



**UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF INDIAN AFFAIRS**


**APPROVAL OF**

**THE ABSENTEE SHAWNEE TRIBE OF OKLAHOMA  
BUSINESS SITE LEASING ORDINANCE**

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The attached Business Site Leasing Ordinance, submitted by the Absentee Shawnee Tribe of Oklahoma (listed in the Federal Register, 80 FR 1943 (Jan. 14, 2015), as the Absentee-Shawnee Tribe of Indians of Oklahoma) and prepared in accordance with the Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012, consisting of 15 pages and adopted by the Absentee Shawnee Tribe of Oklahoma on January 21, 2015, is hereby approved.

Dated: JUN 03 2015

  
Assistant Secretary – Indian Affairs  
United States Department of the Interior

Pursuant to the authority delegated by 209 DM 8

**Absentee Shawnee Tribe of Oklahoma**  
**BUSINESS SITE LEASING ORDINANCE**

**CHAPTER ONE**  
**INTRODUCTION**

**SECTION:**

**1.1 Authority and Delegation.** This Ordinance is enacted by the Executive Committee pursuant to the powers vested to it under Article V of the Constitution of the Absentee Shawnee Tribe of Indians of Oklahoma, ratified June 4, 1977, as may be amended from time to time ("Constitution").

**1.2 Scope.** The scope of application of this Ordinance shall be limited to all Business Site Leases approved pursuant to this Ordinance, and to all actions and decisions taken in connection with those leases. Nothing herein shall be construed to affect the terms and conditions of existing leases.

**1.3 Purpose.** The purposes of this Ordinance are to:

- (a) Recognize the authority of the Absentee Shawnee Tribe of Oklahoma ("Tribe") to issue, review, approve, and enforce Business Site Leases and establish streamlined procedures for environmental review; and
- (b) Promote self-determination, encourage economic self-sufficiency, and increase business activity and employment on lands of the Absentee Shawnee Tribe of Oklahoma; and
- (c) Implement the Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012, H.R. 205, 112th Cong. (2012).

**1.4 Short Title.** This Ordinance shall be known and cited as the "Business Site Leasing Ordinance."

**CHAPTER TWO**  
**DEFINITIONS**

**SECTION:**

**2.1 Definitions.** As used in this Ordinance, the capitalized terms set forth below shall have the following meanings:

- a) "Assignment" means an agreement between a Lessee and an assignee whereby the assignee acquires all or some of the Lessee's rights and assumes all or some the Lessee's obligations under a Business Site Lease.
- b) "Best Interest of the Tribe" means the balancing of interests in order to attain the highest economic income, provide incentives to increase economic development, preserve and enhance the value of Tribal Trust Land, increase employment and jobs on the Tribal Trust Land, and preserve the sovereignty of the Tribe as determined by, and in the sole discretion of, the Executive Committee.
- c) "BIA" means the Bureau of Indian Affairs, United States Department of the Interior.
- d) "Business Site Lease(s)" means any "Lease" for a business purpose issued upon Tribal Trust Land under the authority of 25 U.S.C. §415.
- e) "Change in Land Use" means the change from one use to another that significantly differs from the former use.
- f) "Development Period" means the time period from when a lease is executed to when improvements are expected to be substantially completed.
- g) "Environmental Review Process" means the process for conducting tribal environmental review to assess whether a proposed development or project as defined under applicable Tribal law or regulations will have a positive or negative environmental impact.
- h) "Environmental Reviewer" means an official from the Tribe's Department of Environmental Programs or as otherwise designated by the Executive Committee.
- i) "Executive Committee" means the duly elected governing body of the Tribe pursuant to the Constitution, and as such is vested with the authority to perform the duties and responsibilities of the Lessor, and to approve or disapprove leasing transactions, which include but are not limited to: lease issuance, bond, lease amendment, subleasing, lease assignment, leases and lease terminations. The Executive Committee has the statutory authority to give final approval for all Business Site Leases and has authority to delegate some or all of its statutory authority to tribal agencies on behalf of the Tribe.
- j) "Executing Official" means the Governor of the Tribe (or such other official) properly delegated the responsibility by the Executive Committee, to execute all Business Site Leases of the Tribe and take all necessary and proper action on leases and subleases including amendments, assignments and cancellations of leases and subleases.
- k) "Fair Market Lease" means the amount of rental income that a leased tract of Indian land would most probably command in an open and competitive market, or as determined by competitive bidding.
- l) "Holdover" means circumstances in which a lessee remains in possession of the leased premises after the lease term expires.
- m) "Lease" means a written agreement or contract between the Lessor and a Lessee whereby the Lessee is granted a right to possess Tribal Trust Land for a specified purpose and duration. The Lessee's right to possess will limit the Lessor's right to possess the leased premises only to the extent provided in the Lease.
- n) "Leasehold Mortgage" means a mortgage, deed of trust, or other instrument in which a Lessee pledges the Lessee's leasehold interest as security for a debt or other obligation owed by the Lessee to a lender or other mortgagee.
- o) "Leasing Decision" in the context of the Environmental Review Process means the following type of lease transactions that will be acted on by the Executive Committee: lease issuance, lease amendment, subleasing, and lease assignment.

- p) "Lessee" means a person or entity who has acquired a legal right to possess Tribal Trust Land by a lease pursuant to this Ordinance.
- q) "Lessor" means the Tribe whose rights are exercised by the Executive Committee (or such other tribal agency properly delegated the responsibility by the Executive Committee).
- r) "LTRO" means the Land Titles and Records Office of the BIA (or of the Tribe if that administrative function has been contracted by the Tribe).
- s) "Project" means any economic development activity occurring on Indian lands.
- t) "Public" means: (1) tribal members; and (2) business entities and institutions located contiguous to the Tribal Trust Land which have definable business or economic interests that reasonably may be affected by the Leasing Decision.
- u) "Significant Effect on the Environment" means a substantial, or potentially substantial, adverse change in the environment, including land, air, water, minerals, flora, fauna, ambient noise, cultural areas and objects of historic, cultural or aesthetic significance.
- v) "Space Lease" means a lease of space within existing facilities on tribal land that is not already leased.
- w) "Sublease" means a written agreement by which the Lessee grants to an individual or entity a right to possession no greater than that held by the Lessee under a Business Site Lease.
- x) "Tribe" means the Absentee-Shawnee Tribe of Indians of Oklahoma.
- y) "Tribal Trust Land" means any tract of land, or interest therein, in which the surface estate is owned by the Tribe and held in trust or restricted status by the United States for the benefit of the Tribe, or a federally chartered tribal corporation.

### **CHAPTER THREE BUSINESS SITE LEASE REQUIREMENTS**

#### **SECTION:**

**3.1 Terms and Conditions.** Leases shall be governed by the terms and conditions set forth in the Business Site Lease subject to the provisions of this Ordinance. The standard terms and conditions may be modified only with the approval of the Executive Committee. The Lessee is responsible for understanding these terms and conditions within the Lease.

**3.2 Duration and Renewal.** Unless otherwise stated in the Lease, no lease shall be approved more than 12 months prior to the commencement of the term of the Business Site Lease. The term shall not be more than 25 years except that any such lease may include an option to renew for up to two additional terms, each of which may not exceed 25 years. The Executive Committee will not make an approval determination regarding a lease renewal, unless the Lessee notifies the Executive Committee of the intent to renew, no later than one year before such lease is due to expire.

**3.3 Obtaining a Business Site Lease.** Information on obtaining a Business Site Lease shall be available from the Executive Committee of the Tribe.

- (a) All applicants for a Business Site Lease shall submit the following documents to the Executive Committee:



- (i) financial statement;
  - (ii) site survey and legal description, as required under Section 3.5;
  - (iii) tribal environmental review as required pursuant to Chapter Seven; and
  - (iv) other documents as may be required by the Executive Committee and pursuant to the Executive Committee's Business Site Leasing procedures.
- (b) All Business Site Leases shall contain, at a minimum, the following provisions:
- (i) The tract, location, or parcel of the land being leased;
  - (ii) The purpose of the lease and authorized uses of the leased premises;
  - (iii) The parties to the lease;
  - (iv) The term of the lease;
  - (v) The effective date of the lease;
  - (vi) The ownership of permanent improvements and identification of the responsible party for constructing, owning, operating, maintaining, and removing any improvements to the leased premises;
  - (vii) Indemnification of United States and Lessor;
  - (viii) Payment requirements, including provisions regarding, late payments, penalties, and interest;
  - (ix) The dates on which all payments are due.
  - (x) Language specifying that the Lessee shall make payments directly to the Executive Committee.
  - (xi) Unless otherwise provided in the lease, payments may not be made or accepted more than one year in advance of the due date.
  - (xii) Due diligence, insurance and bonding requirements as provided in this Section.
  - (xiii) If the leased premises are within an Indian irrigation project or drainage district, lease must state the following: "If the leased premises are within an Indian irrigation project or drainage district, except as provided by 25 CFR 171, the lessee must pay all operation and maintenance charges that accrue during the lease term. The lessee must pay these amounts to the appropriate office in charge of the irrigation project or drainage district."
- (c) The Executive Committee shall ensure that all Leases, Subleases, Assignments, amendments, and renewal notices related to a Lease, Leaschold Mortgages, and

Terminations shall be provided to the BIA as required by 25 U.S.C. § 415(h)(6)(A) and for purposes of recording with the LTRO. Additionally proof of lease payment made directly to the Tribe shall be provided pursuant to 25 U.S.C. § 415(h)(6)(B).

- (d) The Executive Committee is responsible for maintaining all records of all Business Site Leases and for disseminating recorded lease documents to the Executive Committee Secretary, the Tribe's Department of Environmental Programs, and any other tribal department as deemed necessary by the Executive Committee.
- (e) Records of activities taken pursuant to this Ordinance are the property of the Tribe. Records compiled, developed, or received by the Secretary are the property of the United States.
- (f) Unless the Business Site Lease states otherwise, a Lease may include, consistent with tribal law, a provision to give Tribal preference in hiring for employment purposes.

**3.4 Space Leases.** Space leases shall be reviewed and approved pursuant to this Ordinance.

**3.5 Land Descriptions.** Business Site Leases shall contain adequate site surveys and legal descriptions based on metes and bounds, rectangular or lot and block systems. Space leases shall contain adequate descriptions of the Tribal Tract, location and square footage of the space being leased and may include renderings, architectural drawings or other schematics to illustrate the location of the space.

**3.6 Appraisal; Local Studies.**

- (a) The Fair Annual Lease Value shall be determined by an appraisal or equivalent procedure performed by the Executive Committee utilizing the following data: improvement cost, replacement cost, earning capacity, sales and lease data of comparable sites or by similar methodology as approved by the Executive Committee and deemed to be in the best interest of the Tribe. An appraisal log reporting the methods of appraisal and value of trust land shall be attached to every Business Site Lease.
- (b) Alternatively, the fair annual lease value shall be determined by an appraisal performed by a licensed appraiser utilizing the Uniform Standards of Professional Appraisal Practice or commonly accepted method of appraisal. An appraisal log describing the method of appraisal and value of trust and shall be attached to every Business Site Lease.

**3.7 Fair Market Lease.**

- (a) No lease shall be approved for less than the present Fair Market Lease value as set forth in the appraisal, except as follows:

- (i) The lease is in the Development Period;
  - (ii) The Executive Committee is providing an incentive for business to locate on Tribal Trust Lands, and must provide lease concessions, lease improvement credits, and lease abatements to attract such businesses; or
  - (iii) The Executive Committee determines such action is in the Best Interest of the Tribe.
- (b) A lease may be structured at a flat lease rate.
  - (c) A lease may be structured at a flat lease rate plus a percentage of gross receipts.
  - (d) A lease may be structured based on a percentage of gross receipts, or based on a market indicator.
  - (d) The lease may provide for periodic review for lease rate adjustments and such review may give consideration to the economic conditions, exclusive of improvement or development required by the contract or the contribution value of such improvements.
  - (e) Leases may be structured to allow for lease rate adjustments. The lease shall specify how adjustments will be made, who will make such adjustments, when adjustments will go into effect, and how disputes shall be resolved.
  - (f) The Executive Committee shall keep written records of the basis used in determining the fair annual lease value, as well as the basis for adjustments. These records shall be presented to the Lessee for its review and acceptance or non-acceptance and included in any lease file.

**3.8 Environmental Review Process.** Unless exempted pursuant to Section 7.2(a)-(b), the Executive Committee shall not approve a Business Site Lease until the proposed business site Lessee has completed the Environmental Review Process under Chapter Seven of this Ordinance. Leases approved and executed without complying with this section shall be null and void.

**3.9 Insurance.**

- (a) A Lessee shall provide insurance necessary to protect the interests of the Lessor and in amounts sufficient to protect all insurable improvements on the premises.
- (b) The insurance may include, but is not limited to, property, liability or casualty insurance or other insurance as specified in the Business Site Lease.
- (c) The Lessor and the United States must be identified as additional insured parties.
- (d) The Executive Committee may waive this requirement if the waiver is in the best interest of the Lessor. The waiver may be revoked at any time if the waiver ceases to be in the Lessor's best interest.

**3.10 Performance Bond.**

- (a) Unless waived in writing by the Executive Committee in accordance with this Ordinance, the lessee shall obtain a satisfactory performance bond in an amount sufficient to secure the contractual obligations of the lease. Such bond shall be for the purpose of securing the Lessee's contractual obligations under the Business Site Lease and may guarantee:
  - (i) The annual lease payment;
  - (ii) The estimated development cost of improvements; and
  - (iii) Any additional amount necessary to ensure compliance with the lease.
- (b) The Executive Committee may waive the bond requirement, or reduce the amount, if doing so is in the Best Interest of the Tribe. The Executive Committee shall maintain written records of waivers and reductions.
- (c) The performance bond may be in one of the following forms:
  - (1) certificates of deposit issued by a federally insured financial institution authorized to do business in the United States;
  - (2) irrevocable letters of credit issued by a federally insured financial institution authorized to do business in the United States;
  - (3) negotiable Treasury securities; or
  - (4) surety bond issued by a company approved by the U.S. Department of the Treasury.

**3.11 Improvements.** All Business Site Leases shall require the Lessee to exercise due diligence and best efforts to complete construction of any improvements within the schedule specified in the Business Site Lease.

- (a) Lessee, at Lessee's expense or as otherwise provided in the Business Site Lease, may construct improvements under a Business Site Lease if the lease specifies, or provides for the development of:
  - (i) a plan that describes the type and location of any improvements to be built by the Lessee; and
  - (ii) a general schedule for construction of the improvements.
- (b) Lessee shall provide the Executive Committee written justification as to the nature of any delay, the anticipated date of construction of the improvements, and evidence of progress toward commencement of construction.
- (c) When requested by the Executive Committee or otherwise required in the Business Site Lease, Lessee shall further provide the Executive Committee, in writing, an updated schedule for construction.

- (d) Failure of the Lessee to comply with these requirements will be deemed a violation of the Business site Lease and may lead to cancellation of the Business Site lease pursuant to Chapter 5 of this Ordinance.
- (e) Improvements to the premises shall become the property of the Tribe unless otherwise provided for in the Business Site Lease. If improvements will be removed, the Business Site Lease shall specify the maximum time allowed for such removal.
- (f) A Lessee may develop equity value in the improvements, and sell its interest in the Business Site Lease based on the equity value. The Executive Committee, on behalf of the Tribe, has a right of first refusal to purchase the interest.
- (g) The Business Site Lease may provide that at expiration of the Business Site Lease, the Lessor may purchase improvements to the premises at fair market value.
- (h) If the Business Site Lease provides that at expiration of the Business Site Lease any reclamation, restoration, remediation is required due to the nature of the improvements a plan for such action shall be included that sets forth the obligations of the Lessor and the Lessee.
- (i) Unless allowed by applicable federal law, no fee, tax, assessment, levy or charge imposed by a State or political subdivision shall apply to permanent improvements, activities under Business Site Leases, or the leasehold or possessory interest on Tribal Trust Land. The Tribe may impose its own taxes or other charges on the same.

### **3.12 Subleases, Assignments, Amendments and Leasehold Mortgage.**

- (a) Subleases, assignments, amendments or leasehold mortgages of any Business Site Lease shall be by written consent of the Executive Committee and Lessee, unless otherwise provided herein.
- (b) The Business Site Leases may authorize subleases and assignments, in whole or in part, without approval from the Executive Committee and execution from the Executing Official, provided a copy of the sublease or assignment is provided to the Executive Committee and the following conditions, where applicable, are met and stated in the Business Site Lease:
  - (i) There is no event of default under the Business Site Lease or violation of this Ordinance;
  - (ii) Any restrictions and use limitations on the use of the premises shall continue to apply to any sublessee or assignee;
  - (iii) The proposed assignee or sublessee submits a current financial statement showing financial adequacy; and

- (iv) The Lessee shall not be relieved or released from any of its obligations under the Business Site Lease.

This Section 3.12(b) in no way relieves the parties from carrying out their duties under the Business Site Lease, which may contain additional restrictions and conditions.

- (c) The lease may authorize a Leasehold Mortgage for the purpose of financing to develop and improve the premises subject to approval by the Executive Committee and execution from the Executing Official.
- (d) If a sale or foreclosure of the Lessee's business or assets occurs and the mortgagee is also the purchaser, the mortgagee may assign the lease without approval of the Executive Committee or Lessee, provided the assignee agrees in writing to be bound by all the terms and conditions of the lease. If the purchaser is a party other than the mortgagee, approval by the Executive Committee and execution from the Executing Official is required, provided the purchaser agrees in writing to be bound by all terms and conditions of the lease.

**3.12 Applicable Law.** The Lease shall state that it is governed by applicable Tribal and Federal law. The parties to the Lease may further provide for the application of any other body of law, such as the laws of a specified state and the order of application. The Lease shall further mandate compliance with all applicable laws, ordinances, rules and regulations.

**3.13 Lease Approval and Issuance.** The Executive Committee has the authority to give final approval for all Business Site Leases and may to delegate some or all of its authority to tribal agencies on behalf of the Tribe.

- (a) Unless otherwise provided herein pursuant to Section 3.12, a Lease that meets the requirements of this Ordinance shall be submitted to the Executive Committee or other entity designated by the Executive Committee for consideration and final determination of whether the Lease shall be approved or not. After review, if an approval is given the Executing Official shall be authorized to sign the Lease on behalf of the Tribe.
- (b) Notice of Decision. The Executing Official or other person designated by the Executive Committee shall provide written notice of all final Executive Committee decisions to the prospective Lessee, by personal delivery, facsimile transmission, e-mail or United States First Class mail to the mailing address as set forth in the Lease documents. Failure to give or receive such notice shall not affect the validity of any determination, recommendation or action.

## **CHAPTER FOUR BUSINESS LEASE MANAGEMENT**

### **4.1 Management.**



- (a) Except where required otherwise by agreement or applicable law, the Executive Committee shall manage all Business Site Leases pursuant to this Ordinance.
- (b) The Executive Committee shall institute a business site leasing management plan or policy that employs real estate management practices, addresses accounting, collections, monitoring, enforcement, relief and remedies.

**4.2 Administrative Fees.** The Executive Committee may charge administrative fees for costs associated with issuing a lease, sublease, assignment, amendment, mortgage or other administrative transaction.

## **CHAPTER FIVE ENFORCEMENT**

### **SECTION:**

**5.1 Generally.** The Executive Committee shall have all powers necessary and proper to enforce the lease terms, laws, ordinances, regulations, rules, policies, and covenants, consistent with their business site leasing management plans. This includes the power to enter the premises at a reasonable time, with or without notice, assess late payment interest and penalties, and assess late payments.

### **5.2 Defaults.**

- (a) If the Executive Committee determines the Lessee is in default, the Executive Committee shall send the Lessee a notice of default within a reasonable time of the determination. The notice of default may be provided by certified mail, return receipt requested.
- (b) Within 10 business days of receipt of the mailing, the Lessee shall:
  - (i) Cure the default and notify the Executive Committee in writing that the default has been cured.
  - (ii) Dispute the Executive Committee's determination that the lease is in default and explain why the lease should not be canceled; or
  - (iii) Request additional time to cure the default.

### **5.3 Remedies.**

- (a) If the Lessee fails to cure the default within the prescribed period, the Executive Committee may:
  - (i) Cancel the lease pursuant to the lease or this Ordinance;
  - (ii) Grant an extension of time to cure the default;
  - (iii) Pursue other negotiated remedies, including execution on bonds or collection of insurance proceeds;

- (iv) Any combination of remedies listed above; or
  - (v) Any other remedy set forth in the business site lease management plan or policy.
- (b) If the Executive Committee cancels a Business Site Lease, the Executive Committee shall send the Lessee a cancellation letter within a reasonable time period. The cancellation letter may be sent to the Lessee by certified mail, return receipt requested. The cancellation letter shall:
  - (i) Explain the grounds for cancellation;
  - (ii) Notify the Lessee of unpaid amounts, interest charges or late payment penalties due under the lease;
  - (iii) Notify the Lessee of its right to appeal; and
  - (iv) Order the Lessee to vacate the premises within 30 business days of receipt of mailing of the cancellation letter, if an appeal is not filed by that time.
- (c) A cancellation shall become immediately effective 31 business days after receipt of mailing of the order to vacate. The filing of an appeal shall not change the effective date of the cancellation. If the Lessee submits a request in writing to the Executive Committee and the request is received within 7 business days of the mailing date of the order to vacate, the Executive Committee in its discretion may grant the Lessee permission to occupy the premises beyond the cancellation effective date during the pendency of an appeal. If permission is granted, the Lessee shall be required to make lease payments during the pendency of the appeal. Pending the outcome of an appeal, the Lessee shall comply with the terms of the lease.
- (d) If the Executive Committee decides to grant an extension of time to cure a default, the Lessee shall proceed diligently to perform and complete the corrective actions within a reasonable time period.

**5.4 Penalties.** The lease shall specify the rate of interest to be charged if the Lessee fails to make payments in a timely manner. The lease shall identify additional late payment penalties. Unless the lease provides otherwise, interest charges and late payment penalties are not subject to notice and shall apply automatically and the failure to pay such amount shall be treated as a breach of the lease.

**5.5 Harmful or Threatening Activities.** If a Lessee or other party causes or threatens to cause immediate and significant harm to the premises, or undertakes criminal activity thereon, the Executive Committee may take appropriate emergency action.

**5.6 Holdover.** If a Lessee remains in possession after the expiration or cancellation of a lease, the Executive Committee shall treat such occupation as a trespass. The Executive Committee shall take action to recover possession and pursue additional remedies. Filing shall

be pursuant to Tribal laws, or alternatively, the Executive Committee may make a written request sent by certified mail to the BIA for resolution under any applicable federal laws.

**5.7 Trespass.** If a person occupies the premises without the Executive Committee's approval, the Executive Committee may pursue appropriate remedies, including the filing of a trespass action to regain possession under tribal law.

## **CHAPTER SIX APPEALS**

### **SECTION:**

**6.1 Appeals.** The Lessee or interested party may appeal final determination of the Executive Committee made pursuant to this Ordinance, within ten (10) business days of the determination. Appeals may be filed with the Executive Committee or other hearing body or official as set forth in the business site lease management plan or policy. Such appeals shall be effectuated by: a written notice setting forth the basis for the appeal, a short statement indicating the nature and circumstances of the appeal, and a short statement indicating the remedy being sought.

**6.2 Scope of Review.** The Executive Committee or other hearing body or official as set forth in the business site lease management plan or policy shall review whether the determination was arbitrary, capricious, or an abuse of discretion; not supported by substantial evidence in the record; or otherwise, not in accordance with the law. The decision of the Executive Committee or other hearing body or official on the appeal shall be final.

## **CHAPTER SEVEN ENVIRONMENTAL REVIEW PROCESS**

### **SECTION:**

**7.1 Generally.** Unless exempt under this Chapter, the Executive Committee shall not approve a Business Site Lease until the proposed Business Site Lease has completed the Environmental Review Process pursuant to this Chapter and applicable Tribal regulations. Leases approved and executed without compliance with this Chapter shall be null and void.

**7.2 Threshold Determination.**

- (a) **Lessee Not Subject to Environmental Review Process:** If the Environmental Reviewer determines as a threshold matter that the Leasing Decision by its nature would not affect the biological and cultural resources of the Tribe, the Leasing Decision is exempt from additional requirements of the Environmental Review Process, subject to the environmental record requirements of applicable Tribal environmental regulations.
- (b) If the Environmental Reviewer, in his discretion, determines that: (i) there is no significant change in use resulting from the proposed Business Site Lease; (ii) the

Environmental Reviewer confirms that the site was the subject of an Environmental Review Process within the last twenty-four months for a substantially similar Business Site Lease; or (iii) the site is within the footprint of an existing site for which an Environmental Review Process was already conducted (for example, a Space Lease), then such Leasing Decision is exempt from the Environmental Review Process.

- (c) **Lessee Subject to Environmental Review Process:** If the Environmental Reviewer determines that the Leasing Decision might be expected to i) impact, ii) alter, iii) disturb, or iv) otherwise cause physical disturbances to the biological or natural resources of the Tribe, the Lessee must fulfill the requirements of the Environmental Review Process. The physical disturbances must be direct, such as land clearing, new building construction, or discharge of emission or effluent associated with the project.

**7.3 Action on Leasing Decision Subject to Completion of Environmental Review Process.** If the Environmental Reviewer determines that the Leasing Decision is subject to the Environmental Review Process, the Executive Committee may not consider the Leasing Decision until the Environmental Reviewer closes the Environmental Review Process in accordance with applicable Tribal environmental regulations.

**7.4 Environmental Review Process.**

- (a) Unless an exemption applies or a lease is otherwise not subject to the Environmental Review Process, then, before the execution of any Business Site Lease, the Executive Committee shall cause to be prepared a comprehensive and adequate tribal environmental impact report ("TEIR"), analyzing the potentially significant effects of the proposed action on the environment; provided, however, that information or data which is relevant to such a TEIR and is a matter of public record or is generally available to the public need not be repeated in its entirety in the TEIR, but may be specifically cited as the source for conclusions stated therein; and provided further that such information or data shall be briefly described, that its relationship to the TEIR shall be indicated, and that the source thereof shall be reasonably available for inspection at a public place or public building. The TEIR shall provide detailed information about the Significant Effect(s) on the Environment which the Lease is likely to have, and shall include a detailed statement setting forth all of the following:
- (i) A description of the physical environmental conditions in the vicinity of the Project (the environmental setting and existing baseline conditions), as they exist at the time the notice of preparation is issued;
  - (ii) All Significant Effects on the Environment of the proposed Lease;
  - (iii) In a separate section:

- (1) Any Significant Effect on the Environment that cannot be avoided if the Lease is executed; and
  - (2) Any Significant Effect on the Environment that would be irreversible if the lease is executed.
  - (3) Any mitigation measures proposed, recommended, or required.
- (b) In addition to the information required pursuant to subdivision (a), the TEIR shall also contain a statement indicating the reasons for determining that various effects of the Lease on the off-reservation environment are not significant and consequently have not been discussed in detail in the TEIR. In the TEIR, the direct and indirect Significant Effects on the Environment shall be clearly identified and described, giving due consideration to both the short-term and long-term-effects.

#### **7.5 Notice of Completion of Draft TEIR.**

- (a) Within no less than thirty (30) business days following the completion of the draft TEIR, the Executive Committee shall file a copy of the draft TEIR and a Notice of Completion with the Secretary of the Executive Committee. The Executive Committee shall also post the Notice of Completion and a copy of the draft TEIR on its website. The Notice of Completion shall include all of the following information:
  - (i) A brief description of the Project;
  - (ii) The proposed location of the Project;
  - (iii) An address where copies of the draft TEIR are available; and
  - (iv) Notice of a period of thirty (30) business days during which the Tribe will receive comments on the draft TEIR.
- (b) To satisfy the requirement for public notice and opportunity to comment under 25 U.S.C. §415(h), the Executive Committee will provide public notice by at least one of the procedures specified below:
  - (i) Publication of the Executive Committee 's draft TEIR in a newspaper of general circulation in the area affected by the proposed Business Site Lease, with notice to the public of the opportunity to comment on any Significant Effect on the Environment of the proposed action.
  - (ii) Posting of the Tribe's draft TEIR in the offices of the Tribe and the Executive Committee with notice to the public of the opportunity to comment on any Significant Effect on the Environment of the proposed action.

**7.6 Response to Public Comments.** After the thirty (30) day comment period has ended, the Executive Committee will review all comments received from the public. Prior to the

approval and execution of the Business Site Lease, the Executive Committee will provide responses, using the same notification process as provided above in 7.5(b), to relevant and substantive public comments on any Significant Effect on the Environment arising as a result of the proposed project and proposed or recommended mitigation measures addressing any such impacts.

## **CHAPTER EIGHT SOVEREIGN IMMUNITY**

### **SECTION:**

**8.1** Nothing in this Ordinance shall be deemed to waive the sovereign immunity of the Tribe or any of its enterprises, authorities, officers, agents, or employees.

## **CHAPTER NINE EFFECTIVE DATE; AMENDMENT**

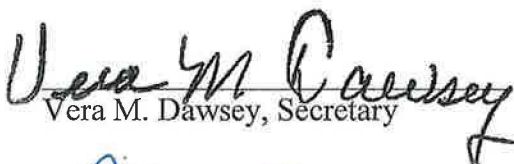
### **SECTION:**

**9.1** This Ordinance shall take effect upon its adoption by the Executive Committee and approval by the Secretary of the Interior.

**9.2** This Ordinance may be amended by a majority vote of the Executive Committee at a duly called Executive Committee meeting at which a quorum is present. All substantive amendments to this Ordinance must be submitted to and approved by the Secretary of the Interior.

## **CERTIFICATION**

I, the undersigned, as Secretary of the Absentee Shawnee Tribe of Oklahoma, do hereby certify that the Executive Committee is composed of five (5) members, of which 4 were present, constituting a quorum, at a regularly scheduled meeting called, noticed, convened, and held on this 21 day of January, 2015, consistent with Article XVI of the Tribe's Constitution, and the foregoing Ordinance was adopted by a vote of 3 yes, 0 no, and 0 abstaining.

  
Vera M. Dawsey, Secretary

01-27-2015  
Date

  
Edwina Butler-Wolfe, Governor

January 27, 2015  
Date