

LAND CODE
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LAND CODE

ARTICLE 7

LEASING AND ASSIGNMENT OF TRIBAL LANDS

[NOTE: Except as otherwise noted, the provisions of Article 7 of the Land Code were enacted on March 2, 1956, were amended August 4, 1962 by Resolution No. R-30-62, and were confirmed and re-enacted on October 1, 1975 by Ordinance No. 27. The provisions of Ordinance No. 27 were renumbered and codified to the Land Code on January 11, 1992 by Section 2 of Ordinance No. 92-2.]

Section 7-101. Allotted Lands.

a. Allotted lands, including heirship lands, within the Colorado River Reservation, shall continue to be held as heretofore by their present owners.

b. It is recognized that under existing law such allotted lands, including heirship lands, may be condemned for public purposes; such as roads, public buildings or other public improvements, upon payment of adequate compensation, by any agency of the State of Arizona, or California, or of the Federal Government, or by the Tribes themselves.

c. It is further recognized that under existing law, such lands (allotted lands, including heirship lands) may be inherited by the heirs of the present owner, whether or not they are members of the Tribes.

d. Likewise, it is recognized that under existing law, the Secretary of the Interior may, in his discretion, remove restrictions upon such land (allotted lands, including heirship lands) upon application by the Indian owner, whereupon the land will become subject to state taxes, and may then be mortgaged or sold.

Section 7-102. Tribal Lands.

a. Tribal lands for the purpose of tribal administration are hereby defined as follows: the unallotted, unassigned and unreserved lands of the reservation. All assigned lands, both standard and exchanged assignments, shall be considered henceforth as individually controlled, and all agricultural and livestock income derived from the use thereof, whether it be through the farming efforts of the individual assignee or through leasing, shall be considered

the personal property of the assignee and not of the Tribes. Such assignees shall have the right without tribal assent to lease their assignments subject to the applicable rules and regulations applying to restricted lands as contained in Part 162 of Title 25 of the Code of Federal Regulations.

b. Tribal lands may be assigned to members of the Colorado River Indian Tribes, or leased, or otherwise used by the Tribes as hereinafter provided.

[As Amended January 11, 1992, Ord. No. 92-2, § 3.]

Section 7-103. Leasing of Tribal Lands.

a. Tribal lands may be leased by the Council, with the approval of the Secretary of the Interior, for such periods of time as are permitted by law and regulations.

b. In the leasing of tribal lands, preference shall be given first, to Indian cooperative associations, and second, to individual Indians who are members of the Tribes.

c. The preference right to lease shall not be allowed to foster monopolistic tendencies to the exclusion of individual efforts or advancement, but care must be taken by the Tribal Council that cooperative enterprises do not absorb an undue share of available land and thus prevent expansion of individual enterprise.

d. No lease of tribal lands to a non-member should be made by the Tribal Council unless it shall appear that no Indian cooperative association or individual member of the Tribes is able and willing to use the land and to pay the Operation and Maintenance charges and a rental to the Tribes to be determined by the Tribal Council.

e. Any member of the Colorado River Indian Tribes, who is making proper and beneficial use of his allotted and/or assigned land, and who wishes to enlarge his farming or stockraising activities, may be determined upon in accord with rules and regulations herein prescribed.

(1) That the applicant is properly farming his allotted or assigned land, either by his own efforts or under his direction and responsibility.

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(2) That the applicant can show that no other than himself or members of his immediate family will benefit from the use of the land to be leased.

(3) That the applicant has the necessary equipment for operating the land or can arrange for same without pledging the income from his assigned or allotted land to such an extent that his family living would be jeopardized.

f. Application of individual Indian for lease: A written application shall be made to the Tribal Council, in which shall appear a statement showing the use being made of any allotted or assigned land belonging to or being occupied by the applicant, together with a statement showing the applicant's plans for the use of the land he desires to rent. The location and quantity of land desired must all be set forth.

g. Application for lease by Indian cooperative or association: A written application shall be made to the Tribal Council, in which shall appear: (1) A statement showing the nature and extent of the enterprise for which the land is desired; (2) A statement showing the location and quantity of allotted and assigned land being used by each member of the cooperative or association, and how it is being used; (3) A statement showing how the enterprise is to be financed, whether by the Indian members of the cooperative themselves, or by outside (non-Indian) financing agencies, or by future Tribal revolving loan funds.

Section 7-104. Grant of Standard Assignment.

a. In any assignment of Tribal lands which are now owned by the Tribes or which hereafter may be acquired for the Tribes by the United States or purchased by the Tribes out of Tribal funds, preference shall be given to heads of families.

b. No allotted member of the Colorado River Indian Tribes, who may hereafter have the restrictions on his land removed, and whose land may thereafter be alienated, shall be entitled to receive an assignment of land.

c. For the work involved in the making of a standard assignment, the Council shall require a payment of Five Dollars (\$5.00) upon delivery of the assignment certificate, the said Five Dollars (\$5.00) to be deposited by the Treasurer of the Council, to the credit of the Tribal Council of the Colorado River Indian Tribes.

d. Assignments made under this section (Section 7-104) shall be known as "Standard Assignments."

e. Upon the death of any Indian holding a standard assignment, his heirs, or other individuals designated by him by will or by written request, shall have a preference in the reassignment of the land, provided such persons are members of the Colorado River Indian Tribes, who would be eligible to receive a standard assignment.

f. Where no will or written request has been made by the holder of a standard assignment, designating the person he desires to have his land reassigned to, his heirs, as determined by proper probate procedure, shall choose one of their number to exercise the preference right set forth in the Constitution and the Council shall reassign the standard assignment of the deceased member to the heir so chosen, provided such action does not give that person control of more land than his ability to farm warrants.

g. When the deceased holder of a standard assignment has willed his assignment to a person who is under the age of twenty-one (21) at the time for the testator's death and where the Council has made reassignment to an underage person, the land may be farmed or leased by the parent or guardian appointed by the Tribal Court until such time as the child comes of age or marries; provided, that if it be leased, the lease shall have the approval of the Superintendent and that the rentals shall be paid to the parent or guardian for expenditure for the benefit of the minor child.

h. When an heir by will, or by selection, as provided for herein, dies before reaching the age of majority or marriage, the standard assignment inherited from the father or other relative shall be cancelled, and shall then be subject to reassignment.

Section 7-105. Leasing of Exchange Assignments.

Exchange assignments may be used by the assignee or leased by him to Indian cooperative associations, to individual members of the Tribes, or if no individual Indian or Indian cooperative association is able and willing to rent the land at a reasonable fee, such assignments may be leased to non-Indians, in the same manner as allotted lands.

Section 7-106. Inheritance of Exchange Assignments.

Upon the death of the holder of any exchange assignment, such land shall be reassigned by the Council to his heirs or devisees, subject to the following conditions:

a. Such lands may not be reassigned to any heirs or devisees who are not members of the Tribes, except that a life assignment may be made to the surviving widower or widow of the holder of an assignment.

b. Such lands may not be subdivided among heirs or devisees into units less than ten (10) acres and no area of agricultural land shall be subdivided into units smaller than 20 acres, except that land used for buildings or other improvements may be divided to suit the convenience of the parties. Where it is impossible to divide the land properly among the eligible heirs or devisees, the Council shall issue to such heirs or devisees, interest in Tribal land or property of the same value as the assignment of the decedent.

Section 7-107. Inheritance of Improvements.

Improvements of any character made upon assigned land may be bequeathed to and inherited by members of the Tribes or otherwise disposed of under such regulations as the Council shall provide. No permanent improvements shall be removed from the land without the consent of the Council.

a. The following classes of improvements shall be considered the personal property of the person or persons erecting or constructing the same upon assigned land, unless otherwise stipulated in writing in the formal assignment of the land:

(1) Dwelling houses.

(2) Outbuildings of all kinds; such as barns, tool and implement sheds, corrals, chicken houses, toilets;, etc.

(3) Fences of all kinds except those fences which form the outboundaries of the assignment.

(4) Pumping machinery, provided it is such that it can be removed without destruction or material damage to the well or other water source;

provided, that the well itself shall not be considered personal property and that it shall be left in good condition, it shall be considered a part of the realty.

b. The owner of personal of the kind designated as "Improvements" in Section 7-107(a) may dispose of it by sale, gift, or will; or it may pass to his heirs upon his death, if he leaves no will.

c. When personal property of the kind referred to in Section 7-107(a) and (b), is inherited by either will or by natural inheritance, or is purchased by a person or persons who cannot make use of it on the land where it is located, the party so inheriting, or purchasing the property, may dispose of it in one or more of the following ways:

(1) By sale to a person who can use it where it is located.

(2) By removing it at his own expense.

(3) By sale to a person who will remove it.

(4) By sale to the Tribes on such terms as may be agreed upon; provided, that any property that is to be removed from the land shall be removed within a period of ninety (90) days from the date on which the land itself shall have passed into other ownership; and provided, further, that the land from which the improvements are removed, shall be left in the same good condition as before the improvements were placed upon it. Foundations may be left by agreement with the new assignee or the Tribes.

Section 7-108. Exchange of Assignments.

Assignments may be exchanged between members of the Colorado River Indian Tribes by common consent in such manner as the Council shall designate.

If two members of the Tribes desire to exchange assigned lands, they shall join in a written application for such exchange. In this application, the reasons for desiring the exchange shall be set forth in full, and it shall made to appear that the requested exchange is for the mutual benefit of both parties, and that such exchange is not against the interests of the Tribes as a whole, the Council shall approve the request and take such steps as may be necessary to effectuate such exchange.

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Section 7-109. Purchase of Land by Tribes.

a. Tribal funds may be used, with the consent of the Secretary of the Interior to acquire land, under the following conditions:

(1) Restricted land, which is in heirship status at the time of adoption and approval of the Constitution, may be purchased by or for the Tribes, with the consent of all the adult heirs, and the legal guardians of minor heirs, payment therefor to be made as may be agreed upon.

(2) Land owned by any member of the Tribes who desire to leave the Reservation permanently, may be purchased by the Tribes under such terms as may be agreed upon.

Section 7-110. Method of Making Assignments.

Application for assignments shall be filed with the Secretary of the Council and shall be in writing, setting forth the name of the person or persons applying for the land, and as accurate a description of the land desired as the circumstances will permit. Notices of applications received by the Secretary shall be posted by him in the agency office and in at least three other conspicuous places on the Reservation not less than twenty (20) days before action is taken by the Council. Any member of the Tribe wishing to oppose the granting of an assignments shall do so in writing, setting forth his objections, to be filed with the Secretary of the Council, and may if he so desires, appear before the Council and present evidence. The Secretary of the Council shall furnish the superintendent or other officers in charge of the agency, a complete record of all action taken by the Council on applications for assignments of land, and a complete record of assignments shall be kept in the agency office and shall be open for inspection by members of the Tribes.

a. Assignments of irrigable land shall be made in units of eighty (80) acres to a family; it being understood that a family shall comprise all persons occupying a single habitation, or living in a single domestic group and who are dependent upon some person, who may be said to be the head of the family; provided, that a child over twenty-one (21) years of age and of sound mind and body, shall not be considered a dependent of the family.

b. Application for a family assignment of land shall be made by the head of the family, and the assignment, when made, shall be to such person as the head of a family.

c. A single person, male, over the age of twenty-one (21), living with the family of which he is a member shall be entitled to apply for an assignment of eighty (80) acres of irrigable land; provided, that he or the responsible head of the family, can and will make proper use of the assigned land for the benefit of the family shall be considered his equitable contribution to the support of the family under whose roof he lives.

d. When a man marries, he becomes eligible for an assignment of eighty (80) acres of tribal land as the head of a family; provided, that he has not already received an assignment as a single man, over the age of twenty-one (21), as provided for in Paragraph (c) of this Section.

e. If a member of the Tribes marries a person who is not a member of the Tribes, the member of the Tribes shall be considered as a head of a family, and shall be entitled to make application for an assignment of land as such; provided, that if such member dies without living children after having received an assignment of land, the land so assigned shall revert to the Tribes; and provided further, that the surviving spouse shall have the right to apply to the Tribal Council for a lease on the assignment, paying the Operation and Maintenance charges and a rental to the Tribes to be determined by the Tribal Council, and shall be required to meet the terms of the lease in every respect the same as any other lessee.

f. If a member of the Tribes marries a person who is not a member of the Tribes, the member of the Tribes shall be considered as a head of a family and shall be entitled to make application for an assignment of land as such; provided, that upon the death of such member head of a family, the surviving spouse, if there be living children of the marriage, shall be considered as the head of the family and shall be held responsible for the support of such family during the minority of the children; and provided also, that in case of the death of the surviving spouse while any of the children have not reached the age of twenty-one (21), the land assignment shall be administered for the benefit of the minor children by a guardian, duly appointed by the Tribal Court.

In approving this Land Code, it shall not in any manner be construed to limit the area of the Reservation or the boundaries thereof.