

TITLE 19 – LAND

CHAPTER 7 – EXCLUDING NONMEMBERS FROM THE TOHONO O’ODHAM NATION AND ESTABLISHING EXCEPTIONS

Legislative History: Ordinance No. 03-82, “Excluding Non-Members from the Papago Reservation and Establishing Exceptions,” was enacted by the Papago Tribal Council on March 10, 1982 and approved by the Papago Agency Acting Superintendent on March 15, 1982; amended by Resolution No. 26-196 (approving conforming amendments), effective June 26, 2026.

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CHAPTER 7 – EXCLUDING NONMEMBERS FROM THE TOHONO O’ODHAM NATION AND ESTABLISHING EXCEPTIONS

ORDINANCE OF THE TOHONO O’ODHAM LEGISLATIVE COUNCIL (Excluding Nonmembers from the Tohono O’odham Nation and Establishing Exceptions)

ORD. NO. 03-82

FINDINGS: The Tohono O’odham Legislative Council finds that

- (1) the Supreme Court has adjudged that organized Indian tribes do not have criminal jurisdiction over non-Indians, but do have the power to exclude nonmembers from tribal lands; and
- (2) a tribal government’s lack of criminal jurisdiction over non-Indians effectively renders it unable to regulate or control the conduct of non-Indians and to assure the peace and welfare of its members; and
- (3) to preserve the peace, happiness and welfare of the members of the Tohono O’odham Nation it is necessary to limit access to the Tohono O’odham Nation by nonmembers of the Tohono O’odham Nation.

NOW, THEREFORE, BE IT ORDAINED that all persons who are not members of the Tohono O’odham Nation and who are not, by the provisions of this Ordinance, authorized to enter, traverse or be within the exterior boundaries of the Tohono O’odham Nation, are excluded from all or any part of the lands within the exterior boundaries of the Tohono O’odham Nation.

BE IT FURTHER ORDAINED that the following persons who are not members of the Tohono O’odham Nation are authorized to enter, traverse or be within the exterior boundaries of the Nation:

1. Persons within the legal, public right-of-way of any state or federal highway or road, unless their presence is for purposes contrary to federal law or a Nation law or resolution.
2. Employees, agents, officers or invitees of the Nation and of its enterprises and subsidiary organizations.
3. Employees, agents, officers, or invitees of the District Councils and of their subsidiary organizations.
4. Private and business invitees of the Nation’s members residing on the Nation.

5. Owners of fee patent lands and of patented and unpatented mining claims located within the exterior boundaries of the Nation, and their employees, agents, officers, or invitees may traverse the Nation in order to enter the owners' lands.
6. Members of any church or missionary organizations occupying or using buildings and grounds located on the Nation for religious or educational purposes, and their employees or agents.
7. Persons or organizations, and their employees, agents, officers, invitees, or contractors working or engaged in business on the Nation pursuant to a valid license, permit, lease, right-of-way, or other authorization issued by the Nation in accordance with its Constitution and laws.
8. Persons, other than federal agencies, employees, agents, or contractors, who have registered with a District Office and who have obtained a special license or permission to enter upon, traverse, or camp within the District, upon the payment of such fees and in compliance with such conditions as the District Council may from time to time by resolution direct.

BE IT FURTHER ORDAINED that any person who is not a member of the Nation and not herein specifically authorized to enter, traverse or be within the exterior boundaries of the Nation, who is found to be present within the Nation's exterior boundaries, is guilty of trespass against the people and lands of the Nation and shall be subject to forcible removal therefrom, and may, upon the judgment or order of the Tohono O'odham Judicial Court or other court, be subject to civil damages or criminal penalties and be excluded from further entry to the Nation; provided, that any criminal penalties shall be imposed only by a court of competent jurisdiction.