

**RESOLUTION OF THE KAYENTA TOWNSHIP COMMISSION**

**Approving Amendment 3 to the Kayenta Township Commission; Chapter 9, Lease Ordinance By Adding SubChapter 5: ROW and Easement.**

**WHEREAS:**

1. The Kayenta Township Commission (KTC) was established and authorized by the Navajo Nation Council by resolutions 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 3 of the "Kayenta Township Commission; Chapter 9, Lease Ordinance," was reviewed which includes Subchapter 5; ROW and Easement. Subchapter 5 iterates policy and procedures for ROW and Easements. Subchapter 5 is herein attached as Exhibit A.

**NOW THEREFORE BE IT RESOLVED:**

The Kayenta Township Commission hereby approves Amendment 3 to the "Kayenta Township Commission; Chapter 9, Lease Ordinance" by adding Subchapter 5; ROW and Easement, 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 5 in favor, 0 opposed, and 0 abstained, this 16<sup>th</sup> day of July, 2000.

Motion: Richard P. Mike  
Second: Charles Young

  
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Chairperson  
Kayenta Township Commission

## SUBCHAPTER 5. ROW and EASEMENTS

Section 9501. Granting of ROW and Easements

Section 9502. Applicability

Section 9503. Documents

Section 9504. Definition

Section 9505. Provisions

Section 9506. Procedures

Section 9501. Granting of ROW and Easements (Service Line Agreements).

Granting of Rights of Way (ROW) and Easements of lands 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 ROW or easement document. In a master planned development, the Kayenta Township Commission may authorize the Town Manager to grant ROW or easements for the planned area where the site utilities and thoroughfares are delineated and platted.
2. The Town Manager of the Kayenta Township Commission will sign to the ROW or easement 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 9502. Applicability

These procedures apply to new requests for ROW or easements executed on or after November 21, 1999. This will also apply to existing ROW or easements where an existing development is redesigned or relocated with upgraded public facilities. i.e. streets, utility lines (electric power, communication, sewer, water and gas).

These procedures are intended to apply to all ROW and easements involving surface occupancy and use of Navajo lands within the Kayenta Township site for public use including utility purposes and streets (except for major utility facilities that traverse through the Kayenta Township).

Section 9503. Documents

1. Standard document forms as developed and already in use by the Navajo Tribal Utility Authority and the Navajo Communications Company that comply with federal and Navajo Nation requirements will be used for Kayenta Township site ROW and easements.

2. The utility purveyor (requestor) shall be responsible for and include a legal survey plat with the Standard document forms of the ROW or easement requested

#### Section 9504. Definitions

"Navajo Tribal Utility Authority" means the operating Navajo Nation enterprise established to purvey electric power, water, sewer, and natural gas utilities in the Kayenta Township.

"Navajo Communications Company" means the Navajo owned private entity with the exclusive right to purvey telephone communications and television cable and transmitter services within the Navajo Reservation.

"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 9505. ROW and Easement Provisions

- 1) Duration of ROW or easement

It is the policy of the Kayenta Township Commission, Navajo Nation, that ROW or easements granted or approved shall be commensurate with the purpose of the ROW or easements that will allow the applicant to provide operation and maintenance of the utility.

- 2) Insurance and Bonding Requirements; Waiver

The Kayenta Township Commission, Navajo Nation, requires appropriate insurance be provided by the utility purveyor in an amount adequate to protect any improvements on the ROW or easement premises; the lessee may also be required to furnish appropriate liability insurance, and such other insurance as may be necessary to protect the Kayenta Township Commission's, Navajo Nation's, interest.

- 3) Ownership of Improvements; Transfer.

(a) Improvements placed on the ROW or easement premises shall be dedicated as a public use facility, become and remain the property of the purveyor of the utility through a transfer from the Kayenta Township Commission.

(b) A business/development lessee(s) shall have the right to recoup a pro rata share of the development costs of a utility from other lessees, who come on line later, where lessee undertakes development, or a share in the development.

- 4) Termination of ROW or easement

ROW and easements and all rights and privileges thereunder may be terminated in one of the following ways:

(a) On Change in Alignment: Upon realignment of a utility system or relocation of a utility service and its alignment.

(b) On Abandonment of Utility: When a development area is abandoned and the utility system is also abandoned.

5) Disposition of Possessory Right

(a) In event of termination of the ROW or easement, the disposition of possessory rights shall be relinquished back to the Kayenta Township Commission.

Section 9506. Procedures

The Kayenta Township Commission will develop procedures for the initiation, development, negotiation, and cover resolution approval of a ROW or easement for lands within the Kayenta Township site.