

**Dry Creek Rancheria
Band of Pomo Indians**

Government Code

(Recodified as previously adopted by the Tribe on 8/98)

TITLE 5. LAND ASSIGNMENT ORDINANCE

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CHAPTER 1.

This Ordinance is for the purpose of providing rules and procedures for the orderly and equitable distribution, administration, and assignment of the lands of the Dry Creek Rancheria.

IT IS HEREBY ORDAINED by the Board of Directors of Dry Creek Rancheria that the following rules and procedures shall apply to the authority, fiscal responsibility, granting, holding, and revoking of assignments of land or interest therein on the Dry Creek Rancheria, eviction procedure(s) other Tribal actions in respect to violations and this Ordinance and the conduct of hearings in respect to Dry Creek Rancheria Tribal Land Assignments.

WHEREAS, Dry Creek Rancheria is located on 75 acres of Tribal domain which is under the Bureau of Land Management, in trust to the Dry Creek Rancheria; and

WHEREAS, the Board of Directors has the authority and responsibility to enact Tribal Ordinances on behalf of Dry Creek Rancheria to ensure fair and equitable rules and procedures for Tribal Land Assignments for Tribal members and their families on the Dry Creek Rancheria; and

WHEREAS, the Dry Creek Rancheria Land Assignment Ordinance will ensure uniform rules and regulations to govern the procedures, the granting of assignments, holding and revoking of assignments, eviction procedure, and other tribal actions in respect to violations and conduct hearings in respect of the Land Assignment(s) of Dry Creek Rancheria.

NOW, THEREFORE BE IT RESOLVED, the Dry Creek Rancheria Board of Directors hereby established this Land Assignment Ordinance on behalf of the Tribal Members of Dry Creek Rancheria, to include the following rules, regulations, and financial obligation in respect to the Land Assignments.

SECTION 1. Definitions

Wherever used in this Ordinance, the following terms shall have the following meanings:

- (A) "Assignee" means to the holder of an assignment
- (B) "Assignment" means a formal right to use Dry Creek Rancheria land subject to the terms of this Ordinance as now set forth or as may be amended.
- (C) "Area Director" means the Director of the Bureau of Indian Affairs in the Sacramento Office acting as the representative of the United States Secretary of the Interior.
- (D) "Board of Directors" means the governmental body authorized by the Tribal Council to administer the Tribal business of the Tribe.
- (E) "Tribal Council" is the general membership of the Tribe with ultimate power to govern the Dry Creek Rancheria Tribe.

SECTION 2. Type of Assignments

Assignments on the Dry Creek Rancheria shall be of four (4) types:

- (A) Assignments of unimproved Tribal Land
- (B) Assignments of land on which a house has been built with federal or state allocations or Tribal assets
- (C) Assignment of land on which houses or improvements have been constructed with private funds, or where the assignee is paying for the improvement with private funds by making monthly payments and is current on those payments.
- (D) Assignments that have been willed or passed to an immediate lineal descendant.

SECTION 3. Eligibility of Assignments

To be eligible for an assignment, the applicant must meet the following requirements:

- (A) Membership in the Dry Creek Rancheria
- (B) Have reached the age of 18 years at the time of assignment
- (C) Members owning or buying a home off Dry Creek Rancheria will not be eligible for an assignment on the Dry Creek Rancheria

(A) Must have proper documents showing results of perk tests, availability of water, proper sanitation conditions, road maintenance and accessibility, land conditions (topography and erosion reports) approved by the majority vote of the Board of Directors of Dry Creek Rancheria.

SECTION 4. Nature of Assignments

(A) An assignment does not vest title to the assigned land in the assignee, but a right of use only, which right cannot be sold and which right terminates upon cancellation, relinquishment of the assignment, or death of the assignee.

(B) Although an assignment is not subject to inheritance, an assignee may designate a member of his or her family to receive the assignment in the event of the death of the assignee, subject to the approval of the Board of Directors. The premises may then be assigned to the designated beneficiary, provided that he/she is otherwise eligible, and makes application for the assignment. If no such designation is made, preference, or reassignment shall be given to the surviving spouse or children of the assignee as applicable provided that they are otherwise eligible to hold the assignment. An ineligible surviving spouse who is responsible for the care of minor children of the deceased assignee may be granted temporary use of the assignment until one of the minor children reaches eighteen (18) years and applies for the assignment.

(C) Houses built or trailer purchased with public funds become the property of Dry Creek Rancheria and shall not be considered as the property of the assignee.

(D) Assignment may be exchanged for other assignments with the prior approval of the Board of Directors and where proper applications have been submitted.

(E) Assignment grants no right to other use, to take, or sell timber or minerals from the property, including but not limited to sand, gravel, oil, or gas.

(F) The Tribe reserves the right to explore for, lease, dispose of, and convey any such timber or minerals, or rights thereto, in accordance with the Articles of Association and Regulation prescribed by the Area Director, Bureau of Indian Affairs. The

assignee shall be entitled to compensation for any damage to improvements or crops caused by such exploration.

(G) The Tribe reserves the right to request and participate in decisions regarding easement rights of way across any assignment for public purposes in accordance with the Articles of Association and Regulations prescribed by the Area Director, Bureau of Indian Affairs. The Tribe reserves the right to ingress or egress over any assignment for access to other Tribal Land.

(H) All assignments may be cancelled if they are not occupied for six (6) months by the assignee or a member of his family as their principal residence, unless the assignee has received prior written approval from the Board of Directors to be absent from the assignment.

(I) Assignments shall not be used for any unlawful purpose, disruption of community environment, disturbance of the peace, or unlawful use of drugs, alcohol, and firearms. The assignee shall maintain the assignment and improvements thereon in a state of good repair at all times and in a neat and sanitary condition.

(J) An assignee may not rent any assignment or make any improvements located thereon, or any part thereof, without the written consent of the Board of Directors.

SECTION 5. Assignment Procedures

(A) An application for an assignment shall be filed with the Board of Directors on forms and maintained on file at the Tribal Office.

(B) The Board of Directors shall review each application to determine if the applicant is eligible and inform the applicant within thirty (30) days of receipt of the application whether it is granted or denied. If the application is denied, the applicant shall receive written notice of the reasons for denial. If approved, by the majority vote of the Board of Directors present at a scheduled meeting, the applicant shall receive a copy of the application stamped approved and signed by the Dry Creek Rancheria Chairperson and the Secretary/Treasurer.

(C) The Board of Directors shall retain copies of the approved assignments on file at the Tribal Office. Assignments shall be marked on a map of the lands of Dry Creek Rancheria.

SECTION 6. Appeals Process and Procedure

Any person filing an application for an assignment which has been denied by the Board of Directors may appeal such denial in the manner hereinafter provided.

(A) To commence an appeal, such person must clearly express an intent to appeal such denial to the Tribal Council in a written instrument which must be received by the Dry

Creek Rancheria Tribal Council before the close of business on the thirtieth (30th) day after the Notice of Denial is received by the person filing the application for a land assignment. No extension of time shall be granted.

(B) Statement of appeal shall be filed by the applicant in every appeal, and shall be accompanied by all supporting documents within thirty (30) calendar days of the Notice of Denial. All supporting documentation must be submitted at the time of Statement of Appeal. No extension of time shall be granted.

(C) When a decision has been appealed, any information available to the Tribal Council may be used in reaching a final decision whether part of the record or not. The Tribal Council shall review all information and supporting documentation shall be filed appropriately with the applicants appeal file and become part of the permanent record.

(D) The decision of the Tribal Council shall be final. The applicant shall be notified within twenty calendar days, of the final decision of the Tribal Council. Notice of Final Determination shall be filed with the Board of Directors and be part of the permanent record at the Tribal Office.

Section 7. Cancellation of Assignments

(A) If the assignee, or his or her guests, invitees, or members of his/her household violate any provisions of the Ordinance, the assignment may be subject to cancellation upon written notice and opportunity to be heard. The Board of Directors shall review all uses of Tribal Lands on a continuing basis to determine if any violations of this Ordinance are occurring.

(B) Whenever possible, time shall be granted to an assignee to correct a violation, relating to the repair or neat and sanitary condition of the assigned area and its improvements.

(C) Where a violation is not corrected, or is of such a nature that correction is not a means of removing the violations, of any person from Tribal Lands, or both. Any alleged violator or member of his or her family may not vote on whether cancellation or removal of any persons from Tribal lands, or both, shall be ordered.

(D) If such a recommendation is made, the Board of Directors shall meet to consider whether there has been a violation, and whether cancellation of the assignment, or removal of any persons from Tribal Lands, or both should be ordered. The alleged violator shall be served written notice by certified mail, of the time and place of the hearing, the nature of all alleged violations stated in reasonable detail, the remedy proposed, and the rights of such alleged violator to appear with a legal representative at such hearing. The hearing shall be no less than (30) days from the date of the written notice. The alleged violator may request a continuance of the hearing for good

cause shown, if such request is made at least ten (10) days before the date scheduled for the hearing.

(E) Following the hearing, the Board of Directors shall make a final decision in writing, stating its reasons therefore, and shall send a copy of such decision to the violator by certified mail. Upon cancellation of an assignment, the assignee shall be allowed at least one-hundred eighty (180) days to remove or dispose of any property regarded as personal property under the provisions of this Ordinance. If a person is ordered to leave Tribal Lands, he or she shall have at least thirty (30) days to do so. Decisions will be rendered within thirty (30) days.

SECTION 8. Severability

If any party of this Ordinance is found to be void and without legal effect, the remainder of the Ordinance shall continue to remain in full force and effect, as though such part had not been contained therein.

SECTION 9. Effective Date

This Ordinance may be amended by a majority vote of a quorum of the Board of Directors present at a duly held meeting of said Board of Directors. Such amendments shall be effective upon approval by the Area Director of the Bureau of Indian Affairs.