

RINCON BAND OF LUISEÑO MISSION INDIANS  
RINCON INDIAN RESERVATION, CALIFORNIA



RINCON LAND CONSOLIDATION ORDINANCE  
RINCON TRIBAL CODE § 8.1000

Adopted on July 25, 2016

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**§ 8.1000 FINDINGS AND PURPOSE**

(a) The purpose of this Ordinance is to codify the Rincon Band's policy with respect to the consolidation of the Tribe's land base. The Acquisition and ownership of non-tribal lands located within the exterior boundaries of the Rincon Reservation promotes tribal sovereignty, the right to self-government and strengthens tribal jurisdiction over activities within the tribal community.

(b) Pursuant to the General Allotment Act of 1887, and more specifically the Mission Indian Relief Act of 1891, the United States federal government executed assimilationist policies through the allotment of Reservation trust lands to individual Indians. Beginning in 1892, allotment activities resulted in distributions of trust land to individual Rincon Band Members, which were finalized and officially approved by the U.S. Secretary of the Interior in 1929. Although federal assimilationist attitudes began to reverse in 1932, and despite the enactment of the Indian Reorganization Act of 1934 which prohibited any future allotments of Reservation land, the damage had already been done. Many allotments were eventually sold or otherwise conveyed in fee to non-members and non-Indians alike, resulting in an erosion of tribal land holdings and a diminished capacity to effectively govern the Reservation.

(c) To reverse the negative historical effects of federal termination policies that were designed to assimilate Indians into mainstream society through the systematic allotting of tribal land individual persons regardless of membership status with the Tribe, the Business Committee adopted Resolution No. 2015-44. This Resolution authorizes the acquisition of restricted and allotted lands within the Reservation pursuant to the Indian Land Consolidation Act of 1983. Additionally, Resolution No. 2015-59 authorizes acquisition of land within or contiguous to the Rincon Reservation to consolidate landholdings under the jurisdiction and regulatory control of the Tribe for purposes of planning for future growth.

(d) To further this purpose, the Tribal Council adopts this Ordinance granting jurisdiction to the Intertribal Court of Southern California to adjudicate private disputes between owners and/or interest holders of non-tribal Land within the boundaries of the Rincon Reservation to the extent such jurisdiction is permissible under applicable federal law. In exercising such jurisdiction, the Intertribal Court of Southern California shall consider the Rincon Band's consolidation policy of acquiring tribal ownership or alternatively assuring non-tribal lands remain in the Band Member ownership and possession whenever possible.

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Adopted 7/25/16

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§ 8.1001 **DEFINITIONS**

(a) **“Band Member”** means an enrolled member of the Band and shall be have the same meaning as Tribal Member.

(b) **“Business Committee”** means the five-member Business Committee established under Section 3 (a) of the Articles of Association. "Business Committee" shall be synonymous with “Tribal Council” or “Rincon Tribal Council” as may be used in this Ordinance or any existing or future Tribal ordinance.

(c) **“Land”** means land held in fee simple, individual allotments or other restricted land that is located within the exterior boundaries of the Rincon Reservation.

(d) **“Personal Property”** means (i) removable improvements to the property, not considered fixtures of the land (i.e., underground water facilities, trees and shrubs, wells, installed well curbing, and irrigation facilities) and (ii) all houses, regardless of removability, including house moved onto the Land, house constructed on the Land, and mobile/manufactured houses that are permanently attached to the Land.

(e) **“Rincon Band”** means the Rincon Band of Luiseno Mission Indians and is synonymous with “Tribe”.

(f) **“Reservation”** means all lands within the boundaries of the Rincon Reservation, including, but not limited to:

(1) all lands within the territorial boundaries of the Rincon Indian Reservation as established by the Executive Order of the President issued on March 2, 1881, the Mission Indian Relief Act, 26 Stat. 712 (1891), the trust patent issued by the President on September 13, 1892, the Act of Congress of August 16, 1941, 55 Stat. 622, the February 12, 1968 Order setting aside land for the Rincon Band and the trust patent issued on January 20, 1971, which established and added to the Rincon Reservation, and any fee land acquired in trust pursuant to 25 U.S.C. 461 and its implementing regulations, and such other lands as may thereafter be added thereto or made a part thereof; and

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(2) all other trust, restricted, or tribally owned lands, regardless of whether they have been formally added to or made part of the Rincon Reservation.

(g) **“Tribal Council”** means the five-member Business Committee established under Section 3 (a) of the Articles of Association. "Tribal Council" shall be synonymous with “Business Committee” or “Rincon Business Committee” as used in this Ordinance or any existing or future Tribal ordinance.

(h) **“Tribal Court”** means the Intertribal Court of Southern California.

(i) **“Tribe”** means the Rincon Band of Luiseno Indians of the Rincon Reservation, Valley Center, California, and the agencies, entities, arms and enterprises of the Tribe, as appropriate, either together or separately.

§ 8.1002 **BAND ACQUISITION OF LAND; PERSONAL PROPERTY REMOVAL**

(a) **Acquisition of Land.** The Rincon Band may acquire Land located within the exterior boundaries of the Reservation by purchase, gift, bequest, or any other lawful means on such terms and conditions as the Business Committee shall direct from time to time; all such acquisitions shall be to promote the Rincon Band’s policy to consolidate land ownership within the boundaries of the Reservation.

(b) **Removal of Personal Property from Land.** Subject to the terms and conditions of the contract between the Rincon Band and the seller, the Rincon Band may remove Personal Property, from the Land after the Tribe acquires the Land. The Rincon Band may request that the Tribal Court make an order for recovery of the cost of removal.

§ 8.1003 **PRIVATE DISPUTES REGARDING RESERVATION LAND.**

(a) **Disputes Regarding Land.** In the event of a private dispute arises between persons claiming ownership or interest in Land located within the exterior boundaries of the Rincon Reservation, the dispute may be heard by the Tribal Court.

(b) **Consideration in Deciding Disputes Regarding Land.** In resolving a private dispute regarding Land ownership, interest or right of possession, the

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Tribal Court shall consider the Rincon Band's policy to consolidate Land within the Reservation under tribal or Band Member ownership to the extent permissible under applicable law.

(c) **Presumption Created by Title.** In resolving disputes regarding Land, the manner in which title is held shall create a rebuttable presumption regarding the ownership and right to possession. This presumption may be rebutted by clear and convincing evidence showing that the beneficial or equitable ownership or right to possession differs from that set forth in the title. In determining whether or not the presumption has been rebutted, the Tribal Court shall consider:

- 1) How the Land was acquired;
- 2) The intention of the transferor of the Land;
- 3) The consideration paid for the Land;
- 4) The relationship between the transferor and transferee;
- 5) If the transfer was intended as a gift or pre-distribution of inheritance;
- 6) The understanding of the parties regarding the ownership and right to possession of the Land;
- 7) The reason title was taken in a particular form (e.g., as a matter of convenience or for financing);
- 8) Whether the conduct of the parties was consistent with the form of title;
- 9) The payment of mortgages, property taxes and insurance;
- 10) The effect on the Rincon Band of potential alienation of the Land from the Rincon Band and Band Members; and
- 11) Such other evidence as the Tribal Court deems just and equitable.

All evidence, including parole evidence, shall be admissible to assist the Tribal Court in determining the ownership and right to possession of Land located within the exterior boundaries of the Rincon Reservation.

(d) **Effect of State Law.** Subject to applicable federal law, California state law shall not control any Land dispute regarding the ownership or right to possession of the land located within the exterior boundaries of the Rincon Reservation.

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§ 8.1004      **TRIBAL COURT JURISDICTION AND APPEALS.**

(a)      **Subject Matter Jurisdiction.**      The Tribal Court shall have subject matter jurisdiction to resolve disputes over an interest in the ownership or right to possession of Land located within the exterior boundaries of the Rincon Reservation to the extent provided under federal law.

(b)      **Personal Jurisdiction.**      Any person who files or responds to a Land dispute claim involving an interest in the ownership or right to possession of Land located within the exterior boundaries of the Reservation shall be deemed to have submitted to the personal jurisdiction of the Tribal Court.

(c)      **Petition for Determination of Right to Ownership or Right to Possession.**      Any person claiming ownership or the right to possession of Land located within the exterior boundaries of the Reservation shall petition the Tribal Court pursuant to the Rules of Court and Code of Civil Procedures, Title II, and private actions shall be in writing for a determination as to his or her ownership or right to possession of said Land.

(d)      **No Right to Appeal.**      The decision of the Tribal Court on any Land claim brought pursuant to this Ordinance shall be final and not subject to further appeal.

§ 8.1005      **GENERAL PROVISIONS**

(a)      **Severability.**      If any provision of this Ordinance or the application thereof to any person or circumstance shall be held unconstitutional or invalid by the Tribal Court, only the invalid provision shall be severed and the remaining provision and language of this Ordinance shall remain in full force and effect.

(b)      **No Waiver of Immunity.**      All inherent sovereign rights of the Band as a federally recognized Indian tribe with respect to provisions authorized in this Ordinance are hereby expressly reserved, including sovereign immunity from unconsented suit. Nothing in the Ordinance shall be deemed or construed to be a waiver of the Rincon Band's sovereign immunity from unconsented suit.

(c)      **Construction.**      The provisions of this Ordinance are to be liberally construed to effectuate the policies and purposes of this Ordinance. In the event of

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conflict between the provisions of this Ordinance and any other act, the provisions of this Ordinance shall govern.

(d) **Effective Date.** The effective date of this Ordinance shall be the date this Ordinance is enacted and adopted by the Tribal Council.

**[END OF DOCUMENT]**