



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

**APPROVAL OF  
SHAWNEE TRIBE  
BUSINESS LEASING ORDINANCE**

---

The attached Business Leasing Ordinance, submitted by the Shawnee Tribe (listed in the Federal Register, Vol. 89, No. 238 FR 99901 (December 11, 2024) as the Shawnee Tribe), and prepared in accordance with the Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012, consisting of 16 pages and adopted by the Shawnee Tribe Business Council on March 10, 2025, is hereby approved.

Dated: APR 11 2025

\_\_\_\_\_  
Scott J. Davis  
Senior Advisor to the Secretary of the Interior  
Exercising the delegated authority of the  
Assistant Secretary – Indian Affairs.

Pursuant to the authority delegated by 209 DM 8

## **CHAPTER I INTRODUCTION**

### **1.1 Authority**

- a. Article IV, Section A of the Shawnee Tribe Constitution ("Constitution") confers the power to prescribe rules and regulations in all matters of the Shawnee Tribe to the Business Council.
- b. Article VI the Constitution grants the Business Council the power to transact all business on behalf of the Shawnee Tribe in all matters on which the Tribe is authorized to act.

### **1.2 Purpose**

The purpose of this Code is to enhance accountability and ensure that real property held in trust by the United States for the Tribe and leased by the Tribe for business or commercial purposes is used to promote self-determination, encourage economic self-sufficiency, and increase business activity and employment on the Tribe's trust land.

The Tribe has a critical role and responsibility to provide the Tribe's communities and members with a sustainable, compatible method of leasing the Tribe's lands that clarifies the expectations and responsibilities between the Lessor and Lessee. The Tribe recognizes that the provision of land and buildings plays a vital role in the successful functional use of the Tribe's lands in all communities.

The Code shall be liberally interpreted and construed to implement the Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012 ("HEARTH Act"), amended 25 U.S.C. § 415, by establishing a process where a Lease Agreement with the Tribe will not require the approval of the Secretary of the Interior ("Secretary") if the Lease is executed under this Code approved by the Secretary. Nothing in this Code is intended to expand the authority or responsibility of the Secretary beyond that provided for under applicable federal statutes or regulations.

### **1.3 Intent**

- a. The Code covers all land held in trust by United States for the Tribe. It also covers land and/or buildings that are leased by the Tribe for governmental operations, enterprises, and other commercial business uses. The Tribe's real property, consisting of land, buildings, air rights, mineral rights, cultural rights, and all other constitutional, legal and Code rights, may only be used for a purpose that benefits the Tribe and its members.
- b. A Lease may relate to land or land and buildings.

- c. The Tribe will not, under any circumstances, permit the unrestricted use of its property by individuals or groups. Use of the Tribe's properties requires a written lease, license, or contract.
- d. The Lessee will agree to abide by all laws of the Tribe.

#### **1.4 Applicability**

- a. Except as excluded under Section 1.4(b) below, or as contrary to applicable federal statutes and regulations this Code shall apply to:
  - 1. Leases for business purposes;
  - 2. Leases for religious, educational, recreational, cultural, or other public purposes;
  - 3. Commercial or industrial leases for retail, office, manufacturing, storage, biomass, waste-to-energy, or other business purposes; and,
  - 4. All future Leases for purposes or uses listed above.
- b. This Code shall not apply to:
  - 1. Agricultural leases;
  - 2. Residential leases authorized under Tribal law; or
  - 3. To any lease of individually owned Indian allotted land in accordance with 25 U.S.C. § 415(h)(2).

#### **1.5 Controlling Law**

- a. To the extent that this Code conflicts with any applicable federal statutes or regulations, the federal statute or regulation shall control.
- b. To the extent that any lease to which this Code applies conflicts with this Code, this Code shall control.

#### **1.6 Amendment**

This Code may be amended by the Business Council, provided that no major substantive amendment hereto shall be effective unless approved by the Secretary in accordance with applicable federal laws and regulations.

#### **1.7 Effective Date**

This Code shall become effective as the Tribe's law, for all purposes, on the date of enactment by the Business Council and approval by the Secretary.

#### **1.8 Severability**

If any provision or provisions of this Code shall in the future be declared invalid by the Tribal Judiciary, the invalid provision or provisions shall be severed and the remaining provisions shall continue in full force and effect.

## **1.9 Definitions**

For the purpose of this Code the below terms are defined:

- a. **Assignment.** 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 of the Lessee's obligations, under a lease.
- b. **BIA.** The Secretary of the Interior or the Bureau of Indian Affairs within the Department of the Interior and any tribe acting on behalf of the Secretary or Bureau of Indian Affairs under 25 CFR § 162.018.
- c. **Court of competent jurisdiction.** A Federal, Tribal, or State court with jurisdiction.
- d. **Fair Annual Lease Value.** The amount of rental income that a leased tract of the Tribe's land would most probably command in an open and competitive market, or as determined by competitive bidding.
- e. **Interested Party.** An Indian or non-Indian individual or corporation, or tribal or non-tribal government whose interests could be adversely affected by a decision of the Tribe to lease to a business or commercial site on the Tribe's land.
- f. **Lease.** A written contract between the Tribe and a Lessee, whereby the Lessee is granted a right to possess the Tribe's land, for a specified purpose and duration. The Lessee's right to possess will limit the Tribe's right to possess the leased premises only to the extent provided in the lease.
- g. **Lessee.** A person or entity who has acquired a right to possess the Tribe's land by executing a Lease.
- h. **Leasehold Estate.** The possessory interest in the Tribe's land established pursuant to a Lease between a Lessor and a Lessee.
- i. **Leasehold Mortgage.** A mortgage, deed of trust, or other instrument that pledges a Lessee's leasehold interest as a security for a debt or other obligation owed by the Lessee to a lender or other mortgagee.
- j. **Lessor.** The legal, beneficial, or equitable owner of the Tribe's land subject to a Lease, including the Tribe, and any heir, successor, executor, administrator, or assign of the Lessor.

- k. LTRO. The Land Titles and Records Office of the Bureau of Indian Affairs.
- l. Mortgage. A lien on a Leasehold Estate given to secure advances on a loan to purchase, construct, refinance, or renovate a business site or improvement, and may refer both to a security instrument creating a lien, whether called a mortgage, deed of trust, security deed, or other term, as well as the credit instrument, or note, secured thereby.
- m. Mortgagee. Any person, entity, or government agency which lends under a Leasehold Mortgage, and includes any assignee, or any heir, successor, executor, administrator, or assign thereof.
- n. Mortgagor. The Tribe or any person or entity who has executed a Leasehold Mortgage, including any heir, successor, executor, administrator, or assign thereof.
- o. Tribal Land. Any tract, in which the surface estate is owned by the Tribe in trust or restricted status, and includes such lands reserved for BIA administrative purposes. The term also includes the surface estate of lands held by the United States in trust for an Indian corporation chartered under Section 17 of the Act of June 18, 1934 (48 Stat. 998; 25 U.S.C. § 477).
- p. NEPA. The National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321, *et seq.*
- q. Permanent Improvements. Buildings, other structures, and associated infrastructure attached to Tribal Lands.
- r. Public. Includes enrolled members of the Tribe, and other persons as authorized by the Business Council to attend a meeting.
- s. Real Property. The Tribe's property that is land or land and building.
- t. Secretary. The Secretary of the Interior.
- u. Significant Effect on the Environment. A substantial, or potentially substantial, adverse change on the environment.
- v. Sublease. 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 the lease.
- w. Trespass. Any unauthorized occupancy, use of, or action on Tribal Lands.
- x. Trust or restricted land. Any tract that is held in trust or restricted status.
- y. Trust or restricted status. That the United States holds title to the tract in trust for the benefit of the Tribe or that the Tribe holds title to the tract or interest, but can alienate

or encumber it only with the approval of the United States because of limitations in the conveyance instrument under Federal law or limitations in Federal law.

- z. Violation. A failure to take an action, including payment of compensation, when required by the lease, or to otherwise not comply with a term of the lease. This definition applies for purposes of our enforcement of a lease under this part no matter how “violation” or “default” is defined in the lease.

## **CHAPTER II**

### **APPROVAL OF LEASE, REQUIREMENTS, PROCESS, PAYMENT, EXTENSIONS, TERMINATION, FORFEITURE, CONTINUATION, AND RECORDING**

#### **1.1 Approval of Leases**

- a. All leases shall be subject to the approval of the Business Council.
- b. All leases shall be signed by the Chief of the Tribe or their designee as authorized by the Business Council.
- c. After the Secretary approves this Code, all leases which are approved and executed under this Section shall be effective without federal approval under 25 U.S.C. § 415, unless the Secretary rescinds approval of this Code and reassumes responsibility for such approval.
- d. Any lease which is approved and executed under this Section shall refer to this Code as authority for its execution on behalf of the Tribe.

#### **1.2 Lease Requirements**

- a. All leases shall be in writing, and at a minimum, shall:
  - 1. Describe the tract or parcel of the Tribe’s land or building that is being leased with reference to a public or private survey plan, if available, in terms sufficient to determine the location;
  - 2. State the purpose of the lease and authorized uses of the premises;
  - 3. Identify the parties to the lease;
  - 4. State the effective date and term of the lease. The Lessee shall notify the Chief Operating Officer of the intent to apply for a new lease at least ninety (90) days before such lease is due to expire;
  - 5. If a Lease authorizes the Lessee to make Permanent Improvements during the term of the Lease, the Lease shall identify the general type of each improvement by providing a building plan, construction schedule, and the location of the improvement, and the responsibility for constructing, operating, maintaining, and managing the Permanent

Improvements during the Lease term. The Lessee shall be required to provide reasonable notice to Lessor of the construction of any Permanent Improvements not described in the Lease. Ownership of Permanent Improvements shall be defined by the Lease.

6. Specify all rent and payment requirements, including payment due dates, payee, place of payment, and any interest;
7. State the due diligence, performance bond, and insurance requirements that apply, if any;
8. State the process for amendment, which shall be in writing, signed by both parties;
9. State the governing law, which may include the Tribe's laws and applicable federal statutes and regulations; and,
10. If the leased premises are within an Indian irrigation drainage project or drainage district, the Lease must state the following: If the Leased premises are within an Indian irrigation drainage project or drainage district, except as provided in 25 CFR 171, the Lessee must pay all operational 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.

### **1.3 Lease Application Process**

- a. Land Use and Site Planning: Business leases are issued only for properties identified appropriate for business development as determined by the Tribe, and should be consistent with the Tribe's official zoning map. Prior to approval of a business lease, a certified survey map with a legal land description for the property must be approved and provided to the Chief Operating Officer as a plan-of-record.
- b. Site Availability: The Chief Operating Officer will maintain grid maps for property which the Tribe has approved for business development. The maps will show all available sites for building.
- c. Pre-application: Applicant requests assistance in acquiring a lease from the Chief Operating Officer. After the applicant identifies a potential building site, the Chief Operating Officer confirms that the parcel is available for lease and appropriately zoned. The Chief Operating Officer or other appropriate Tribal department must be consulted to address potential plan amendments, rezoning, or other land-use regulations. A preliminary site evaluation must be completed by the appropriate entities of the Tribe.
- d. Application Submittal: Applicant submits a completed application to the Chief Operating Officer (see completed application requirements). The Chief Operating Officer retains the original application. The application is stamped in with submitted time and date and

expires three (3) months from the stamped date if no action is taken. A specific lease parcel is not chosen until the Application information is complete with proof of financing.

- e. **Application Review:** The Chief Operating Officer will review the application for completeness. Incomplete applications will be returned to the Applicant with a letter outlining information necessary to move the application forward. Completed applications are filed with the Chief Operating Officer.
- f. **Business Site Lease Approval:** Once the lease application is complete, the Chief Operating Officer will draft a standard Business Site Lease per the requirements of this Code. The Chief Operating Officer staff will send the proposed Business Site Lease to the Business Council for review. The Business Council will approve or deny the Business Site Lease. Formal ratification by the Business Council is required prior to moving forward with the Business Site Lease. The Business Council may table the Business Site Lease pending additional information, if needed. The Chief will sign two (2) original completed Business Site Leases and forward the approved lease to the Chief Operating Officer with a copy of the resolution authorizing the Business Site Lease. The Business Council shall provide both an original signed resolution and original signed Business Site Lease to the Chief Operating Officer. The Chief Operating Officer will record and retain the original documents in a lease file.

#### **1.4 Appraisal**

- a. The Fair Annual Lease Value shall be determined by an appraisal or equivalent procedure utilizing the following data:
  - 1. Improvement cost;
  - 2. Replacement cost;
  - 3. Earning capacity; and,
  - 4. Sales and lease data of comparable sites or by similar methodology
- b. An appraisal log reporting the methods of appraisal and value of trust land shall be attached to every Business Site Lease.
- c. The Fair Annual Lease Value shall be determined by an appraisal performed by a licensed 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.

#### **1.5 Fair Annual Lease Value**

- a. No lease shall be approved for less than the present Fair Annual Lease Value set forth in the appraisal, except as follows:
  - 1. The lease is in the development period;

2. The Business Council is providing an incentive for a business to locate on the Business Council's land and must provide lease concessions, lease improvement credits, or lease abatements to attract such businesses; or
  3. The Business Council 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 as a flat lease rate plus a percentage of gross receipts if the Lessee is a business located in a shopping center or mall or the Lessee generates over \$1,000,000 annually in gross receipts.
  - d. A lease may be structured based on a percentage of gross receipts or based on a market indicator.
  - e. The lease may provide for periodic review 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.
  - f. Leases for terms of less than five (5) years 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.
  - g. Leases may be amended to allow for lease rate adjustments.
  - h. The Chief Operating Officer 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 the lease file. Chief Operating Officer will further provide certified copies, including any amendments or renewals to the lease, to the Secretary, and the Lessee.

#### **1.6 Payment**

- a. For any Lease requiring payments to be made to the Tribe, the Tribe shall provide the Secretary with such documentation of the lease payments that are sufficient to enable the Secretary to discharge the trust responsibility of the United States such that:
  1. The United States shall not be liable for losses sustained by any party to a lease executed; or
  2. Pursuant to the authority of the Secretary to fulfill the trust obligation of the United States to the Tribe under Federal law (including regulations), the Secretary may, upon reasonable notice from the Tribe and at the discretion of the Secretary, enforce the provisions of, or cancel, any lease executed by the Tribe.

#### **1.7 Insurance**

- a. A Lessee shall provide insurance necessary to protect the interests of the Tribe 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, or other insurance as specified in the Business Site Lease.
- c. The Tribe and the United States must be identified as additional insured parties.
- d. The Business Council may waive these requirements if the waiver is in the best interest of the Tribe. The waiver may be revoked at any time if the waiver ceases to be in the Tribe's best interest.

#### **1.8 Performance Bond**

- a. Unless waived in writing by the [Tribal Council/Legislature] in accordance with this Code 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 must guarantee:
  - 1. The annual lease payment
  - 2. The estimated development cost of improvements; and,
  - 3. Any additional amount necessary to ensure compliance with the lease.
- b. The Business Council may waive the bond requirement, or reduce the amount, if in the best interest of the Tribe. The Chief Operating Officer 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 Treasury.

#### **1.9 Improvements**

- a. All leases shall require the Lessee to exercise due diligence and best efforts to complete construction of any improvements within a reasonable schedule specified in the lease.
- b. Lessee, at Lessee's expense or as otherwise provided in the lease, may construct improvements under a lease if the lease specifies or provides for the development of:
  - 1. A plan that describes the type and location of any improvements to be built by the Lessee; and,

2. A general schedule for construction of improvements.

- c. Lessee shall provide the Business Council 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.
- d. When requested by the Business Council or otherwise required in the lease, Lessee shall further provide the Business Council, in writing, an updated schedule for construction.
- e. Failure of the Lessee to comply with these requirements will be deemed a violation of the lease and may lead to cancellation of the lease pursuant to this Code.
- f. Improvements to the Premises shall become property of the tribe unless otherwise provided for in the lease. If improvements will be removed, the lease may specify the maximum time allowed for such removal.

#### **1.10 Termination of Lease**

If utilization of business site has not commenced within one (1) year of the execution date of the lease, the lease may be terminated. The Chief Operating Officer will notify the Lessee that they have thirty (30) days in which to show utilization of business site. If Lessee does not show utilization of business site within thirty (30) days, the Chief Operating Officer will forward the lease to the appropriate Tribal entity for review and make an appropriate recommendation to the Legislative for extension or termination.

#### **1.11 Trespass**

If an individual or entity takes possession of, or uses, the Tribe's land without a lease and a lease is required, the Tribe may treat the unauthorized possession or use as a trespass. The Tribe may take action to recover possession and pursue any additional remedies available under applicable law.

#### **1.12 Forfeiture of Lease**

A Lessee may forfeit their lease by obtaining a Lease Cancellation Form from the Chief Operating Officer. The Lessee must submit a signed, notarized original to the Chief Operating Officer. The Chief Operating Officer will forward the form along with a resolution rescinding the lease to the Business Council for action. Once the resolution is executed, it is filed with the Chief Operating Officer. The property will then be offered in accordance with the Selection Review section of the lease process.

#### **1.13 Recording**

- a. The Chief Operating Officer will administer the execution of the lease. Lessee shall be required to pay lease rent as is indicated by the lease prior to lease issuance. Following signing and payment of rent Chief Operating Officer will record and provide a certified

copy to the Lessee. Original documents will be maintained by Chief Operating Officer with copies of the leases and related lease documents provided to the Bureau of Indian Affairs Land Titles and Records Office with jurisdiction over the Tribe.

- b. In the case(s) where, under the lease terms, the Lessee is required to pay an amount equal to the property taxes, Lessee shall be required to pay a security deposit equal to the amount of the taxes for the previous year plus agree to pay any increase that may occur. Further, Lessee shall complete a waiver form authorizing future payments to be escrowed or automatically deducted from their pre-capita payments, where applicable.

#### **1.14 Ownership of Records**

Records of activities taken pursuant to this Code are the property of the Tribe.

### **CHAPTER III PURPOSE OF REVIEW, REQUIREMENTS FOR APPROVAL, CATEGORICAL EXCLUSIONS, AND ENVIRONMENTAL REVIEW**

#### **3.1 Purpose of Review**

The purpose of this Section is to establish an environmental review process that satisfies the requirements of 25 U.S.C. § 415(h)(3)(B)(ii).

#### **3.2 Requirements for Approval**

- a. The Business Council shall not approve a lease under this Code unless:
  - 1. The Tribe's Environmental Manager has reviewed the lease and such other information as may be necessary to identify and evaluate any Significant Effect on the Environment of the intended use of the premises, and has:
    - i. Made a determination that the uses authorized by the lease are included within the categorical exclusion stated in Section 25 and provided that determination in writing to the LDT;
    - ii. Issued a final decision after following the procedure set forth in Section 28; or
  - 2. The Environmental Manager has provided the Business Council with notice that the Tribe has carried out a project or activity funded by a federal agency and that it has relied on the Environmental Review Process of the applicable federal agency rather than the procedures set forth in Section 28.

#### **3.3 Categorical Exclusions**

- a. The Business Council hereby finds that the following action do not individually or cumulatively have a Significant Effect on the Environment, and therefore, except as

otherwise provided in subsection 27(b), are categorically excluded from the procedures set forth in Section 28:

1. Approval of the lease for use of an existing business site, including any associated improvements, access roads, and utilities;
- b. Notwithstanding subsection 3.3(a), the Environmental Manager shall follow the procedures set forth in Section 3.4 if it determines that extraordinary circumstances exist under which the use of the premises may, individually or collectively, have a Significant Effect on the Environment, including without limitation, as set forth below:
  1. Substantial controversy on environmental grounds;
  2. Presence of cultural resources; or
  3. Presence of historic properties.

### **3.4 Environmental Review**

- a. Unless a categorical exclusion applies, Environmental Manager shall cause the effects on the environment of the intended uses authorized by the proposed lease to be identified and evaluated as follows:
  1. If Environmental Manager determines that the uses authorized by the proposed lease will not have a Significant Effect on the Environment, then it shall cause the following to occur in the order set forth below:
    - i. A finding of no significant impact shall be issued and posted for a minimum of fifteen (15) calendar days in a prominent, noticeable place in the Tribe's Executive Office Building.
    - ii. If there is a substantial interest in holding a public meeting it shall be held in accordance with Tribal law to provide an opportunity for Tribal members and non-members to comment, both written and verbal, on the finding of no significant impact.
    - iii. Comments shall be reviewed and analyzed, and a report shall be issued by the Environmental Manager responding to relevant and substantive comments, if any, regarding the finding of no significant impact. The report shall be posted for a minimum of fifteen (15) calendar days in a prominent, noticeable place in the Tribe's Executive Office Building.
    - iv. Unless subsection 3.4(a)(2) applies a final decision on confirming that the uses authorized by the proposed lease are expected to have no Significant Effect on the Environment shall be issued, sent to the Business Council for approval, and posted for fifteen (15) calendar days in a prominent, noticeable place in the Tribe's Executive Office Building.
  2. If Environmental Manager determines that the proposed lease will have a Significant Effect on the Environment, then it shall cause the following to occur in the order set forth below:

- i. A draft environmental review which identifies and evaluates any Significant Effect of the Environment of uses authorized by the proposed lease shall be issued and posted for a minimum of thirty (30) calendar days in a prominent, noticeable place in the Tribe's Executive Office Building;
- ii. A meeting shall be held in accordance with Tribal law on the draft environmental review to provide an opportunity for Tribal members and non-members to comment, both written and verbal, on any Significant Effect on the Environment of the uses authorized by the proposed Lease;
- iii. Comments shall be reviewed and analyzed and a report by the Environmental Manager shall be issued responding to relevant and substantive comments, if any, on any Significant Effect on the Environment of the uses authorized by the proposed lease. The report shall be posted for a minimum of thirty (30) calendar days in a prominent, noticeable place in the Tribe's Executive Office Building;
- iv. A final environmental review describing the conclusions of the Environmental Manager report on the issues and evidence gathered under this Subsection shall be issued and posted for a minimum of thirty (30) calendar days in a prominent, noticeable place in the Tribe's Executive Office Building; and,
- v. A final decision assessing the potential for any Significant Effect on the Environment associated with the uses authorized by the lease shall be issued, sent to the Business Council for approval, and posted for a minimum of thirty (30) calendar days in a prominent, noticeable place in the Tribe's Executive Office Building.

## **CHAPTER IV**

### **APPROVAL OF SUBLEASE AND ASSIGNMENT, REQUIREMENTS AND RECORDING**

#### **4.1 Approval of Sublease and Assignment**

- a. All Subleases and Assignments, other than to a Mortgagee, shall be subject to the approval of the Business Council in manner consistent with the Tribe's Constitution and laws.
- b. All Subleases and Assignments which are subject to the approval of the Business Council shall be signed on behalf of the Chief.
- c. After the Secretary approves this Code, all Subleases and Assignments which are approved and executed under this Section shall be effective without federal approval under 25 U.S.C. § 415, unless the Secretary rescinds approval of this Code and reassumes responsibility for such approval.
- d. All Subleases and Assignments shall require the prior approval.

#### **4.2 Requirements**

- a. A Lessee may sublease a lease in accordance with this Section.

- b. A Lessee may assign a lease in accordance with this Section.
- c. No Sublease shall relieve the Lessee or sublessor of any liability under the lease.
- d. In any Assignment, other than to a Mortgagee of the Leasehold Estate, the assignee must agree in writing to assume all of the obligations.

#### **4.3 Recording**

All Subleases and Assignments and amendments thereto shall be recorded and maintained by the Chief Operating Officer with copies provided to the LTRO with jurisdiction over the Tribe's land.

### **CHAPTER V APPROVAL OF LEASEHOLD MORTGAGE AND RECORDING**

#### **5.1 Approval of Leasehold Mortgage**

- a. All Leasehold Mortgages under a lease must be separately authorized by the Business Council, unless the lease authorizes a Leasehold Mortgage and states the law governing foreclosure.
- b. After the Secretary approves this Code, all Leasehold Mortgages which are authorized under this Section shall be effective without federal approval under 25 U.S.C. § 415 unless the Secretary rescinds approval of this Code and reassumes responsibility for such approval.

#### **5.2 Recording**

All Leasehold Mortgage, assignments, amendments, and sales relating thereto shall be recorded at the Chief Operating Officer and the Bureau of Indian Affairs Land Titles and Records Office with jurisdiction over the Tribe's land, to the extent required by a Mortgagee. A Leasehold Mortgage shall also be recorded in the appropriate county register of deeds.

### **CHAPTER VI COMPLAINT, FORM OF COMPLAINT, INFORMAL RESOLUTION, DECISION, APPEAL, AND NO WAIVER OF SOVEREIGN IMMUNITY**

#### **6.1 Complaint**

An Interested Party who has reasonable grounds to believe that the Tribe has failed to comply with this Code has the right to file a Complaint under this Section.

#### **6.2 Form of Complaint**

The Complaint shall be in writing, signed by the Interested Party, with a description of the alleged noncompliance with this Code which is the subject of the Complaint, state all relief requested and submitted to the Business Council.

### **6.3 Informal Resolution**

The Business Committee shall make reasonable efforts to resolve the Complaint informally, including, but not limited to, scheduling a meeting with the Interested Party for such purpose. All Complaints which are resolved through such informal resolution shall be reduced to writing and signed by the Business Council and the Interested Party.

### **6.4 Decision**

If the Complaint is not resolved informally, the Business Council shall issue a decision on the Complaint, which shall be in writing and signed by the Business Council. The Business Council shall cause the decision to be delivered to the Interested Party no later than thirty (30) business days after receipt of the Complaint. The decision of the Business Council shall constitute a final decision.

### **6.5 Appeal**

In accordance with 25 U.S.C. § 415(h)(8)(A) an Interested Party who has exhausted the Tribe's remedies set forth in this Section may submit a petition to the Secretary, at such time and in such form as the Secretary deems appropriate, to review the Tribe's compliance with this Code.

### **6.6 No Waiver of Sovereign Immunity**

Nothing in this Code shall be deemed to waive the sovereign immunity of the Tribe or any of its officials, employees, or representatives.

