



**EVICTON AND REMOVAL OF
PERSONS OR PROPERTY
REGULATIONS**

**Ordinance No. 94-04
Amended June 13, 2007**

RINCON EVICTION AND REMOVAL OF PERSONS OR PROPERTY REGULATIONS

SECTION 30.01 TITLE:

This title is adopted to enact and implement regulations governing evictions. This ordinance shall be known as the "Rincon Eviction and Removal of Persons or Property Regulations."

SECTION 30.2 AUTHORITY:

Pursuant to authority vested in the Rincon Business Committee ("Tribal Council") by the Articles of Association, the Tribal Council hereby enacts and adopts the following ordinance for the establishment of policies and procedures governing eviction and removal of persons and entities, business or otherwise, from the land of the Rincon Band of Luiseno Indians.

SECTION 30.3 PURPOSE AND INTENT

This ordinance is intended to set forth regulations for evicting and removing persons or property from the Rincon Reservation. The purposes of this ordinance are:

1. To protect the order of the Reservation and safeguard the public health, safety, and welfare of all Rincon tribal members and their families.
2. To establish uniform rules for the eviction and removal of persons or property that are occupying Rincon Reservation lands without the consent and acquiescence of the Tribe.

SECTION 30.4 DEFINITIONS

SECTION 30.4.1 "Possession"

"Possession" shall mean ownership, occupation, use, or control of reservation land

SECTION 30.4.2 "Reservation":

"Reservation" shall mean all lands within the exterior boundaries of the Rincon Indian Reservation, including assignment, allotment, and fee lands.

SECTION 30.4.3 "Tribal Court"

"Tribal Court" shall mean the Intertribal Court of Southern California

SECTION 30.4.4 "Tribe":

"Tribe" shall mean the Rincon Band of Luiseno Indians, a federally recognized Indian tribe.

SECTION 30.5. GROUNDNS FOR SANCTIONS UNDER THIS ORDINANCE

Sanctions may be imposed on persons in possession of reservation land for one or more of the following causes:

1. Violating tribal laws and ordinances;
2. Establishing or maintaining an unauthorized housing unit or units, inclusive of mobile homes, trailers, wood frame, any move-on residential structure or substandard rental structure as defined by tribal codes, any public housing authority codes, or applicable federal housing standards.
3. Creating conditions which pose a threat to the public health, safety and welfare
4. Being convicted of one or more felonies in federal or state court
5. Being excluded from the Rincon Reservation

SECTION 30.6 SANCTIONS

Any person found to have violated the provisions of Section 30.5 may be evicted and/or assessed a civil penalty of up to \$5,000. In addition, that person may be assessed damages for trespass and may be required to pay the Tribe's attorneys fees and costs in addition to any other remedies the Tribe may have.

SECTION 30.7 ENFORCEMENT PROCEDURES

1. The Tribe, through its authorized representative shall provide written notice of eviction to the person being evicted from reservation lands. The notice shall be mailed, by return receipt, to the last known address of the person to be evicted or removed, or shall be posted in a conspicuous place upon subject property, or shall be delivered in person. One or more of these delivery methods may be used. The notice given shall be entitled "NOTICE OF EVICTION" and contain:

- a. A specific description of the reason(s) for eviction and evidence to be used to substantiate eviction;
- b. A specified time in which the person is to vacate and remove all property from reservation lands, which shall not be less than thirty (30) calendar days after date of notice delivery; provided however, that in cases of immediate danger to persons or property the Tribe may waive the 30-day notice, demand immediate eviction, and request the Tribal Court to issue a temporary restraining order.
- c. A statement that the person may contest the eviction by requesting a hearing before the Tribal Court in accordance with the rules of that court.

- d. A statement that any property remaining on the reservation land after the date specified in the eviction notice shall, at owner's and/or landlord's expense, be removed, stored, and if not claimed within thirty (30) days, will be forfeited.

2.If a person who has received notice does not vacate within the time specified in the Notice of Eviction, the Tribal Council shall file with the Tribal Court a complaint requesting a temporary restraining order, injunction or eviction order. The complaint may also request attorney's fees, a fine and/or damages.

3.Notice of the action in Tribal Court will be served upon the alleged violator as provided in the Tribal Court Code of Civil Procedure and Rules.

4. The Tribal Court shall hold a hearing and issue a judgment under its rules.

SECTION 30.8 FORFEITURE

If personal property is obtained by the Tribe through the eviction process, the Tribe shall have the right to store, at owner's and/or landlord's expense, said property, on or off the reservation. If the stored property is unclaimed at the end of thirty (30) days of the date of storage, it shall be deemed abandoned and the Tribe may retain it for its own use, may sell it, or dispose of it. Any stored property costs shall be at the property owner's and/or landlord's expense. Non-movable property may be dismantled and destroyed at the owner's and/or landlord's expense.

SECTION 30.9 SEVERABILITY

If any provisions or clauses of this Ordinance or the application thereof to any person or circumstance is held to be unconstitutional or otherwise invalid, such invalidity shall not affect the validity of the remaining provisions of the Ordinance.

SECTION 30.10 EFFECTIVE DATE

This Ordinance shall take effect when adopted by a majority vote of the Tribal Council, and shall rescind, supersede and replace in its entirety any previously adopted tribal ordinance governing this subject matter.

SECTION 30.11 WAIVER OF SOVEREIGN IMMUNITY

Nothing in this Ordinance is intended to, nor should it be construed as, a waiver of the protections of sovereign immunity, including those of suit in any court.


[certification pages follow]

EVICTIION POLICIES AND PROCEDURES

INTRODUCED, PASSED AND ADOPTED by the Business Committee of the Rincon San Luiseño Band of Mission Indians at its regular meeting held on the 22nd day of June, 1994 by the following call vote:

Ayes: 3	Council Members: Robert Calac, Patricia Duro, Gilbert Parada
Noes: 0	Council Members: N/A
Abstain/Absent: 2	Council Members: Ruth Calac, Richard Garcia

ATTEST:



Merna Sass, Acting Recording Secretary

Date: June 22, 1994

**CERTIFICATION OF ORDINANCE 94-04 AMENDMENTS
JUNE 13, 2007**

Adopted by the Business Committee of the Rincon Band of Luiseño Indians at a regular meeting held on the 13th of June, 2007, by a vote of 4 ayes, 0 noes, 1 absent and 0 abstaining.

This Ordinance shall take effect when adopted by a majority vote of the Tribal Council, and shall rescind, supersede and replace in its entirety any previously adopted tribal ordinance governing this subject matter.


Vernon Wright, Chairman


Bo Mazzetti, Vice Chairman


Stephanie Spencer, Council Member


Gilbert Parada, Council Member


Charlie Kolb, Council Member

THE RINCON BAND OF LUISENO INDIANS

**NOTICE OF EVICTION
AND REMOVAL OF PROPERTY**

TO: _____
ADDRESS: _____

DESCRIPTION OF LAND: _____

YOU ARE REQUIRED TO VACATE THE LAND DESCRIBED ABOVE ON OR BEFORE

The reason for this action includes, but is not necessarily limited to the following: _____

You are further required to remove all your personal property and possessions from the land by the above date and yield up the land in a good condition free of trash and debris.

Forfeiture of Property: Any property remaining on the land after the above date may be removed, stored, or disposed of at your expense. Any non-movable property may be dismantled and destroyed. If stored property is not claimed within thirty days of the date of storage, it will be deemed abandoned and shall become the property of the Rincon Band of Luiseno Indians. All associated costs shall be the responsibility of the property owner and/or landlord, not the Rincon Band.

If you wish to contest your eviction, you may request a hearing before the Intertribal Court of Southern California. You may contact the Court at (760) 739-1470.

Authorized Governmental Representative

Date



Rincon Indian Reservation

P. O. BOX 68 • VALLEY CENTER • CALIFORNIA 92082 • (819) 749-1051

ORDINANCE NO. 94-04

AN ORDINANCE OF THE BUSINESS COMMITTEE OF THE RINCON SAN LUISEÑO BAND OF MISSION INDIANS ENACTING EVICTION POLICIES AND PROCEDURES FOR REMOVAL OF PERSONS OR PROPERTY ON RINCON RESERVATION.

SECTION 30.01 TITLE:

This title is adopted to enact and implement regulations governing evictions. This ordinance shall be known as the "Rincon Eviction and Removal of Persons or Property Regulations."

SECTION 30.2 AUTHORITY:

Pursuant to authority vested in the Rincon Business Committee by the Articles of Association, the Rincon Business Committee hereby enacts and adopts the following ordinance for the establishment of policies and procedures governing eviction and removal of persons and entities, business or otherwise, from the lands of the Rincon San Luiseño Band of Mission Indians.

SECTION 30.3 PURPOSE AND INTENT:

This ordinance is intended to set forth regulations and process for evicting and removing persons or property from Rincon Reservation. The purposes of this ordinance are:

- 1) To protect the order of the Reservation, and safeguard the public health, safety and welfare of all Rincon tribal members and their families.
- 2) To establish uniform rules for the eviction and removal of persons or property occupying Rincon Reservation lands without the consent and acquiescence of the Rincon Tribe.

SECTION 30.4 DEFINITIONS:

SECTION 30.4.1 "Tribe":

"Tribe" shall mean The Rincon San Luiseño Band of Mission Indians, a Federally recognized tribe.

SECTION 30.4.2 "Business Committee":

"Business Committee" shall mean the elected governing officials of The Rincon San Luiseño Band of Mission Indians.

SECTION 30.4.3 "Reservation":

"Reservation" shall mean all lands, including assignment, allotment, tribally owned fee simple, within the boundaries of the Rincon Indian Reservation.

SECTION 30.4.4 "Eviction Appeals Board/Eviction Officer":

"Rincon Eviction Appeals Board" shall be the Business Committee empowered to conduct eviction and removal appeal hearings, and make a final determination regarding each appeal pending. The Eviction Appeals Board shall be assisted by an Eviction Officer, who is responsible for making the initial determination that eviction is warranted based upon Section 30.5.3, and issuing a Notice of Eviction. The Eviction Officer may be appointed by the Business Committee.

SECTION 30.5 NOTICE OF EVICTION:

SECTION 30.5.1 Method of Notice:

The Eviction Officer shall provide written Notice to the person being evicted from reservation lands. The Notice shall be mailed, by return receipt, to the last known address of the person to be evicted or removed, or shall be posted in a conspicuous place upon subject property, or shall be delivered in person. One or more of these delivery methods of notice may be used. The Eviction Officer shall sign and provide a duplicate copy of Notice to Eviction Appeals Board attesting to method of delivery, date, time and other applicable circumstances. Said duplicate copy shall be given on the next working day following delivery.

SECTION 30.5.2 Contents of Notice:

The notice given shall be entitled "NOTICE OF EVICTION", and contain:

1. a specific description of the reason(s) for eviction and evidence to be used to substantiate eviction;
2. a specified time in which the person is to vacate and remove all property from Rincon Reservation Lands, which shall be not less than thirty (30) calendar days after date of Notice delivery;
3. a statement that the person may contest the eviction by requesting, in writing within ten (10) days after delivery of the Notice, an appeal hearing before the Rincon Eviction Appeals Board;
4. a statement that any property remaining on the premises after the date specified in the eviction notice will be removed, stored, at owner expense, and if not claimed within thirty (30) days, will be forfeited.

SECTION 30.5.3 Cause for Eviction Notice:

Notices of eviction and removal may be issued for one or more of the following causes.

- a. Violating tribal laws and ordinances;
- b. Establishing or maintaining an unauthorized housing unit, inclusive of mobile homes, trailers, wood frame, any move-on residential structure or a substandard residential structure as defined by tribal housing codes, any other public housing authority codes, or applicable federal housing standards.

- c. Creating conditions which pose a threat to the public health, safety and welfare;
- d. Being convicted of one or more felony crimes in violation of federal or state laws;
- e. Being declared a public nuisance or being banned from Rincon Reservation.
- f. Creating a breach of peace, including but not limited to: public drunkenness of two (2) or more such incidents.

SECTION 30.6 EVICTION APPEALS BOARD:

SECTION 30.6.1 Establishment:

The Rincon Business Committee shall sit as the Eviction Appeals Board.

SECTION 30.6.2 Quorum:

A quorum of the Board shall be three members.

SECTION 30.6.3 Powers and Duties:

The function of the Board shall be to conduct appeal hearings for eviction and removal appeals of persons who have received a written notice from the Rincon Band. The Board shall have the power to:

- 1. Conduct an appeal hearing within ten (10) calendar days after receipt of a written request,
- 2. Rescind the eviction notice,
- 3. Extend the time in which the person must vacate the reservation, or
- 4. Uphold the eviction notice and action and order the date(s) for enforcement of Board ruling in each case.

The Board must render its decision within three business days after the hearing date and shall provide a written decision at the end of that period.

SECTION 30.6.4 Hearing Procedures:

The Eviction Appeals Board hearing shall be conducted in accordance with the following requirements:

- a. The Eviction Officer may present evidence in the form of, but not limited to: photos, videos, written documents and witness testimony to substantiate that grounds for eviction exist;

- b. The person appealing the Eviction Notice shall have an opportunity to make a brief statement to the Appeals Board, question witnesses, and to present witnesses and documents on their own behalf to show that the reasons for eviction do not exist;
- c. Any Eviction Appeals Board may, in making its final determination, rely only on information presented at the appeals hearing.
- d. Legal rules of evidence shall not be used in these proceedings, and the Eviction Appeals Board shall have greatest latitude and discretion to allow any evidence helpful to its final decision.
- e. The Eviction Appeals Board may disregard any evidence or testimony which it determines to be unreliable, untruthful or unsubstantiated materials or information.

SECTION 30.6.5 Time Limitation:

Request for Hearing - The person being evicted or ordered to remove property may appeal a Notice of Eviction and Removal of Person(s) or Property to the Eviction Appeals Board by requesting a hearing date, in writing, from the Eviction Appeals Board. Such written requests must be made within ten (10) days of the date the notice of eviction was delivered. Written requests received at the Tribal Offices, after ten (10) days shall be rejected, and no appeal hearing is required by this Ordinance. Such written appeal requests must state why hearing is necessary and why eviction should not be ordered.

SECTION 30.6.6 Forfeiture:

If real or personal property is obtained by Tribe through eviction process, the Tribe shall have the right to store, at owner expense, said properties, on or off the reservation. If the stored property is unclaimed at the end of thirty (30) days of the date of storage, it shall be deemed abandoned and the Tribe may, at its option, sell the property or retain it for its own use. Any related stored property costs shall also be at property owner expense.

SECTION 30.6.7 Authorization to File Suit:

After the procedures outlined in this ordinance are followed, the Rincon Business Committee is authorized to file a court action or proceed with any legal remedies available to effect the eviction and removal of persons or property affected by a tribal eviction notice.

SECTION 30.6.8 Amendment and Rescission:

This ordinance may be amended no more than once a year. Amendments, as allowed, herein, shall be approved by a majority vote of the Rincon Business Committee. Public notice of intent to amend, modify or rescind this ordinance shall be given a minimum of fifteen (15) calendar days prior to Rincon Business Committee Meeting and voting on said amendment, modification and/or rescission of this ordinance.

SECTION 30.6.9 Severability

If any provision or clause of this ordinance or the application thereof to any person or circumstance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect the implemented ordinance without the invalid provision, clause or application, and to this end the provision and clauses of this ordinance are declared to be severable.

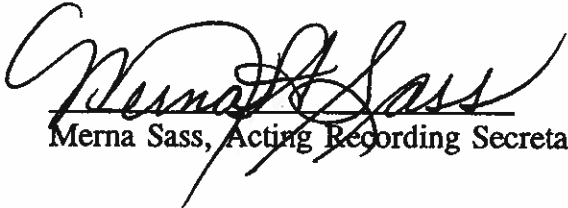
SECTION 30.6.10 Effective Date

This ordinance shall take effect when adopted by a majority vote of the Business Committee and shall rescind, supersede and replace in its entirety any previously adopted Tribal Ordinance governing eviction policies and procedures.

INTRODUCED, PASSED AND ADOPTED by the Business Committee of the Rincon San Luiseño Band of Mission Indians at its regular meeting held on the 22nd day of June, 1994 by the following call vote:

Ayes:	3	Council Members: Robert Calac, Patricia Duro, Gilbert Parada
Noes:	0	Council Members: N/A
Abstain/Absent:	2	Council Members: Ruth Calac, Richard Garcia

ATTEST:


Merna Sass, Acting Recording Secretary

Date: June 22, 1994

THE RINCON, SAN LUISEÑO BAND OF MISSION INDIANS

**NOTICE OF EVICTION
AND REMOVAL OF PERSON(S) AND/OR PROPERTY**

TO: _____

ADDRESS: _____

NOTICE: This is to provide notice that permission to occupy and use _____
_____ is terminated.

YOU ARE REQUIRED TO VACATE THE PROPERTY BY _____, 19____.

The reason for this action includes, but is not necessarily limited to, the following: _____

You are further required to remove all property and possessions from the premises by the above date, and yield up the property in good condition free of trash and debris.

Forfeiture of Property: Any property remaining on the premises after the above date will be removed and stored at your expense. Any non-removable property may be dismantled and destroyed. If stored property is not claimed within thirty days of the date of storage, it will be deemed abandoned and shall become the property of the Rincon, San Luiseño Band of Mission Indians. All associated storage costs shall be the responsibility of property owner, not the Rincon Band.

If you wish to contest your eviction, you may request a hearing before the Rincon Eviction Appeals Board. However, such request must be made in writing WITHIN TEN (10) DAYS of this notice.

Date of Notice: _____

EVICTOR OFFICER, Rincon, San Luiseño Band

THE RINCON SAN LUISEÑO BAND OF MISSION INDIANS

NOTICE OF EVICTION AND REMOVAL OF PERSON(S) AND/OR PROPERTY

TO: _____

ADDRESS: _____

NOTICE: This is to provide notice that permission to occupy and

use _____

_____ is terminated.

YOU ARE REQUIRED TO VACATE THE PROPERTY BY _____, 19____.

The reason for this action includes, but is not necessarily limited to, the following: _____

You are further required to remove all property and possessions from the premises by the above date, and yield up the property in a good condition free of trash and debris.

Forfeiture of Property: Any property remaining on the premises after the above date will be removed and stored at your expense. Any non-movable property may be dismantled and destroyed. If stored property is not claimed within thirty days of the date of storage, it will be deemed abandoned and shall become the property of The Rincon San Luiseño Band of Mission Indians. All associated storage costs shall be the responsibility of property owner, not Rincon Band.

If you wish to contest your eviction, you may request a hearing before The Rincon Eviction Appeals Board. However, such request must be made in writing WITHIN TEN (10) DAYS of this notice.

Date of Notice: _____

EVICTION OFFICER Rincon San Luiseño Band