

RESOLUTION OF THE KAYENTA TOWNSHIP COMMISSION**Approving Amendment 4 to the Kayenta Township Commission; Chapter 9, Lease Ordinance By Adding SubChapter 3; Home Site.****WHEREAS:**

1. The Kayenta Township Commission (KTC) was established and authorized by the Navajo Nation Council by resolution CJA-3-96 and CN-76-96, more specifically cited in the Plan of Operation, Section III, Jurisdiction, B. "The KTC shall have the jurisdiction over all planning and control of that area authorized and designated by the Navajo Nation Council in November 1985 (Resolution CN-86-85) and the official Survey Plat filed with Navajo County and submitted to Bureau of Indian Affairs (incorporated by reference herein) hereinafter referred to as the Township area."; and
2. The KTC enacted on October 16, 1998 the "Kayenta Township Commission; Chapter 9, Lease Ordinance" to iterate policy and procedures to exercise its authority "to control activities" by approving leases; and
3. Amendment 4 of the "Kayenta Township Commission; Chapter 9, Lease Ordinance," was reviewed which includes SubChapter 3; Home Site. SubChapter 3 iterates policy and procedures for home sites leases. SubChapter 3 is herein attached as Exhibit A.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Kayenta Township Commission hereby approves Amendment 4 to the "Kayenta Township Commission; Chapter 9, Lease Ordinance" by adding SubChapter 3; Home Sites, herein attached as Exhibit A.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Kayenta Township Commission at a duly called meeting at Kayenta, Navajo Nation, (Arizona), at which a quorum was present and that same was passed by a vote of **4** in favor, **0** opposed, and **0** abstained, this **20th** day of **August, 2000**.

Motion: Richard P. Mike
Second: Jimmie Austin, II



Chairperson
Kayenta Township Commission

SUBCHAPTER 3. Home Site Lease

Section 9301. Granting of Home Sites

Section 9302. Applicability

Section 9303. Documents

Section 9304. Definition

Section 9305. Provisions

Section 9306. Procedures

Section 9301. Granting of Home Sites

Granting of lands for Home Sites within the Kayenta Township site will include the following:

1. The Kayenta Township Commission will approve a cover resolution as the approving body granting the Home Site lease document. In a master planned development, the Kayenta Township Commission approves the entire subdivision plat with lots numbered, and may authorize the Town Manager to grant Home Sites for the planned area where the residential lots are delineated and platted.
2. The Town Manager of the Kayenta Township Commission will sign to the Home Site Documents on behalf of the Kayenta Township Commission, Navajo Nation, lessor.
3. The Navajo Region Director of the Bureau of Indian Affairs, or his designee, will sign to the Lease Document on behalf of the Secretary of Interior as the trustee.

Section 9302. Applicability

These procedures are intended to apply to all Home Sites involving surface occupancy and use of Navajo lands within the Kayenta Township site for residential use for a private dwelling.

1. These procedures apply to new requests for Home Sites executed on or after November 21, 1999. This will also apply to existing residences without leases, transfers and assignments.
2. These procedures shall not apply to residential subdivisions developed and managed under a master lease with provisions for subleasing.

Section 9303. Documents

1. The Kayenta Township Commission shall develop applicable forms (Home Site Application, Clearance Certification, Home Site Lease {200c}) approved by the Secretary of Interior.

2. The Home site applicant shall be responsible for a legal survey plat. The KTC may arrange for a block survey, the cost of which will be recouped.

Section 9304. Definitions

"Applicant" means the individual(s) applying for Kayenta Township lands for a home site for residential purposes.

"Improvements" means a valuable addition made to property or an amelioration in its condition, amounting to more than mere repairs or replacement, costing labor or capital, and intended to enhance its value, beauty or utility or to adapt it for new or further purposes.

Section 9305. Home Site Provisions

1) Lease Consideration

- a) The said purpose,
- b) The promise to pay the Lessor rent,
- c) The extinguishment of Lessee use rights in the premises, that the Lessee has rights only by virtue of the Lease, and
- d) Other good and valuable considerations.

2) Improvements.

- a) The improvements made upon the premises for family dwellings are for public purpose of the Lessor
- b) All buildings and other improvements, existing or constructed on the premises, shall be the leasehold property of Lessee(s) during the term of a Lease, including any extension or renewal.

3) Duration

It is the policy of the Kayenta Township Commission, Navajo Nation, that Home Sites will be granted or approved for a period no more than 99 years.

4) Termination of Home Sites

A Lease may not be terminated when the Lease or any improvement on the premises, or any interest is mortgaged or pledged as security for a loan, unless consent in writing is given by a lender and when an insurance or guaranty is in force.

Home Sites and all rights and privileges thereunder may be terminated in one of the following manner:

- (a) Expiration
- (b) Abandonment
- (c) Default

5) Rent. Lessee shall pay a rental fee in consideration of completed required clearances (archaeological and environmental) and legal plat surveys, and other considerations that benefit the safety and health, and aesthetics of the community.

6) Imminent Domain. A part of the lease premise may be taken by condemnation for highway or other public purposes.

7) Disposition of Possessory Right

(a) Use Rights. Upon expiration or termination of a lease all improvements on the premise shall become the property of KTC, Navajo Nation, unless there is an eligible successor for an assignment.

(b) Assignment. Lessee may not assign a lease without the prior written consent of the KTC, lessor, except where Lease or improvements are mortgaged or pledged as security for a loan, approval of any assignment by the lender will be required.

(c) Security Interest. In event of default, the lender, its successors in interest in turn, is authorized to transfer a Lease or possession of the premises to a successor Lessee.

(d) Mortgage. Lessee may not execute a mortgage, declare trust, or pledge security instrument of a lease or any improvement on the premises without the prior consent of KTC and the approval of the Secretary.

(e) Right of First Refusal. In event of default by the Lessee on any mortgage or loan agreement Lessor shall have the right of first refusal to acquire the Lessee's interest in the premises, subject to all valid liens and encumbrances.

Section 9306. Procedures

The Kayenta Township Commission will develop procedures for the initiation, development and cover resolution approval of a Home Site Lease for lands within the Kayenta Township site.