

RINCON BAND OF LUISEÑO INDIANS



RINCON TRIBAL MEMBER GENERAL WELFARE ASSISTANCE PROGRAM ORDINANCE RINCON TRIBAL CODE § 17.500

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TRIBAL MEMBER GENERAL WELFARE ASSISTANCE PROGRAM ORDINANCE

Rincon Tribal Code § 17.500

Table of Contents

<u>§ 17.500</u>	Findings and Purpose.....	1
<u>§ 17.501</u>	Authority	1
<u>§ 17.502</u>	Definitions.....	3
<u>§ 17.503</u>	Eligible Tribal Member Assistance Eligibility	5
<u>§ 17.504</u>	Annual Assistance Limits	5
<u>§ 17.505</u>	Eligible Program Assistance	6
<u>§ 17.506</u>	Documentation	11
<u>§ 17.507</u>	Program Funds Disbursement Process	12
<u>§ 17.508</u>	General Administrative Procedures	12
<u>§ 17.509</u>	Miscellaneous	13

TRIBAL MEMBER GENERAL WELFARE ASSISTANCE PROGRAM ORDINANCE

Rincon Tribal Code § 17.500

§ 17.500 FINDINGS AND PURPOSE

(a) The purpose of this Ordinance is to assist Eligible Tribal Members to maintain their health, well-being, independence and quality of life. The Tribe has a responsibility to protect and promote the general welfare interests of its members and to assist in providing support to its members.

(b) This Ordinance is designed to provide general welfare assistance to Eligible Tribal Members for services, activities and needs including medical expenses, housing, utility and transportation expenses, energy assistance, health and wellness activity expenses, social services expenses, cultural, spiritual and educational expenses, and other related expenses as described herein. It is the Tribe's intent that the assistance provided pursuant to this Ordinance will meet the criteria set forth in Revenue Procedure 2014-35 (including any subsequent Internal Revenue Service guidance) and the Tribal General Welfare Exclusion Act of 2014, for treatment as a tax exempt benefit.

§ 17.501 AUTHORITY

This Ordinance is established pursuant to the authority vested in the Tribal Council by Section 6 of the Articles of Association to enact ordinances for the general welfare of the Tribe, and pursuant to the Tribal General Welfare Exclusion Act of 2013, codified under Internal Revenue Code Section 139E, which excludes from gross income, for income tax purposes, the value of general welfare assistance that may be provided to an Eligible Tribal Member.

§ 17.502 DEFINITIONS

(a) **“Annual Assistance”** shall mean the total amount of Program assistance that may be paid to a Beneficiary pursuant to Section 17.504 of this Ordinance.

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

(c) **“Beneficiary”** means the Eligible Tribal Member who receives general welfare assistance payments for himself or herself and on behalf of one or more Qualified Non-members, pursuant to this Program. Beneficiary means the same as Eligible Tribal Member.

TRIBAL MEMBER GENERAL WELFARE ASSISTANCE PROGRAM ORDINANCE

Rincon Tribal Code § 17.500

(d) “Dependent” means a child or individual who is legally dependent for the fiscal year, within the meaning of Internal Revenue Code §152.

(e) “Eligible Cost Documentation” means documentation that substantiates the Annual Assistance paid to a Beneficiary of this Program pursuant to Section 17.504 of this Ordinance.

(f) “Eligible Tribal Member” means a living enrolled member of the Band pursuant to Section 2 of the Articles of Association, who is not less than twenty-one (21) years of age and not otherwise excluded from receiving such payments in accordance with RTC § 17.507 of this Ordinance and RTC § 6.303(a).

(g) “Essential Services to the public” means medical facilities, pharmacies, public library, post office, and grocery stores.

(h) “Fiscal Year” means the calendar year commencing January 1st and ending December 31st each year.

(i) “Food” means the costs of purchasing foods for human consumption at home, except alcoholic beverages, tobacco and prepared hot foods for immediate consumption.

(j) “Health and Wellness” means nutritional support and counseling (nutritionists) related to weight loss, diabetes prevention, heart disease and other health risks, including for families; fitness training including facility membership fees and coaching fees, including for families; therapeutic massage and other forms of alternative pain management (chiropractic and acupuncture), wellness programs and counseling for diabetes, heart disease and other health risks, including for families; substance use disorder programs, in-patient counseling, in-patient treatment facilities and supportive housing for recovery, including for families; psychiatric and mental health programs and counseling, including for families; intergenerational healing and holistic health care, and cultural connectedness and recovery care.

(k) “Housing” means the cost for a Principal Residence up to the amounts that must be paid each month for rent or mortgage payments, including principal, property taxes, private mortgage insurance and/or hazard insurance, and homeowners’ association dues.

TRIBAL MEMBER GENERAL WELFARE ASSISTANCE PROGRAM ORDINANCE

Rincon Tribal Code § 17.500

(l) “Incapacitated Member” means any Eligible Tribal Member or Beneficiary who has been declared legally incompetent by any tribal, state or federal court with the legal authority to do so.

(m) “Indian Boarding School” means an institution that (1) provided on-site housing or overnight lodging; (2) was described in records as providing formal academic or vocational training and instruction; (3) was described in records as receiving U.S. Government funds or other support; and (4) was operational before 1969.

(n) “In-Home” services means assistance provided by a family member or licensed, third-party care provider that includes, but is not limited to, preparation of meals, housekeeping, shopping, assistance with personal care, assistance with bookkeeping and bill paying, and handyman services.

(o) “Net Distributable Cash” shall have the same meaning as RTC § 6.301(m).

(p) “Non-Covered Medical” includes assistance for medical expenses and needs that are not otherwise covered by insurance or covered through other tribal, state or federal benefits, including, but not limited to, in-home professional care from nurses, therapists or licensed care givers; extended nursing home stays; day care; hospice care; vision care; dental care; durable medical equipment; non-prescription drugs; transportation, meals and lodging for medical care away from home; and insurance co-pays and deductibles.

(q) “Ordinance” means this Rincon Eligible Tribal Member General Welfare Assistance Program Ordinance.

(r) “Principal Residence” means a primary residence which is occupied by the Beneficiary for more than a majority of the time during a Fiscal Year, and is used exclusively as his/her principal residence. Principal residence may also be determined based also on the location of the Band Member’s spouse and children, the Band Member’s driver’s license, the address used for federal and state income tax purposes, where the Band member is registered to vote, and other legal indicia of residency. The residence may be real estate property in which the Beneficiary has right, title or interest held by fee simple, by leasehold (including residential land leases and assignments under RTC § 8.700), by tenancy in common, by tenancy in entirety, by joint tenancy, by fractional interest, or other certified legal right of use and occupancy. Qualifying residences include but are not limited to, a single family home, apartment, condominium, townhome, or other cooperative or

TRIBAL MEMBER GENERAL WELFARE ASSISTANCE PROGRAM ORDINANCE

Rincon Tribal Code § 17.500

fractional-ownership unit. “Housing” and “residence” shall have the same meaning as Principal Residence.

(s) “Program” means the Eligible Tribal Member General Welfare Assistance Program described by this Ordinance.

(t) “Qualified non-Member” means a spouse, former spouse, legally recognized domestic partner or former domestic partner, ancestor, descendant, or Dependent of an Eligible Band Member. A Qualified non-Member has no right to receive direct financial assistance from the Tribe.

(u) “Rincon Reservation” means all land within the exterior boundaries of the Rincon Reservation, located in Valley Center, California, and all lands that may be added from time to time to the Rincon Reservation after the date of enactment of this Ordinance.

(v) “Service Area” means a geographic area designated by the Assistant Secretary of Interior where financial assistance and social services programs are provided, as defined by 25 C.F.R. § 20.100.

(w) “Service Unit Area” means the area designated for purposes of administration of Indian Health Service Program pursuant to 42 C.F.R. 136.21 (1).

(x) “Shelter Costs” include costs associated exclusively with living in the tribal member’s personal residence, including but not limited to, rent payments, damage or advance deposits on rental property, payments on mortgages secured by the tribal member’s personal residence, payments related to reverse mortgages secured by the tribal member’s personal residence, payments on trailers or mobile homes (including the property on which they rest) if utilized as the member’s personal residence, utility payments, mortgage insurance and related fees, homeowner’s insurance, rental insurance, personal property insurance for property located within and about the principal residence, property taxes, condominium and homeowner’s association fees, charges for regular maintenance and repair to make the principal residence habitable, unexpected or emergency repairs which are not reimbursed by insurance, costs for replacing or repairing essential items of property for maintaining a habitable home, and other costs which may be allowed as determined by the Tribal Administrator on a case by case basis.

(y) “Transportation” means transport by bus, taxi, shuttle, hired car, rental car, substantiated mileage use of a private automobile, and other forms of public transportation.

TRIBAL MEMBER GENERAL WELFARE ASSISTANCE PROGRAM ORDINANCE

Rincon Tribal Code § 17.500

(z) “Tribal Administrator” means the Tribal Administrator appointed by the Tribal Council to execute administrative functions on behalf of the Tribal Government.

(aa) “Tribal Certification” means that certain form completed by the Tribal Administrator from time to time that certifies the Annual Assistance is reasonable and appropriate as a matter of Tribal policy and law.

§ 17.503 ELIGIBLE TRIBAL MEMBER ASSISTANCE ELIBILITY

To be eligible for assistance pursuant to this Program, a Beneficiary must be an Eligible Tribal Member pursuant to RTC § 6.303(a).

§ 17.504 ANNUAL ASSISTANCE LIMITS

(a) Annual Limitation. Annual Assistance provided pursuant to this Program is subject to the availability of funds. Annual Assistance is limited to no less than ten percent (10%) and no more than eighty-five percent (85%) of Net Distributable Cash each Fiscal Year pursuant to RTC § 6.302(a)(2).

The Annual Assistance limit is subject to change from time to time, at the discretion of the Tribal Council. Annual Assistance shall reflect a determination by the Tribe that this amount reasonably represents some or all of the additional financial assistance needs of its Beneficiary population, for the types of costs of living reflected in Section 17.505 of this Ordinance, in order to support and maintain their general welfare as set forth in Section 17.500.

(b) Disbursement limits. Disbursements of Annual Assistance to an Eligible Tribal Member under this Program will be made in accordance with Eligible Cost Documentation provided by the Tribal Administrator to the Tribal Council pursuant to Section 17.506 of this Ordinance.

(c) Non-Discrimination. Annual Assistance provided under this Program shall not discriminate in favor of the governing body of the Tribe.

(d) Limitation on Liability. Any agreement or contract for work performed in connection with this Program is solely between the Eligible Tribal Member and a third party. The Tribe shall not be liable for any loss or damages whatsoever resulting from services performed in connection with assistance provided to an Eligible Tribal Member under this Program, and no legal relationship shall be created between the Tribe and a third party on behalf of an Eligible Tribal Member. Satisfaction of any monetary duty or

TRIBAL MEMBER GENERAL WELFARE ASSISTANCE PROGRAM ORDINANCE

Rincon Tribal Code § 17.500

obligation to a third party shall be owed and remain at all times with the Eligible Tribal Member.

§ 17.505 ELIGIBLE PROGRAM ASSISTANCE

Program assistance is limited to the following types of costs:

(a) Transportation Assistance.

(1) Inside Service Area. Assistance payments may be authorized for the costs of transportation to or from the Rincon Reservation and a Service Area or Service Unit Area; cost of transportation to or from the Beneficiary's Principal Residence and the Rincon Reservation, Service Area or Service Unit Area; costs of transportation to or from the Beneficiary's Principal Residence, Rincon Reservation, Service Area or Service Unit Area and facilities that provide essential services to the public; the costs of local transportation assistance for an elder who does not drive that is not limited to a particular purpose; and, for local transportation to and from a Beneficiary's Principal Residence for purposes of commuting to and from a place of employment, health services and wellness services.

(2) Outside Service Area. This includes all costs, including, but not limited to, car payment, insurance, registration fees, annual taxes, repair, maintenance and gasoline. The total amount shall not exceed, on a monthly basis prorated over a twelve (12) month period, the market rate for daily auto rental rates for a comparable car in the geographic area of Beneficiary's Principal Residence. Automobile acquisition costs shall not be included as assistance.

(b) Non-Covered Medical Assistance. Assistance payments will only be authorized for services and equipment deemed medically necessary by a licensed care provider. Disbursement will be authorized only for licensed care providers, medical equipment providers or medical facilities, with the exception that payment for traditional Indian medicines may be made to a recognized Tribal Elder, official or spiritual leader.

(c) In-Home Services. If due to health issues the Beneficiary is having trouble with any two of the daily living tasks from the following list, the Beneficiary is eligible to receive financial assistance for in-home services from licensed or unlicensed helpers:

TRIBAL MEMBER GENERAL WELFARE ASSISTANCE PROGRAM ORDINANCE

Rincon Tribal Code § 17.500

- Bathing
- Eating
- Getting Places
- Cooking
- Dressing
- Walking
- Light household chores
- Heavy housework
- Organizing business affairs
- Obtaining groceries, household supplies

(d) Cultural, Social, Religious, Community and Educational Activities. Beneficiary expenses for transportation, food, lodging and admission fees associated with the following activities and programs are eligible for assistance payments:

- Attending or participating in educational, cultural, social, religious or community Programs and activities such as pow-wows, ceremonies and traditional dances offered by the Tribe or any other tribe or tribal organization; and
- Visiting sites that are culturally or historically significant to the Tribe.

(e) Delivered Meals. Assistance payments will be authorized for licensed catering or community and tribal service organizations for the costs associated with preparing and delivering meals to the Beneficiary's Primary Residence.

(f) Housing, Repair and Rehabilitation Assistance. Actual costs incurred by the Beneficiary for Housing, basic repairs and rehabilitation of his or her Principal Residence, including labor and materials for the following:

- Essential improvements
- Energy-related improvements
- Lead-based paint hazards
- Improvements for handicapped accessibility
- Replacement of major Housing systems
- Demolition costs, when part of a rehabilitation project
- Site Improvements and Utility Connections

TRIBAL MEMBER GENERAL WELFARE ASSISTANCE PROGRAM ORDINANCE

Rincon Tribal Code § 17.500

- Physical Enhancements for Crime Prevention
- Mold remediation
- Roof repair or replacement
- Removal of building code deficiencies
- Exterior or interior painting
- Sewage or septic systems
- Heating/Cooling systems
- Plumbing
- Flooring
- Other basic Housing repairs as may be allowed by the Tribal Administrator

(g) Utility Assistance. Assistance payments for actual costs incurred by the Beneficiary for utility company charges related to the use of services in his or her Principal Residence. Eligible utility company charges include those for phone services (landline and cellular services), electricity, gas, propane, internet, cable, water, sewer, and waste services, and services and equipment needed in connection with utility access, e.g., computers, software, supplies, and equipment and utility/digital literacy services or programs.

(h) Educational Assistance. Assistance payments are authorized for preschool, early learning, and after-school programs, primary, secondary and post-secondary educational programs, tutoring, and associated expenses such as: room and board, transportation costs, tuition, books, computers, software, supplies and equipment, uniforms and other items reasonably necessary for completion of the course work or participation in the program.

(i) Health and Wellness Assistance. Assistance payments are authorized for Food and Health and Wellness expenses, as defined in Section 17.502.

(j) Food and Nutrition Assistance. Assistance payments are authorized for food and nutrition modeled after the federal supplemental nutritional assistance program (SNAP) guidelines with some exceptions, which include items such as: breads and cereals, fruits and vegetables, meats, fish and poultry, dairy products, service deli, soft drinks, candy, cookies, snack crackers and ice cream, seafood, steak and bakery cakes, non-alcoholic beverages, vitamins and seeds and plants which produce food; ineligible items include: beer, wine, cigarettes or tobacco, liquor, dine-in or carry out meals and non-food items such as pet foods, soaps, paper products or household supplies.

TRIBAL MEMBER GENERAL WELFARE ASSISTANCE PROGRAM ORDINANCE

Rincon Tribal Code § 17.500

(k) Emergency Savings Fund Support. Assistance payments are authorized for an emergency savings fund which will cover up to six (6) months of necessary living expenses in the event of emergencies or other unforeseen circumstances. Assistance payments will be made to a Beneficiary over an extended period of time to build their emergency savings fund to an inflation-adjusted recommended amount based on Bureau of Labor Statistics. This assistance is for accumulation by the Beneficiary in a savings account and is not for immediate use; the Tribal Council is authorized to modify any other emergency relief allowed under this Program to account for the amount of this Emergency Savings Fund benefit received to date by the Beneficiary

(l) Emergency Assistance. Assistance payments are authorized for the following types of emergency and exigent circumstances, provided however, the amount of assistance will take into account and deduct for the amount which the Beneficiary is expected to have available to him or her from their own Emergency Savings Fund:

- (i) Provide assistance to individuals in exigent circumstances (including, but not limited to victims of abuse), including but not limited to the cost of food, clothing, shelter, transportation, auto repair bills, and similar expenses.
- (ii) Pay costs for temporary relocation and shelter for individuals displaced from their homes (including but not limited to situations in which a home is destroyed by a fire or natural disaster); and
- (iii) Provide assistance for transportation emergencies (for example, when stranded away from home) in the form of transportation costs, a hotel room, and meals.

(m) Dependent and Qualified Non-member Care Assistance. Assistance payments are authorized for Dependent and Qualified Non-member care as work-related expenses for children under the age of 13 or Qualified Non-members that are not physically or mentally able to care for himself or herself.

(n) Principal Residence Shelter Costs. With respect to a Beneficiary's "Principal Residence" as defined in Section 17.502, assistance payments are authorized for Shelter Costs, as defined in Section 17.502, capped at thirty percent (30%) of the Beneficiary's annual income.

(o) Health and Wellness Assistance. Assistance payments are authorized for health and wellness expenses, as defined in Section 17.502.

TRIBAL MEMBER GENERAL WELFARE ASSISTANCE PROGRAM ORDINANCE

Rincon Tribal Code § 17.500

(p) Fiscal Integrity Assistance. Assistance payments are authorized for financial counseling and tax preparation of individual (not business) returns and individual (not business) representation for tax delinquency and compliance, including all fees and costs associated with federal, state, local or tribal government returns or compliance.

(q) Assistance for Harms to a Beneficiary from Impacts of Substance Use Disorders. As an initial remedy toward a path to healing, assistance are authorized for the disproportionately high fentanyl- and methamphetamine-related fatalities within the Tribe where many families have lost multiple relatives, with many children burying both parents which has intensified the severity of grief within families. “Preliminary 2023 data from California indicates that age-adjusted fentanyl-linked deaths in Indian communities increased over 60% from 2022 to 57.3 per 100,000, twice as high as the fentanyl mortality rate of whites in the state.” <https://www.brookings.edu/wp-content/uploads/2024/11/FP-20241127-fentanyl-native-communities-kebec.pdf>. These deaths and the on-going incidence of substance use disorders are a public health crisis that weaken Indian families, and by extension, make the entire Tribe vulnerable. The deaths and on-going addiction leave critical gaps in many of the traditional roles and responsibilities (family care, economic support, traditional knowledge transfer) and have significant, adverse cultural impacts through the loss of songs, narratives and well-being that define Luiseño identity and the right of younger generations to know the traditions, values and language that inform Luiseño existence.

(r) Assistance for Present-Day Harms to a Beneficiary from Attendance at an Indian Boarding School. As an initial remedy toward a path to healing, assistance payments are authorized for the harms inflicted by the twin Federal policies of Indian land dispossession and forced assimilation through Indian education by the removal of Indian children from their families into an Indian Boarding School that disrupted family ties and subjected Luiseno children to militarized, identity-altering methods (renaming and cutting hair, mandatory uniforms, changed diets, prohibitions on use of traditional language and practices), overcrowding and malnourishment, and physical, psychological and sexual abuse that contributed the loss of the following: (1) life, (2) physical and mental health, (3) Indian lands and wealth, (4) tribal and family relations and (5) use of traditional languages. https://www.bia.gov/sites/default/files/dup/inline-files/bsi_investigative_report_may_2022_508.pdf; https://www.bia.gov/sites/default/files/media_document/doi_federal_indian_boarding_school_initiative_investigative_report_vii_final_508_compliant.pdf

These harms are a public health issue that extend to present day now-adult Band Member Boarding School attendees and their descendants, including, but not limited to:

TRIBAL MEMBER GENERAL WELFARE ASSISTANCE PROGRAM ORDINANCE

Rincon Tribal Code § 17.500

- (i) adverse childhood experiences, traumatic stress and intergenerational trauma;
- (ii) health disparities, chronic diseases, PTSD, depression and unresolved grief, despair, loneliness and isolation; and
- (iii) intergenerational patterns of cultural and familial disruption due to the systematic dispossession of Indian children and identity-altering methodologies used in the schools.

(s) Long Term Emergency Assistance. During long-term emergencies such as pandemics and war, eligible expenses may be expanded to include those expenses incurred in connection with addressing a Beneficiary's emergency needs, including, but not limited to:

- (i) Job training to address negative economic or public health impacts experienced due to a member's occupation or level of training;
- (ii) Counseling or legal aid to prevent eviction or homelessness;
- (iii) Sanitization and personal protection supplies, such as face coverings and cleaning/sterilization solutions;
- (iv) Food assistance associated with quarantine or sheltering in place; and
- (v) Funeral costs, including those expenses associated with traditional funeral ceremonial practices.

(t) Permitted Claims. Any state or tribal court order of garnishment or other payment demand for purposes of repayment of any monies owned to the Tribe, or for child support obligations, provided that the state or tribal court has jurisdiction over the parties and subject matter.

§ 17.506 DOCUMENTATION

The Tribal Administrator shall verify eligibility for Annual Assistance paid to a Beneficiary and maintain Eligible Cost Documentation to substantiate Annual Assistance limits established each Fiscal Year under this Program.

TRIBAL MEMBER GENERAL WELFARE ASSISTANCE PROGRAM ORDINANCE

Rincon Tribal Code § 17.500

(a) Eligibility Determination. The Tribal Administrator shall confirm the eligibility of each Beneficiary who receives assistance under this Program through enrollment records or other pertinent records of the Tribe.

(b) Annual Assistance Limit. For purposes of periodically testing the propriety of the Annual Assistance provided under this Program, the Tribal Administrator shall conduct due diligence research into the average annual costs which a Beneficiary may expect to incur for the types of eligible assistance costs reflected in Section 17.505 of this Ordinance.

§ 17.507 PROGRAM FUNDS DISBURSEMENT PROCESS

(a) Subject to Section 17.504, a Beneficiary is eligible to receive up to the maximum Annual Assistance each Fiscal Year.

(b) Program assistance will be disbursed to or on behalf of the Beneficiary as follows:

- (i) Annual Assistance Payment.** The Tribal Administrator will disburse the total Annual Assistance amount to each Beneficiary in accordance with the annual budget approved by Tribal Council each Fiscal Year.
- (ii) Form of Payment.** The payment of Annual Assistance shall be in the form of a tribal check or direct deposit payable to the Beneficiary, except in the case of an Incapacitated Member. If paid by tribal check it shall be mailed to the latest known address of the Eligible Tribal Member.

§ 17.508 GENERAL ADMINISTRATIVE PROCEDURES

(a) Record Maintenance. The Tribal Administrator shall maintain the following files:

- (1)** For each Beneficiary, documentation establishing eligibility and all proof of disbursement of Program funds.
- (2)** For each Beneficiary determined to be ineligible, all information and documentation of the decision-making process to disapprove eligibility.

TRIBAL MEMBER GENERAL WELFARE ASSISTANCE PROGRAM ORDINANCE

Rincon Tribal Code § 17.500

- (3) An annual ledger recording each and every payment of Program assistance provided to a Beneficiary during the applicable Fiscal Year. All ledgers shall be retained for a period of no less than seven (7) years.
- (4) For the Program, record of all due diligence research conducted to support the Annual Assistance limit, including but not limited to surveys, empirical data, federal and state records and official proceedings and other research pursuant to Section 17.506.

(b) Audit.

- (1) Beneficiaries may be required to submit documentation to annually recertify eligibility for Annual Assistance under this Program.
- (2) Beneficiaries are required to use Program assistance exclusively for the purposes stated herein. In the event that assistance payments are used or pledged for a purpose inconsistent with the purposes set forth in this Program, the Tribal Administrator shall require the immediate repayment of the assistance payment.

(c) Appeal Procedure. Should the Tribal Administrator disapprove eligibility of any Eligible Tribal Member to the Program, the Eligible Tribal Member may appeal the decision by filing a written notice with the Tribal Council within fourteen (14) working days following the certified mailing of notice of disapproval. The Eligible Tribal Member shall be entitled to be present at a meeting of the Tribal Council and shall have the right to present oral or written communication with regard to the reconsideration. The decision of the Tribal Council shall be considered final.

§ 17.509 MISCELLANEOUS

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 Council, 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 and are hereby expressly reserved, including sovereign immunity from unconsented suit.

TRIBAL MEMBER GENERAL WELFARE ASSISTANCE PROGRAM ORDINANCE

Rincon Tribal Code § 17.500

Nothing in this Ordinance shall be deemed or construed to be a waiver of the Band's sovereign immunity from unconsented suit.

c) Adoption. This Program shall become effective upon its approval by majority vote of the Tribal Council at a duly noticed meeting.

[END OF DOCUMENT]