



CHAPTER 9

**KAYENTA TOWNSHIP
LEASING ORDINANCE**

**SUBCHAPTER 1
BUSINESS SITE LEASING**

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BUSINESS SITE LEASING

SECTION 9-101 Title

This chapter shall be cited as the "Kayenta Township: Chapter 9, Business Site Leasing Ordinance."

HISTORY

KTCO-027-98 (Oct. 16, 1998) Adopted the original Lease Ordinance with general provisions and business site lease provisions
KTCD-046-98 (Dec. 20, 1998) Approved Amendment No. 1 to the Lease Ordinance
KTCT-002-00 (Feb. 20, 2000)
KTCAU-34-06 (Aug. 14, 2006)
KTCT-03-08 (Feb. 12, 2008)

SECTION 9-102 Policy

It is the policy of the Kayenta Township that its leasing system accomplishes the following goals:

- A. To protect the land and resources by regulating the types of land use and limiting the adverse impacts;
- B. To protect and enhance the public health and welfare by establishing terms and conditions for land use activities, and by prescribing sanctions for violations of those terms and conditions;
- C. To generate revenues in the form of rents and fees; and
- D. To encourage development by instituting a streamlined leasing process and providing appropriate incentives and opportunities for individuals and businesses.

HISTORY

KTCO-027-98 (Oct. 16, 1998)
KTCAU-34-06 (Aug. 14, 2006)

SECTION 9-103 Authority

Pursuant to the Navajo Nation Council Resolutions CJA-3-96 (Jan. 19, 1996), CN-76-96 (Nov. 1, 1996), CJY-42-03 (July 25, 2003) and CAU-47-03 (Aug. 29, 2003), the Kayenta Township Commission has the general authority and responsibility to govern for the welfare of the Kayenta Township and its residents, including the enactment of such ordinances, rules and regulations as it deems in the best interest of the Township.

HISTORY

KTCO-027-98 (Oct. 16, 1998)
KTCAU-34-06 (Aug. 14, 2006)

SECTION 9-104 Definitions

- A. "Asset management system" means a system that is designed for the purposes of leasing, renting, operating and maintaining the leased premises, managing the leased premises and structures affixed to such premises, tracking of inventory and income, and accounting for the rents and fees, property and land related to the leased premises.
- B. "Kayenta Township" means the home rule municipality created by the Navajo Nation Council pursuant to Resolutions CJY-42-03 (July 25, 2003) and CAU-47-03 (Aug. 29, 2003).
- C. "Kayenta Township Commission" means the governing body of the Kayenta Township.
- D. "Lessor" means the Kayenta Township, as the authorized agent of the Navajo Nation, the beneficial owner of all lands within the Kayenta Township, for issuing, approving, processing, administering, managing and enforcing business site leases within the Kayenta Township.
- E. "Navajo Nation" means the Navajo Nation government.
- F. "Regulations" means the Kayenta Township Business Site Leasing Regulations.
- F. "Trust assets" means any property held by the United States in trust for the Navajo Nation.

HISTORY

KTCO-027-98 (Oct. 16, 1998)
KTCD-046-98 (Dec. 20, 1998)
KTCAU-34-06 (Aug. 14, 2006)
KTCF-03-08 (Feb. 12, 2008)

SECTION 9-105 Applicability

- A. This ordinance shall apply to all new business site leases, permits, licenses, and associated rights-of way and easements within the Kayenta Township, except for those related to energy transmission and mineral development.
- B. This ordinance shall govern all new business site leases on previously withdrawn lands, including but not limited to industrial parks, shopping centers, trading post sites and other commercial leases.
- C. This ordinance shall apply to existing business site leases where the current lessee agrees to enter into a novation of the lease, which novation will substitute the Kayenta Township or its wholly owed economic development entity for the Navajo Nation as lessor, but shall not affect the terms and conditions of the Lease.
- D. This ordinance shall apply to all existing business site leases that will expire and are proposed to be renewed where the current lessee agrees to enter into a renewed lease with

the Kayenta Township. Such renewal will substitute the Kayenta Township or its wholly owned economic development entity for the Navajo Nation as the lessor.

HISTORY

KTCO-027-98 (Oct. 16, 1998)
KTCD-046-98 (Dec. 20, 1998)
KTCAU-34-06 (Aug. 14, 2006)
KTCF-03-08 (Feb. 12, 2008)

SECTION 9-106 Effective Date

This ordinance shall take effect upon its enactment by the Kayenta Township Commission, provided, however, that such enactment shall not diminish any valid existing rights established prior thereto, including such rights under pre-existing approved leases, permits, licenses, rights-of-way and easements. HISTORY

KTCO-027-98 (Oct. 16, 1998)
KTCAU-34-06 (Aug. 14, 2006)

SECTION 9-107 Business Site Leasing Regulations

- A. The Kayenta Township shall promulgate the Kayenta Township Business Site Leasing Regulations consistent with the *Navajo Nation Trust Land Leasing Act of 2000*, 25 U.S.C. § 415(e), as amended, the *Navajo Nation Business Site Lease Leasing Act of 2000*, 5 N.N.C. §§ 2301-2305, as amended, and the *Navajo Nation Business Site Leasing Regulations of 2005*, as amended.
- B. Such Regulations shall consider factors that:
1. Protect and preserve the trust assets from loss, damage, unlawful alienation, waste and depletion;
 2. Provide for an asset management system that promotes the prudent management of the trust assets;
 3. Account for the timely payment, collection, deposit and distribution of income from the trust assets or the reinvestment of income or monies into local economic development activities and projects;
 4. Provide a recordkeeping system of accounting and other operational information of leases;
 5. Establish standards for the negotiation and approval of leases, subleases, assignments, amendments, encumbrances, renewals and cancellations.
 6. Provide for the proper recording of leases;
 7. Provide for an adequate environmental review process;

8. Provide for adequate enforcement measures and appeals process;
9. Provide for other provisions that promote modern leasing practices.

HISTORY

KTCAU-34-06 (Aug. 14, 2006)
KTCF-03-08 (Feb. 12, 2008)

SECTION 9-108 Business Site Leases

- A. A person proposing to lease land shall submit an application for a lease, which shall contain all the necessary information specified by the Kayenta Township Business Site Leasing Regulations and Kayenta Township Business Site Leasing Management Plan.
- B. The Kayenta Township staff shall negotiate the terms and conditions of the proposed lease and ensure that the applicant complies with all requirements of the Kayenta Township Business Site Leasing Regulations and Kayenta Township Business Site Leasing Management Plan. Then, the Kayenta Township staff shall prepare the lease agreement and present it for approval by the Kayenta Township Approving Official.
- C. The standard lease document form developed by the Navajo Nation Division of Economic Development, Navajo Nation Department of Justice and Kayenta Township shall be used for all business site leases of trust lands within the Kayenta Township. The Kayenta Township may approve business site leases that generally conform to the standard lease document form with such modifications as it deems prudent, desirable or necessary, provided that such modified lease documents do not violate the Kayenta Township Business Site Leasing Regulations or any applicable Navajo Nation or federal law or regulations.
- D. Encumbrances of all leaseholds and subleaseholds shall require the consent of the lessor and President of the Navajo Nation, on behalf of the Navajo Nation, unless otherwise specified in the lease.

HISTORY

KTCO-027-98 (Oct. 16, 1998)
KTCAU-34-06 (Aug. 14, 2006)
KTCF-03-08 (Feb. 12, 2008)

SECTION 9-109 Approval, Recording and Dissemination of Leases

- A. Approval of a business site lease will require the following:
 1. Approval of the lease agreement by official documentation of the Approving Official of the Kayenta Township.

2. Signature of the person authorized by the Kayenta Township Approving Official to sign the lease agreement on behalf of the Kayenta Township.
 3. Signature of the President of the Navajo Nation, on behalf of the Navajo Nation.
- B. The lessor shall record all leases, subleases, assignments, amendments, encumbrances, renewals, modifications and cancellations with the Lands Title and Records Office of the Southwest Regional Office of the Bureau of Indian Affairs and the Division of Economic Development of the Navajo Nation.
- B. Copies of all leases, leases, subleases, assignments, amendments, encumbrances, renewals, modifications and cancellations shall be disseminated to appropriate agencies of the Navajo Nation and the Bureau of Indian Affairs as specified in the Regulations.

HISTORY

KTCO-027-98 (Oct. 16, 1998)
KTCD-046-98 (Dec. 20, 1998)
KTCAU-34-06 (Aug. 14, 2006)
KTCF-03-08 (Feb. 12, 2008)

SECTION 9-110 Severability

The provisions of this Ordinance are severable, and if any provision of this Ordinance, or its application to any person or circumstance, is held invalid by a judgment of the courts of the Navajo Nation, such decision shall not affect the validity of the remaining portions of this Ordinance.

HISTORY

KTCAU-34-06 (Aug. 14, 2006)