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CHAPTER 18 - LAND LEASE REGULATIONS

18.1 SECTION 1: DEFINITIONS

18.1.1 "Secretary" as used herein means the Secretary of the Interior or his authorized representative(s).

18.2 SECTION 2: LEASING OF TRIBAL LANDS

18.2.1 The Tribal Council in cooperation with the Secretary shall have authority to lease Tribal lands to Tribal members under the conditions prescribed by this chapter.

18.2.2 Approval. A lease shall be valid and binding only after approval by the Secretary.

18.3 SECTION 3: RESTRICTIONS

18.3.1 Unlawful conduct. The lessee agrees that he will not use or cause to be used any part of said premises for any unlawful conduct or purpose.

18.3.2 Subleases and assignments. Unless otherwise provided herein, a sublease, assignment or amendment of a lease may be made only with the approval of the Secretary and the written consent of all parties to the lease, including the surety or sureties.

18.3.3 Violation of lease. It is understood and agreed that violations of a lease shall be acted on in accordance with the regulations outlined in 25 C.F.R.

18.3.4 The lessee, his heirs, successors, executors, administrators, and assigns, shall be required to comply with all applicable laws and regulations governing sanitation, plumbing, electrical, building and other applicable codes.

18.3.5 Only one (1) residential and one (1) recreational lease shall be granted per household. "Household" is defined as two persons living in common, along with all minor children of either party or both.

18.4

SECTION 4: RESIDENTIAL LEASES

In issuing approval on applications for residential leases on undeveloped land, which are accessible to water, and sewer, or which are scheduled to be serviceable within one (1) year of the date of application, the following rules shall apply:

18.4.1

All tribal members seeking such sites shall file an application with the Red Cliff Legal Department. When received by the designated person to handle said applications, the applicant(s) name(s) shall be dated. Incomplete applications shall be returned to the applicant(s) as soon as reasonably practicable, and shall result in exclusion from the waiting list. The Legal Department shall retain the right to determine whether applications are complete or incomplete. Only complete applications, initialed by the designated person shall be dated and placed on the waiting list.

18.4.2

"Conditional" Assignments are prohibited except as provided below. A conditional assignment is the voluntary relinquishment of a residential lease that is given on the condition that said lease be awarded to another party.

- (a) Conditional assignments may be granted to enable a tribal member to sell his/her property.
- (b) Conditional assignments shall be permitted when there are no other tribal members on the waiting list, and where notice of the lessor's intent to relinquish his/her lease has been posted in pre-designated areas for ten (10) days without an application for the site being filed with the Legal Department

(c) Conditional assignments shall be granted only where the lessor warrants that said assignment has not been made in exchange for money, property, or other considerations.

(d) The issuance of a lease resulting from a conditional assignment may be revoked for the violation of any of the provisions of this section.

18.5 SECTION 5: INTEREST

18.5.1 It is understood and agreed between the parties to the lease that if any installment of rental is not paid within thirty (30) days after becoming due, interest at the rate of 6 percent per annum will become due and payable from the date such rental became due and will run until said rental is paid.

18.6 SECTION 6: RELINQUISHMENT OF SUPERVISION BY THE SECRETARY

18.6.1 Nothing contained in the lease shall operate to delay or prevent a termination of Federal trust responsibilities with respect to the land by the issuance of a fee patent or otherwise during the term of the lease; however, such termination shall not serve to abrogate the lease. The owners of the land and the lessee and his surety or sureties shall be notified by the Secretary of any such change in the status of the land.

18.7 SECTION 7: RENTAL ADJUSTMENT

18.7.1 The rental provisions in all leases which are granted for a term of more than five years and which are not based primarily on percentages of income produced by the land shall be subject to reviews and adjustment by the Secretary at not less than five-year intervals in accordance with the regulations in 25 CFR 131. Such review shall give consideration to the economic conditions at the time, exclusive of improvement or development required by the lease or the contribution value of such improvements.

- 18.8 **SECTION 8: INTEREST OF MEMBER OF CONGRESS**
- 18.8.1 No member of, or Delegate to, Congress or Resident Commissioner shall be admitted to any share or part of a lease or to any benefit that may arise there from, but this provision shall not be construed to extend to a lease if made with a corporation or company for its general benefit.
- 18.9 **SECTION 9: ASSENT NOT WAIVER OF FUTURE BREACH OF COVENANTS**
- 18.9.1 No assent, express or implied, to any breach of any of the lessee's covenants, shall be deemed to be a waiver of any succeeding breach of any covenants.
- 18.10 **SECTION 10: UPON WHOM BINDING**
- 18.10.1 These regulations shall extend to and be binding upon the heirs, assigns, successors, executors, and administrators of the parties of a lease. While the leased premises are in trust or restricted status, all of the lessee's obligations of its sureties, are to the United States as well as to the owner of the land.
- 18.11 **SECTION 11: IMPROVEMENTS**
- 18.11.1 The improvements situated upon the premises shall be the property of the Lessee at the termination of the lease. The lessee will have a period of thirty (30) days after termination of the lease in which to dispose of said improvements. Failure to remove or dispose of said improvements within this 30-day period will cause all improvements to revert to and become the property of the lessor.
- 18.12 **SECTION 12: RIGHTS RESERVED**
- 18.12.1 Lessor, and the Secretary of the Interior or his duly authorized representative(s), reserve the right of ingress and egress for the purpose of checking compliance with the provisions of a lease.

18.13 SECTION 13: AREA LEASED

18.13.1 The area leased shall be limited to no more than 1 ¼ acres per lease.

18.14 SECTION 14: RENT AND FEES

18.14.1 Rent. The rent for a lease shall be \$10.00 per year for Tribal members and \$20.00 per year for Tribal members whose spouse is a non-member. Non-Tribal members are not eligible to hold a lease.

18.14.2 Lease Fee. The lessee shall pay the sum of \$2.00, made payable to the Bureau of Indian Affairs, upon approval for a lease for deposit to the U.S. Treasury for services in connection with the preparation of a lease.

18.15 SECTION 15: LEASE DISPUTES.
(8/24/99/D)

18.15.1 Authority. The Tribal Court is authorized to hear disputes over lease interests in tribal lands granted by the Tribal Council pursuant to Red Cliff Constitution Art. VIII.

18.15.2 Procedure. An action to resolve disputes over lease interest in tribal lands shall be commenced by the filing of a Complaint under RCCL Chapter 4. Unless otherwise indicated within this section, procedure in cases involving lease disputes under this section shall be governed by the provisions of Chapter 4.

18.15.3 Factors. In making a decision on a disputed leasehold interest, the court shall give consideration to the following factors:

- (a) Tribal Membership - The court shall give a presumption in favor of lease interests remaining with Red Cliff Tribal Members;
- (b) Children - Where children reside on the property that is the subject on the lease the court shall give a presumption in favor of the custodial parent if they have no other land interests;
- (c) History of the lease - The court shall consider the history of the lease itself and the circumstances surrounding any changes to the lease;
- (d) Hardship to the Parties - The court shall give due consideration to who will suffer the greatest hardship if they lose their interest in the lease;
- (e) Relative Financial Contributions of the Parties - The court shall evaluate the relative contributions of the parties to development of the property, including, but not limited to the following:
 - (1) The amount that each side has paid out of pocket in connection with development of the parcel;
 - (2) Each party's financial obligations (loans) on the parcel;
 - (3) Whether the non-contributing party has been given the opportunity to contribute and benefit from development of the parcel.
- (f) Other factors that the court considers relevant to the issue of who should be awarded the lease interest.

In applying the factors set forth above, the court shall use its discretion to achieve fairness in the dispute over the lease interest at issue and shall assign appropriate importance to each factor considering all of the circumstances of the case. In all cases, the court shall issue a written opinion detailing its findings.

18.15.4 Implementation. Upon issuance of its written decision, the prevailing party shall take all necessary measures to implement the decision of the court, including but not limited to, notification to the United States Department of Interior - Bureau of Indian Affairs and processing all necessary documents to amend the lease.