

**TITLE 2 – GOVERNMENT ADMINISTRATION
PART II – DEPARTMENTS’ DIVISIONS
CHAPTER 2-14 – LAND OFFICE**

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**TITLE 2 – GOVERNMENT ADMINISTRATION
PART II – DEPARTMENTS; DIVISIONS
CHAPTER 2-14 – LAND OFFICE**

Legislative History: Established on December 14, 1999 by Resolution No. C12-113-99.

On May 14, 2008, the existing Title 2, Part II, Chapter 2-14 was repealed by Resolution No. C05-98-08 and Ordinance No.21-08 enacting new Title 2, Part II, Chapter 2-14.

SUBCHAPTER A LAND OFFICE

Section 10 Purpose (2 PYTC § 2-14-10)

To establish the Tribe’s Land Department to provide support services regarding issues dealing with land owned or managed by the Tribe, both on and off it’s Reservation, in order to promote efficiency, manageability, and responsiveness in assisting the executive branch in managing land under the control of the Tribe.

Section 20 Short Title; Codification (PYTC § 2-14-20)

- (A) This ordinance shall be known as the “Land Department Establishment Ordinance of 2008.
- (B) This ordinance shall be codified in Title 2, Part II, Chapter 2-14, and shall replace the previous Title 2, Part II, Chapter 2-14 in its entirety.

Section 30 Establishment (2 PYTC § 2-14-30)

The Pascua Yaqui Land Department is hereby established as a Department in the Executive Branch of the Pascua Yaqui Government.

Section 40 Purpose of the Land Department (2 PYTC § 2-14-40)

The Land Department is responsible to manage and regulate all the Tribe’s lands, whether held in trust by the United States or owned by the Tribe in fee, to assist the Tribe in the evaluating new land for acquisition by the Tribe, and to assist in acquisitions approved by the Tribe.

Section 50 Mission (2 PYTC § 2-14-50)

The mission of the Land Department is to efficiently manage and regulate the Tribe’s lands in a localized central office and maintain a cohesive plan and records system for the use of management and preservation of the Pascua Yaqui Tribe’s lands.

Section 60 Organization (2 PYTC § 2-14-60)

- (A) The position of Director of the Land Department is hereby created. The Land Department shall consist of a “Director of the Land Department” and such departments and office necessary for the execution of its mission, performance of its mandated functions, and to achieve its annual goals and objectives.
- (B) The Director may establish, abolish or reorganize the positions or organizational units within the Department, subject to budget appropriations, if in the Director’s judgment

such changed in the organization would make the operation of the Department more efficient, effective or economical.

- (C) The Director shall be appointed by the Tribal Council, and shall serve at the pleasure of the Tribal Council.
- (D) The Department shall employ staff professionals, support personnel, and/or contract with professional service firms as the Director determines, consistent with the laws of the Tribe and approved budgetary authority.
- (E) The Department shall maintain a current organizational chart. The organizational chart shall accompany its annual budget submission and any budget modifications during the fiscal year in accordance with the Tribe's Fiscal Management Ordinance.

Section 70 Land Department Director; Creation and Appointment (2 PYTC § 2-14-70)

- (A) The position of Director of the Land Department is hereby created. The Land Department shall consist of a "Director of the Land Department" and such departments and office necessary for the execution of its mission, performance of its mandated functions, and to achieve its annual goals and objectives.
- (B) The Director shall not be deemed to be a "tribal officer" as defined in Article VII of the Constitution of the Pascua Yaqui Tribe.
- (C) The Director shall be nominated and approved by the Tribal Council by majority vote of the entire Council. Approval by the Tribal Council will constitute appointment to the position of Director.
- (D) The Director will be a full-time employee of the Tribe and will be paid compensation commensurate with his or her skills, education, experience, and responsibilities within the standards of compensation, if any, established by the Tribe.
- (E) The Director must report to, and will be directly supervised by, the Chairperson.
- (F) The Director serves at the pleasure of the Tribal Council, and may only be removed from that position by a majority vote of the entire Tribal Council.

Section 80 Duties of Land Department Director (2 PYTC § 2-14-80)

- (A) The Department shall be administered under the supervision and direction of the Director.
- (B) The Director will advise the Chairman and the Tribal Council with respect to:
 - (1) Management of the Reservation's land.
 - (2) Establishment of policies and procedures for Reservation land uses;
 - (3) Potential acquisition of new land by the Tribe;
 - (4) Appropriate uses of the Reservation's land;
 - (5) Federal or State Legislative or legal developments that may affect the Tribe's land holdings;

- (6) Possible policies or programs to assist Tribal members in retaining or programs to assist Tribal members in retaining land in areas that are of Cultural interest to the Tribe; and
 - (7) Other land related matters as assigned by the Chairman.
- (C) Provide assistance to the Chairman and Tribal Council as requested.
 - (D) Employ and prescribe the duties and powers of administrative, professional, technical, secretarial, clerical and other persons as may be necessary in the performance of the Department's duties and contract for the services of outside advisors, consultants and aides as may be reasonably necessary to carry out the laws, regulations, policies, and programs adopted by Tribal Council.
 - (E) Assure that the personnel policies and procedures are accurately and fairly applied in all matters as it pertains to personnel management and administration.
 - (F) Delegate any functions, powers, or authorities to department employees.
 - (G) Develop and implement internal policies for the efficient and effective administration of the Department.
 - (H) Formulate policies, plans and programs to effectuate the missions and purposes of the Department.
 - (I) Assist the Tribe's divisions, departments, offices, enterprises, boards, committees or commissions in the furthermore of the Department's purposes, objectives and programs.
 - (J) Advise and make recommendations to the Chairman and Tribal Council on all matters concerning the Department's purpose, objectives and programs.

Section 90 Authorized Programs (2 PYTC § 2-14-90)

- (A) The Department will have the following authorized programs, and such other programs as the Tribal Council or the Chairman.
 - (1) Mortgage Assistance Program;
 - (2) Operation of Tribal Recorder's Office per the Land Code;
 - (3) Administration of the Land Code per its provisions, including, without limitation:
 - (a) Initiating eminent domain actions on behalf of the Tribe in accordance with 8 PYTC§ 4-1-80.
 - (b) Issuing land assignments in accordance with 8 PYTC § 4-1-160 (D);
 - (c) Confirming existing land assignments in accordance with 8 PYTC § 4-1-160 (D);
 - (d) Making findings of abandonment in accordance with 8 PYTC § 4-1-260;
 - (e) Approving encumbrances of assignments in accordance with 8 PYTC § 4-1-420;

- (f) Terminating assignments for the purpose of granting the assignment holder a leasehold interest in the same parcel so that the assignment holder may obtain a private mortgage pursuant to 8 PYTC § 4-1-200; and
 - (g) Performing all other duties as subsequently directed by the Tribal Council or the Chairman.
- (B) If a program is authorized by the Tribal Council, it may terminate such programs at any time, and such termination shall act as an amendment to this Chapter if the program is specifically delineated in this Chapter.
- (C) If a program is authorized by the Chairman, it may be terminated, in whole or in part, by either the Chairman or the Tribal Council.

Section 100 Program Evaluation and Monitoring (2 PYTC § 2-14-100)

- (A) The Director must conduct ongoing evaluation of all programs under his or her control.
- (B) The Director must monitor all programs under his or her control on a regular basis.
- (1) In the event the Director discovers any irregularity in a program under his or her control, he or she must report that irregularity immediately to the Chairman and the Tribal Council.

Section 110 Reporting (2 PYTC § 2-14-110)

- (A) The Director will provide reports and meet with the Chairman and Tribal Council on the Office's operations and significant activities on a regular.
- (B) On a monthly basis, the Department shall report to the Chairman and the Tribal Council on:
- (1) Current fiscal year budget, including month and year to date results and budget revisions;
 - (2) Employment, recruitment, and training;
 - (3) Grants obtained and contracts let, including number, dollar, and purpose;
 - (4) Major projects, activities, and significant issues for each department within the Department.
 - (5) Major internal and external audit findings, with action plans to address negative findings.
- (C) On at least a quarterly basis, the Office shall provide the reports required by subsection (B) to Tribal Council.

SUBCHAPTER B LAND COMMITTEE

Section 120 Establishment (2 PYTC § 2-14-120)

This subchapter establishes the Land Committee. The Committee shall be responsible for the investigation and provision of recommendations for the resolution of disputes regarding the Tribe's land arising under the Land Code.

Section 130 Composition, Appointment (2 PYTC § 2-14-130)

The Land Committee shall consist of seven members, including a Chair and six members. Each member of the Committee (including the Chair) shall be nominated by the Chairman and confirmed by Tribal Council resolution.

Section 140 Nomination of Members of Land Committee (2 PYTC § 2-14-140)

Within 30 days after the enactment of the land Code, the Chairman shall notify the Tribal Council in writing of the names of the persons that the Chairman is nominating as members of the Land Committee.

Section 150 Qualifications of Membership of the Land Committee (2 PYTC § 2-14-150)

The Chair and each member of the Land Committee must be enrolled members, at least 21 years of age, and shall not have been convicted (in any court) of a felony, or of any crime involving deceit, fraud, or misappropriation of funds. At least four committee members must reside on the Reservation. No committee member may concurrently hold a seat on the Tribal Council, nor shall a nominee for the Committee be a current Council member.

Section 160 Term of Office; Resignation (2 PYTC § 2-14-160)

The term of office for each of the members of the Land Committee, including the Chair, shall be four years, provided that a member of the Committee shall remain in office until his or her successor is appointed. Committee members may be re-appointed to consecutive terms. Removal of a Committee member without cause may be accomplished by the Chairman, or by a resolution of the Tribal Council adopted by a majority of the entire Council.

Section 170 Compensation (2 PYTC § 2-14-170)

The rate of compensation for each Committee member, if any, shall be set by Tribal Council Resolution.

Section 180 Right to Petition (2 PYTC § 2-14-180)

- (A) All actions taken by the Land Office pursuant to the Land Code that are designated in the Land Code as disputable or reviewable shall be reviewable by the Land Committee by filing a petition, in accordance with the procedures set forth in Section 220 herein. Thereafter, actions of the Land Committee may be appealed to the Tribal Court.
- (1) The name of the land assignment applicant or landholder whose right or interest is being challenged by the petition;
 - (2) The land assignment number or legal description of the parcel or the address of the parcel that is subject of the petition;

- (3) A statement of the petitioner's alleged interest and/or reasons for objection to the issuance, termination or confirmation of the land assignment;
 - (4) The name, address, and telephone number of the petitioner; and
 - (5) Any documents or affidavits in support of the petitioner's position
- (B) The Committee shall review the petition for sufficiency with the requirements of subsection (A) as its next regularly scheduled meeting after receipt of the petition

Section 190 Procedure for Review of Actions Taken by Land Office (2 PYTC § 2-14-190)

The following procedures shall be followed:

- (A) A person may file a Petition to Show Cause with the Director of the Land Office regarding any matter reviewable under the Land Code including, without limitation, the ownership of a Parcel, whether a land assignment should be issued, confirmed, or terminated, or what the nature and extent of any easement, right of way, boundary line or abandonment of a land assignment. The petition must include the following information:
- (1) The name of the land assignment applicant or landholder whose right or interest is being challenged by the petition;
 - (2) The land assignment number or legal description of the parcel or the address of the parcel that is subject of the petition;
 - (3) A statement of the petitioner's alleged interest and/or reasons for objection to the issuance, termination or confirmation of the land assignment;
 - (4) The name, address, and telephone number of the petitioner; and
 - (5) Any documents or affidavits in support of the petitioner's position.
- (B) The Committee shall review the petition for sufficiency with the requirements of subsection (A) at its next regularly scheduled meeting after receipt of the petition.
- (1) If the petition meets the requirements of subsection (A), it shall set the matter for a hearing.
 - (2) If the petition does not meet the requirements of subsection (A) it shall be returned to the petitioner with instructions on what the deficiency was, and what the petitioner may do to cure the petition deficiencies and re-file the petition.
- (C) The Committee shall set a hearing within thirty days after it determines that a petition is sufficient under Subsection (A). The hearing shall be conducted in the following manner:
- (1) Any committee member with an interest in the outcome of the petition, or who is related to a party in the proceeding to the same degree as required for disqualification under Section 11 of the Bylaws of the Tribal Council, shall be disqualified from any discussions or vote on the matter.
 - (2) The Petitioner shall present any additional relevant and material evidence including witnesses (all witnesses shall testify under oath and only one witness

may testify at a time) to demonstrate why the Director's determination was not supported by a preponderance of the evidence.

- (3) The Responding Party may respond and rebut evidence presented by the petitioner or the petitioner's witnesses with relevant and material evidence including witnesses giving evidence demonstrating that the Director's determination should be upheld.
 - (4) The Committee shall record the proceedings.
 - (5) The Committee shall, within ten calendar days of the hearing, make determinations in accordance with the Land Code, issue its decision to the Director, and make a report to the Tribal Council on the matter. If the Committee fails to do so, the decision of the Director shall be deemed upheld, and no longer reviewable by the Committee, as of the eleventh calendar day after the hearing, unless such final day falls on a Saturday, Sunday, or Tribal Holiday, in which case the committee shall have until the close of the first business day thereafter to issue its decision.
- (D) If the Committee issues a decision that revises, or changes, the determination of the Director, the Director shall then take the action determined by the Committee in its decision by issuing a formal written notice of decision within seven calendar days of receipt of the Committee's decision, unless such final day falls on a Saturday, Sunday, or Tribal Holiday, in which case the Director shall have until the close of the first business day thereafter to issue his or her formal written notice of decision. Said notice shall be sent to all affected parties by certified mail, return receipt requested, or by private mail service with proof of receipt requested.
- (E) If the Committee issues a decision that sustains the determination of the Director, or the period within which the Committee is required to issue its decision expires, the Director shall issue a formal written notice sustaining his or her prior action within seven calendar days of receipt of the Committee's decision or expiration of its allotted time period to issue a decision, unless such final day falls on a Saturday, Sunday, or Tribal Holiday, in which case the Director shall have until the close of the first business day thereafter to issue his or her formal written notice of decision. Said notice shall be sent to all affected parties by certified mail, return receipt requested, or by private mail service with proof of receipt requested.
- (F) Except as set forth in Section (C)(5) above, the time frames set forth in this Section shall be directory, and not mandatory. The time set forth in Section (C)(5) above is mandatory.

Section 200 Appeal of the Committee's Decision (2 PYTC §2-14-200)

- (A) An aggrieved party shall have 30 days from the date of issuance of a timely properly mailed notice of decision from the Director to appeal the Committee's final decision to the Tribal Court.
- (B) If the Director fails to send the notice required by either Section 190 (D) or (E) of this Chapter in a timely and properly mailed manner, the aggrieved party shall have until 30 days after the notice required by either Section 180 (D) or (E) of this Chapter is properly mailed within which to appeal."

DISPOSITION TABLE

| Former Section | New Section |
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| | Subchapter A |
| REPEALED | Section 1 |
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