you should read and understand the Privacy Policy before clicking "I Agree."

Agreement to Pay. The current annual fee for the Service is \$30, two years for \$50, payable in advance. This fee may be changed at any time with notice prior to your license renewal which will be the one year date of your initial date the Service was available to you (whether you have used it or not).

Payment for Services. You agree to pay for all services you purchase through the Council, and the Council may charge your PayPal account for any such purchases, and for any additional amounts (including any taxes and late fees, as applicable) as may be accrued by or in connection with your Account. **YOU ARE RESPONSIBLE FOR THE TIMELY PAYMENT OF ALL CHARGES AND FOR PROVIDING THE COUNCIL WITH VALID PAYPAL ACCOUNT DETAILS FOR PAYMENT OF ALL CHARGES.** You may also pay for the Services by check. There is a fill-in form on the Council's website which can be printed out and mailed with your check to our address at:

Yankee Hill Fire Safe Council
P.O. Box 4242
Yankee Hill, CA 95965

All charges will be billed to the credit card, or the PayPal account, that you designate during the registration process (unless you prefer to pay by check in which case you must mail in your check with your completed registration form). If you want to designate a different credit card, or if there is a change in your credit card or PayPal account status, you must change your credit card or PayPal account information online at the Account Info section of the Service. (There may be a temporary disruption of your access to the Service until the Council can verify the validity of the new credit card or PayPal account information).

Right to Change Availability of Products. The availability of any products is subject to change at any time.

Electronic Signatures and Contracts. Your use of the Service includes the ability to enter into agreements and/or to make transactions electronically. **YOU ACKNOWLEDGE THAT YOUR ELECTRONIC SUBMISSIONS CONSTITUTE YOUR AGREEMENT AND INTENT TO BE BOUND BY AND TO PAY FOR SUCH AGREEMENTS AND TRANSACTIONS. YOUR AGREEMENT AND INTENT TO BE BOUND BY ELECTRONIC SUBMISSIONS APPLIES TO ALL RECORDS RELATING TO ALL TRANSACTIONS YOU ENTER INTO ON THIS SERVICE, INCLUDING NOTICES OF CANCELLATION, POLICIES, CONTRACTS, AND APPLICATIONS.**

Technical Problems. On occasion, technical problems may delay or prevent delivery of the Service. Your exclusive and sole remedy with respect to services that are not available within a reasonable period will be a refund of the price paid for such service, as determined by the Council, on a pro rata basis. We expect that there will be occasional outages of the Service that will last one or more days. We also expect that certain weather or other conditions will make the images unusable for one or more days until the problem with the camera can be rectified. "A reasonable period" where the Service is unavailable may be as long as two to five days. **There are no refunds if you voluntarily discontinue the Service prior to the expiration of your license term or you are terminated from further use of the Service for breach of this Agreement.** Under certain circumstances, at the sole discretion of the Council, a membership may be extended for unreasonable outages in the Service other than natural disasters, Acts of God or any action or event other than a *force majeure* action beyond the control of the Council.

Intellectual Property.

Acknowledgement of Ownership. You agree that the Service, graphics, user interface, audio clips, video clips, editorial content, and the scripts and software used to implement the Service, contain proprietary information and material that is owned by the Council and/or its licensors, and is protected by applicable intellectual property and other laws, including but not limited to copyright, trademark and patent laws, and that you will not use such proprietary information or materials in any way whatsoever except for to use the Service in compliance with the terms of this Agreement. No portion of the Service may be reproduced in any form or by any means, except as expressly permitted hereunder. You agree not to modify, rent, lease, loan, sell, distribute, or create derivative works based on the Service, in any manner, and you shall not exploit the Service in any unauthorized way whatsoever, including but not limited to, by trespass or burdening network capacity.

By entering into this Agreement, You agree that from time-to-time incidental images of Your real property may appear on the Service, and You grant the Council authority an irrevocable license to transmit and to collect such images, such license to remain in full force and effect even if You cancel Your subscription to the Service. In the event of an emergency, fire or other natural disaster, the cameras may intentionally capture images of Your property which may be necessary to assist fire or emergency personnel in managing the event.

Removal of Content or Other Materials. Notwithstanding any other provision of this Agreement, the Council and its licensors reserve the right to change, suspend, remove, or disable access to any Service, content, or other materials comprising a part of the Service at any time, without notice. In no event will the Council be liable for the removal of or disabling of access to any such Service, content or materials under this Agreement. The Council may also impose limits on the use of or access to certain features or portions of the Service, in any case and without notice or liability.

Copyrights. All copyrights in and to the Service, including but not limited to the software, are owned by the Council who reserve all of its rights in law and equity. **THE USE OF THE SERVICE, EXCEPT FOR USE OF THE SERVICE AS PERMITTED IN THIS AGREEMENT, IS STRICTLY PROHIBITED.**

Trademarks. The Council, the Council logo, and other trademarks, service marks, graphics, and logos used in connection with the Service are trademarks or registered trademarks of the Council. Other trademarks, service marks, graphics, and logos used in connection with the Service may be the trademarks of their respective owners. You are granted no right or license with respect to any of the aforesaid trademarks, and any use of such trademarks without prior written consent is prohibited.

Termination.

Termination of Your Account. If you fail, or the Council suspects that you have failed to comply with any provision of this Agreement, including but not limited to failure to make payment of fees due, failure to safeguard your Account information, or infringement or other violation of third parties' rights, the Council, at its sole discretion, without notice to you may: (i) terminate this Agreement and/or your Account, and you will remain liable for all amounts due under your Account up to and including the date of termination; and/or (ii) terminate the license to the Service and/or (iii) preclude access to the Service (or any part thereof).

The Council's Termination of the Service. The Council reserves the right to modify, suspend, or discontinue the Service (or any part or content thereof) at any time with or without notice to you, with or without cause, and the Council will not be liable to you or to any third party should it exercise such rights. We may withdraw, suspend or discontinue any function or feature of the Service.

Cancellation Policy. Once you have subscribed to the Service, within the first thirty days of service only, if you are not satisfied with the Service, you may request a refund via electronic mail to admin@YankeeHillFireSafe.org or via US Mail including the reason for your cancellation. Refunds will be processed at the discretion of the Council in the same manner of payment as the original payment (for example, if paid by PayPal, a refund will be made to that account; if paid by check, a check will be issued). Please allow up to thirty days for processing.

General Compliance with Laws. The Service is controlled and operated by the Council from its offices in the United States. You agree to comply with all local, state, and federal laws, statutes, ordinances, and regulations that apply to your use of the Service.

Compliance with Ustream Agreement. Our Service requires a subscription for use of certain software provided to us by Ustream, under which we have strict terms to use their software for non-commercial personal use, among other terms. We incorporate Ustream's agreement here as if it were fully set forth, and any deviation or non-compliance with the "personal, non-commercial use" clause, or others, may trigger remedies under Ustream's agreement for which the Council may, at a minimum, terminate your service for any violation and seek any other legal remedies under the law which may exist at the time of the violation.

Enforcement of These Terms. The Council reserves the right to take steps it believes are reasonably necessary or appropriate to enforce and/or verify compliance with any part of this Agreement (including but not limited to the Council's right to cooperate with any legal process relating to your use of the Service, and/or a third party claim that your use of the Service is unlawful and/or infringes such third party's rights). You agree that the Council has the right, without liability to you, to disclose any Registration Data and/or Account information to law enforcement authorities, government officials, and/or a third party, as the Council believes is reasonably necessary or appropriate to enforce and/or verify compliance with any part of this Agreement (including but not limited to the Council's right to cooperate with any legal process relating to your use of the Service and/or Products, and/or a third party claim that your use of the Service is unlawful and/or infringes such third party's rights).

No Responsibility for Third-Party Materials or Websites. Certain content, Products, and services available via the Service may include materials from third parties. In addition, the Council may provide links to certain third-party websites. You acknowledge and agree that the Council is not responsible for examining or evaluating the content or accuracy of any such third-party material or Web sites. the Council does not warrant or endorse and does not assume and will not have any liability or responsibility for any third-party materials or Web sites, or for any other materials, products, or services of third parties. Links to other Web sites are provided solely as a convenience to you. You agree that you will not use any third-party materials in a manner that would infringe or violate the rights of any other party, and that the Council is not in any way responsible for any such use by you. **If you click on an advertiser's ad and you are taken to a site other than the Council's site, you are assuming all responsibility for: (i) lost data; (ii) unsaved data in the Council presence that you left; (iii) loss of links to return to the Council site; (iv) possible intrusion to your information through the link to the third party site.**

Disclaimer of Warranties; Liability Limitations.

THE COUNCIL DOES NOT GUARANTEE, REPRESENT, OR WARRANT THAT YOUR USE OF THE SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE, AND YOU AGREE THAT FROM TIME-TO-TIME THE COUNCIL MAY REMOVE THE SERVICE FOR INDEFINITE PERIODS OF TIME, OR CANCEL THE SERVICE AT ANY TIME, WITHOUT NOTICE TO YOU.

YOU EXPRESSLY AGREE THAT YOUR USE OF, OR INABILITY TO USE, THE SERVICE IS AT YOUR SOLE RISK. THE SERVICE AND ALL PRODUCTS AND SERVICES DELIVERED TO YOU THROUGH THE SERVICE ARE (EXCEPT AS EXPRESSLY STATED BY YANKEE HILL) PROVIDED "AS IS" "WHERE-IS" "WITH ALL FAULTS" AND "AS AVAILABLE" FOR YOUR USE, WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NONINFRINGEMENT. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, THE ABOVE EXCLUSION OF IMPLIED WARRANTIES MAY NOT APPLY TO YOU.

IN NO CASE SHALL THE COUNCIL, ITS DIRECTORS, OFFICERS, EMPLOYEES, AFFILIATES, AGENTS, CONTRACTORS, OR LICENSORS BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING FROM YOUR USE OF THE SERVICE OR FOR ANY OTHER CLAIM RELATED IN ANY WAY TO YOUR USE OF THE SERVICE, INCLUDING, BUT NOT LIMITED TO, ANY ERRORS OR OMISSIONS IN ANY CONTENT, OR ANY LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF THE USE OF ANY CONTENT POSTED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE VIA THE SERVICE, EVEN IF ADVISED OF THEIR POSSIBILITY. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR THE LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH STATES OR JURISDICTIONS, THE COUNCIL, ITS OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES' LIABILITY SHALL BE LIMITED TO THE EXTENT PERMITTED BY LAW. IN ALL CASES EXCEPT THOSE WHERE SUCH A LIMITATION IS NOT ALLOWED BY STATUTORY LIMITATION, THE COUNCIL, ITS OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES' TOTAL LIABILITY TO YOU FOR ANY ACTUAL LOSSES OR DAMAGES SHALL NOT EXCEED THE SUM OF THE FEES PAID TO THE COUNCIL BY YOU DURING THE PRECEDING TWELVE MONTHS FOR YOUR USE OF THE SERVICE(S). IF YOU HAVE NOT PAID ANYTHING DURING THE PRECEDING TWELVE MONTHS FOR THE SERVICES, THEN THE COUNCIL'S TOTAL LIABILITY SHALL BE LIMITED TO THE SUM OF ONE DOLLAR (\$1.00 US).

Waiver and Indemnity.

BY USING THE SERVICE, YOU AGREE TO INDEMNIFY AND HOLD THE COUNCIL, ITS DIRECTORS, OFFICERS, EMPLOYEES, AFFILIATES, AGENTS, CONTRACTORS, AND LICENSORS HARMLESS WITH RESPECT TO ANY CLAIMS ARISING OUT OF YOUR BREACH OF THIS AGREEMENT, YOUR USE OF THE SERVICE, OR ANY ACTION TAKEN BY THE COUNCIL AS PART OF ITS INVESTIGATION OF A

SUSPECTED VIOLATION OF THIS AGREEMENT OR AS A RESULT OF ITS FINDING OR DECISION THAT A VIOLATION OF THIS AGREEMENT HAS OCCURRED. THIS MEANS THAT YOU ARE BARRED FROM SUING OR RECOVERING ANY DAMAGES FROM THE COUNCIL, ITS DIRECTORS, OFFICERS, EMPLOYEES, AFFILIATES, AGENTS, CONTRACTORS, AND LICENSORS AS A RESULT OF ITS DECISION TO REMOVE OR REFUSE TO PROCESS ANY INFORMATION OR CONTENT, TO WARN YOU, TO SUSPEND OR TERMINATE YOUR ACCESS TO THE SERVICE, OR TO TAKE ANY OTHER ACTION DURING THE INVESTIGATION OF A SUSPECTED VIOLATION OR AS A RESULT OF THE COUNCIL'S CONCLUSION THAT A VIOLATION OF THIS AGREEMENT HAS OCCURRED. THIS WAIVER AND INDEMNITY PROVISION APPLIES TO ALL VIOLATIONS DESCRIBED IN OR CONTEMPLATED BY THIS AGREEMENT.

Changes. The Council reserves the right, at any time and from time to time, to update, revise, supplement, and otherwise modify this Agreement and to impose new or additional rules, policies, terms, or conditions on your use of the Service. Such updates, revisions, supplements, modifications, and additional rules, prices, policies, terms, and conditions (collectively referred to in this Agreement as "Additional Terms") will be effective immediately and incorporated into this Agreement. Your continued use of the Service following any such changes will be deemed to constitute your acceptance of any and all such Additional Terms. All Additional Terms are hereby incorporated into this Agreement by reference.

Notices. The Council may send you notice with respect to the Service by sending an email message to the email address listed in your Account contact information, by sending a letter via postal mail to the contact address listed in your Account contact information, or by a posting on the Service. Notices shall become effective immediately.

Governing Law. This Agreement is entered into in Butte County, California, and shall be governed by the laws of the State of California except in those circumstances where Federal law applies, and, in the case of any matters under Federal law. You agree the venue shall be that federal Court with jurisdiction over Butte County, California. You agree that the performance of this Agreement does not take place outside of the County of Butte, State of California for any purposes.

Miscellaneous. This Agreement constitutes the entire agreement between you and the Council and governs your use of the Service, superseding any prior agreements between you and the Council. You also may be subject to additional terms and conditions that may apply when you use affiliate services, third-party content, or third-party software. If any part of this Agreement is held invalid or unenforceable, that portion shall be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intentions of the parties, and the remaining portions shall remain in full force and effect. The Council's failure to enforce any right or provisions in this Agreement will not constitute a waiver of such provision, or any other provision of this Agreement. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid, the other provisions will remain in full force and effect. The Council will not be responsible for failures to fulfill any obligations due to causes beyond its control. We reserve the right to assign our rights and duties under this Agreement to any person at any time without notice to you, nor will we contact you or seek your approval on any such assignment.

PLEASE PRINT A COPY OF THESE TERMS OF SERVICE FOR YOUR RECORDS.