

**TITLE XI
LANDLORD AND TENANT**

**CHAPTER 1
GENERAL PROVISIONS**

Section 11-1-1. Purpose. This Title shall be interpreted and construed to fulfill the following purposes:

1. To simplify and clarify the law governing the occupation of premises and protect the rights of landlords and tenants within the territory of the Tribe;

2. To preserve the peace, harmony, safety, health, and general welfare of the members of the Tribe and others within the territory of the Tribe;

3. To provide eviction procedures and to require landlords to follow such procedures when evicting tenants within the territory of the Tribe;

4. To encourage landlords and tenants to maintain and improve premises in order to improve the quality of housing as a Tribal resource; and

5. To provide the law governing the rights, obligations, and remedies of the owners, lessors, and tenants of premises in the territory of the Tribe.

Section 11-1-2. Applicability.

1. This Title shall apply to any and all arrangements, formal or informal, written, oral, or by the practice of the parties, in renting, leasing, occupying, or using any and all forms of real property, but shall not apply to:

a. Any assignment of land made by the Tribe to an agency, department, enterprise, or member of the Tribe;

b. Residence at a public or private facility, if incidental to detention or the provision of medical, mental health, geriatric, counseling, educational, religious, disability, personal safety, or similar service;

c. Occupancy under a contract of sale of, or an option to purchase, a premises if the occupant is the purchaser or optionee;

d. Occupancy by a member of a fraternal or social organization in a part of a structure operated for the benefit of the organization;

e. Occupancy in a room or suite of rooms where:

i. The cost of occupancy is charged on a daily basis;

ii. The operator of the room or suite provides housekeeping and linen service as part of the regularly charged cost of occupancy; and

iii. The occupancy does not exceed thirty (30) consecutive days;

f. Occupancy by an employee of a landlord when the employee's right to occupancy is conditioned on employment in or about the premises; or

g. Occupancy where:

i. The tenant rents the premises for vacation purposes only;

ii. The tenant has a principal residence other than the premises;

iii. The premises are furnished with personal property necessary to make the premises ready for immediate occupancy by the tenant; and

iv. The occupancy does not exceed thirty (30) consecutive days; or

h. Occupancy in any property where the landlord is the Northern Ponca Housing Authority or other tribally-designated housing entity of the Tribe.

2. Where a law or regulation of the United States applies to the renting, leasing, occupying, or using a specific parcel of real property, such law or regulation shall govern the renting, leasing, occupying, or using of such specific parcel of real property in addition to this Title and no provision of this Title shall be deemed inapplicable to the renting, leasing, occupying, or using of such specific parcel unless such

provision is specifically superseded by or directly contrary to such law or regulation of the United States.

Section 11-1-3. Definitions. Unless the context requires otherwise or another definition is provided for a particular chapter or section, in this Title:

1. "Actual damages" means compensation for direct, consequential, or incidental injuries or losses and includes:

a. Amounts payable to a landlord or tenant under the lease for a violation of the lease; and

b. Diminution in the value of the premises.

2. "Building, housing, fire, or health code" includes any applicable law concerning fitness for habitation or the construction, maintenance, operation, occupancy, use, or appearance of the premises.

3. "Criminal act" or "criminal activity" means:

a. The manufacture, sale, distribution, use, or possession of a controlled substance on or in the vicinity of the premises which is criminal under law other than this Title; or

b. An act or activity that is criminal under law other than this Title and threatens the health or safety of an individual on the premises or the landlord or landlord's agent on or off the premises.

4. "Dwelling unit" means property leased to a tenant for use as a home, residence, or sleeping place by an individual or two or more individuals who maintain a common household, regardless of their relationship to each other, and includes:

a. A single family residence, together with fixtures and appurtenances, the land on which it is located, and any other structure on the land; and

b. A structure or part of a structure in which the tenant resides, together with fixtures and appurtenances, and any other area of the land on which the structure is located to which the tenant is given an exclusive right of possession during the term of the lease, including a designated parking space or storage area.

5. "Essential service" means heat, hot and cold running water, sewage or septic disposal, electricity and, if not supplying it to the tenant would create a serious threat to the health, safety, or property of the tenant or his or her guests, air conditioning, provided that, in the case of a non-residential lease, an essential service shall be only those services necessary to the use of the premises and purpose of the lease.

6. "Fees" means amounts payable by a tenant to a landlord which the landlord has no obligation to account for or return to the tenant except as otherwise provided in this Title, such as application fees, cleaning fees, late payment fees, surety bond fees, dishonored check fees, credit card or other payment processing fees, abandonment fees, special amenities fees, pet fees, or fees assessed for violating rules governing the tenancy, but does not include rent or a security deposit.

7. "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

8. "Guest" means an individual, other than the landlord or landlord's agent, invited on the premises by a tenant, including the employees of a tenant in a non-residential lease.

9. "Habitable" means that a premises is safe, tenantable, and can be used for the purpose for which it is leased and, in the case of a dwelling unit, can be occupied in reasonable comfort.

10. "Landlord" means:

a. The owner of premises rented to a tenant;

b. A successor in interest to the landlord;

c. A sublessor; and

d. A person that manages premises or enters a lease on behalf of the owner of the premises and fails to notify the tenant in writing of the identity of the landlord, except with respect to events occurring after the earlier of:

i. The tenant being given written notice of the identity of the landlord; or

ii. The date of termination of the person's authority to act on behalf of the owner if that authority is terminated.

11. "Lease" means all tenancies and agreements, written, oral, or implied by law, between a landlord and tenant in which the landlord rents premises to the tenant for a tenancy for a fixed term or a periodic tenancy and includes an amendment to the lease, and rules adopted by the landlord which were disclosed to the tenant as provided in this Title.

12. "Non-residential lease" means a lease of premises other than a dwelling unit or a lease whose primary purpose is other than for a dwelling unit, even if a dwelling unit is included in the lease or located on the premises.

13. "Normal wear and tear" means deterioration that results from the intended use of the premises, including breakage or malfunction due to age or deteriorated condition, but does not include deterioration that results from negligence, carelessness, accident, or abuse of the premises, fixtures, equipment, or other tangible personal property by the tenant or the tenant's guests.

14. "Owner" means, with respect to a premises subject to this Title, a person vested with all or part of:

- a. Legal title to the premises; or
- b. Beneficial ownership and a right to present use and enjoyment of the premises.

15. "Periodic rent" means the amount:

- a. Payable each month under a tenancy for a fixed term or a periodic tenancy for month to month;
- b. Payable each week under a periodic tenancy for week to week or other term less than a month;
- c. If rent is payable annually, the amount of the annual rent divided by twelve (12); or
- d. If rent is payable at some other frequency greater than one month, the amount of each rent payment divided by the number of months in the frequency.

16. "Periodic tenancy" means a tenancy created under a lease or arising by operation of law for month to month, week to week, or other successive periods.

17. "Prepaid rent" means rent paid to a landlord before the first day of the rental period to which it is to be applied.

18. "Premises" means a dwelling unit, land, other real property, and/or any structures or parts thereof, existing facilities and appurtenances, including, but not limited to, furniture and utilities where applicable, grounds, areas, existing facilities, and, to the extent owned by the landlord, any structure of which the premises is a part, including any area and structure associated with the structure in which the premises is located and held out by the landlord for the use of tenants generally.

19. "Rent" means a payment for the right to possession of premises, but does not include a security deposit or fees.

20. "Security deposit" means funds or other property provided to a landlord to secure payment or performance of a tenant's obligations under a lease or this Title and the identifiable proceeds of the funds or property, however denominated, but does not include rent or fees.

21. "Tenancy for a fixed term" means a tenancy under a lease for a fixed or computable period, regardless of the length of the period.

22. "Tenant" means:

a. A person that is a party to a lease of premises and is entitled to possession of the premises;

b. An assignee or sublessee of a tenant which has possession of the premises with the landlord's consent;

c. An individual authorized to occupy the premises by a tenant that is not an individual; and

d. In the case of a dwelling unit, the immediate and extended family of a tenant authorized to occupy the premises, except with respect to the liability of the tenant to the landlord under the lease or this Title.

23. "Tenant representative" means:

a. A personal representative of a deceased tenant's estate;

b. Before the appointment of a personal representative, a contact person, or in the absence of a contact person, a person the landlord reasonably believes to be an heir of the tenant under the applicable intestate succession law; or

c. A person who exercises authority as a tenant representative under this Title or otherwise asserts or engages in conduct indicating the person is a tenant representative, provided that the authority of such person to act as a tenant representative shall terminate when the person or landlord knows that a personal representative has been appointed for the deceased tenant's estate.

24. "Unearned rent" means rent, including prepaid rent, that a tenant paid to a landlord for the right to possession of the premises for any period after the date the lease terminates in accordance with its terms or this Title, but does not include any amount, including rent, the tenant owes to the landlord for a period during which the tenant is in physical possession of the premises regardless of whether that possession is before or after the lease terminates.

Section 11-1-4. Severability. If any chapter, section or provision of this Title or amendment made by this Title is held invalid, the remaining chapters, sections and provisions of this Title and amendments made by this Title shall continue in full force and effect.

Section 11-1-5. Sovereign Immunity. Nothing in this Title shall be construed as limiting, waiving or abrogating the sovereignty or the sovereign immunity of the Tribe or any of its agencies, departments, enterprises, agents, officers, officials or employees.

CHAPTER 2 LEASES GENERALLY

Section 11-2-1. Obligation of Good Faith. Every lease or duty under this Title imposes an obligation of good faith in its performance and enforcement.

Section 11-2-2. Required Landlord Disclosures.

1. Before accepting funds to be applied to a security deposit, prepaid rent, or other fees or before entering into a lease, a prospective landlord shall disclose to the prospective tenant the following in writing:

a. Any condition of the premises which the landlord knows or on a reasonable inspection of the premises should have known would constitute a nonhabitable condition as defined in this Title and would materially interfere with the health or safety of the tenant or the tenant's guests or would materially interfere with the use and enjoyment of the premises by the tenant;

b. Whether, to the knowledge of the landlord, a foreclosure proceeding has been commenced against the premises;

c. If rent is prepaid, the month or other period of the lease to which the rent is to be applied; and

d. The rules affecting the tenant's use and enjoyment of the premises, whether adopted by the landlord or another person.

2. At or before commencement of the term of a lease, the landlord shall give the tenant written notice specifying:

a. The name of:

i. The landlord;

ii. Any person authorized to manage the premises;

iii. The owner of the premises;

iv. Any person authorized to act for the owner; and

v. Any person authorized to receive a notice or demand on behalf of the owner;

b. The mailing address and any address to be used for the receipt of electronic communications by the

landlord or any person designated by the landlord to which a notice or demand must be sent; and

c. The address to or the method by which the tenant must deliver rent.

3. A landlord shall keep current the information required by subsection 2 of this Section.

Section 11-2-3. Required Tenant Disclosures.

1. At or before commencement of the term of a lease, the tenant shall give the landlord written notice specifying the tenant's mailing address and any address to be used for the receipt of electronic communications by the tenant.

2. At the request of a landlord, the tenant shall designate a contact person to act for the tenant on the tenant's death, by giving the landlord a document specifying the name, mailing address, any address to be used for the receipt of electronic communications, and telephone number of such contact person. In the absence of a request by the landlord, the tenant may designate a contact person in the same manner.

3. A tenant shall keep current the information required by this Section. On termination of the lease, the tenant shall provide the landlord a forwarding address to which the landlord must send the tenant's security deposit, unearned rent, and other communications.

Section 11-2-4. Terms of Lease.

1. A lease may include terms and conditions not prohibited by this Title or other law of the Tribe.

2. Unless a lease or other applicable law otherwise provides:

a. The tenant shall pay rent for the premises for the term of the lease in an amount comparable to the rent paid for other premises of similar size and condition in the same or a comparable location, determined at the commencement of the term;

b. Rent is payable without demand or notice:

i. At the address or place the landlord designates under Section 11-2-2 or, if no designation is made, at the landlord's place of business at the time the lease was made; and

ii. On the first day of each month, at the beginning of the term if the term is less than one month, or on the first day of such other period of the term of the lease or otherwise provided for in the lease; and

c. Rent is uniformly apportioned from day to day; and

d. A rental period is on a monthly basis beginning with the first day of the month for a tenancy for a fixed term of more than one month or a periodic tenancy of month to month and, for all other tenancies, the rental period begins on the first day rent is paid.

3. Unless a lease creates a tenancy for a fixed term, a tenancy is a periodic tenancy for week to week if the tenant pays rent weekly and otherwise is a periodic tenancy for month to month.

Section 11-2-5. Delivery of Lease.

1. A landlord shall provide the tenant a copy of any lease that is signed by them or, if the lease is unsigned and enforceable as provided in this Chapter, signed by either of them.

2. If a landlord other than the Tribe willfully fails to comply with this Section, the tenant may recover actual damages or one month's periodic rent, whichever is greater.

Section 11-2-6. Unsigned Lease.

1. If a lease signed by the tenant is delivered to the landlord and the landlord fails to sign the lease and return it to the tenant, acceptance of rent by the landlord without a reservation of rights gives the lease the same effect as if the lease had been signed by the landlord and returned to the tenant.

2. If a lease signed by the landlord is delivered to the tenant and the tenant fails to sign the lease and return it to

the landlord, acceptance of possession or payment of rent without a reservation of rights gives the lease the same effect as if the lease had been signed by the tenant and returned to the landlord.

3. If a lease given effect under subsection 1 provides for a tenancy for a fixed term longer than one (1) year, the lease is effective for one (1) year.

Section 11-2-7. Prohibited Provisions.

1. A lease may not require the tenant to:

a. Unless permitted by this Title, waive or forego a right or remedy under this Title;

b. Authorize a person to confess judgment on a claim arising out of the lease or this Title;

c. Unless permitted by this Title, perform a duty imposed on the landlord by this Title;

d. Agree to pay legal counsel's fees and costs of the landlord other than those provided by this Title or other law of the Tribe; or

e. Except in the case of a non-residential lease where the Tribe is the landlord, agree to exculpate or limit a liability of the landlord arising under this Title or other law of the Tribe or indemnify the landlord for the liability and the costs connected with the liability.

2. A provision in a lease prohibited by this Section or other law of the Tribe is unenforceable. Except where the landlord is the Tribe, if the landlord seeks to enforce the provision or accepts the tenant's voluntary compliance with the provision, the Tribal Court may award the tenant an amount not to exceed three (3) times the periodic rent.

Section 11-2-8. Delivery of Possession.

1. The landlord shall deliver physical possession of the premises to the tenant at the commencement of the term of the lease.

2. If a landlord does not deliver physical possession of the premises to the tenant, the tenant is not required to pay rent until possession is delivered and may:

a. Terminate the lease by giving written notice to the landlord at any time before the landlord delivers possession of the premises to the tenant; or

b. Demand performance of the lease by the landlord, recover actual damages, and obtain possession of the premises from the landlord or any person wrongfully in possession by any lawful means.

3. If a landlord unlawfully removes or excludes the tenant from the premises or willfully interrupts or causes the interruption of an essential service the landlord has the duty to provide to the tenant, the tenant may recover three (3) times the periodic rent or three (3) times the actual damages, whichever is greater, or, where the Tribe is the landlord, the actual damages, and:

a. Recover possession; or

b. Terminate the lease by giving the landlord written notice of the tenant's intent to terminate the lease immediately or on a later specified date.

4. If a tenant terminates the lease pursuant to this Section, the landlord shall return any amounts received from the tenant before the commencement of the term of the lease or, if the term of the lease has commenced, any security deposit and unearned rent.

Section 11-2-9. Separation of Rent from Duties. A lease, assignment, sublease, conveyance, trust deed, or security instrument may not authorize a person to receive rent without assuming the duties imposed on the landlord by the lease and this Title.

Section 11-2-10. Assignment and Sublease.

1. When a tenant transfers his or her entire interest in a lease for the remaining term of the lease, the transfer is an assignment. If a tenant assigns his or her lease:

a. The tenant's right to possession of the premises terminates when the assignee takes possession;

b. The assignee obtains all of the tenant's right to possession under the lease;

c. The tenant shall not be a landlord in relation to the assignee for purposes of this Title;

d. Unless the lease or another agreement between the landlord and tenant provides otherwise, the tenant shall remain liable for the tenant's obligations under the lease;

e. The assignee is liable for the tenant's obligations under the lease to the same extent as the tenant; and

f. The landlord may enforce the lease and this Title against the assignee the same as the tenant regardless of whether the landlord was a party to or approved the assignment.

2. When a tenant transfers less than his or her entire interest in a lease or less than the remaining term of the lease, the transfer is a sublease and the tenant retains a reversionary interest under the lease. For purposes of this Title, providing accommodations for boarders, lodgers, or others who are not parties to the lease shall be deemed a sublease. If a tenant subleases his or her lease:

a. The tenant's and sublessee's rights to possession of the premises shall be determined based on the provisions of the sublease;

b. The tenant shall be a landlord in relation to the sublessee for purposes of this Title;

c. Unless the lease or another agreement between the landlord and tenant provides otherwise, the tenant shall remain liable for the tenant's obligations under the lease;

d. Unless a provision of the sublease or another agreement between the landlord and sublessee provides otherwise, the sublessee shall not be liable for the tenant's obligations under the lease; and

e. Unless a provision of the sublease or another agreement between the landlord and sublessee provides otherwise, the landlord may not enforce the lease against

the sublessee, but the landlord may enforce this Title against the sublessee.

3. Except where applicable law other than this Title provides otherwise, unless a provision of the lease provides otherwise:

a. A tenant may not assign or sublease the lease without the written consent of the landlord;

b. The landlord may unconditionally withhold consent without cause to any assignment or sublease;

c. Except where the Tribe is the landlord, if the landlord unreasonably withholds consent to an assignment or sublease, the tenant may terminate the lease by giving written notice to the landlord of the tenant's intent to terminate the lease on a specified date at least thirty (30) days after the notice and such termination shall be the sole remedy of the tenant;

d. If the landlord reasonably withholds consent to an assignment or sublease or, where the Tribe is the landlord and withholds consent for any reason without regard to whether it is reasonable, there shall be no assignment or sublease and the tenant shall not be released from the lease;

e. The landlord may request that the tenant provide additional information to enable the landlord to make a decision on a request for consent to an assignment or sublease within ten (10) days after receipt of the tenant's request, provided such request for additional information shall not be unduly burdensome;

f. If the landlord fails to notify the tenant of the landlord's consent or denial of consent within thirty (30) days after receipt of the tenant's request or additional information requested by the landlord, whichever is later:

i. Where the Tribe is the landlord, the Tribe shall be deemed to have denied consent to the assignment or sublease; and

ii. In all other cases, the landlord shall be deemed to consent to the assignment or sublease.

4. Any assignment or sublease which does not comply with the provisions of this Section shall constitute a material breach of the lease and, where the Tribe is the landlord, shall be void and of no effect against the Tribe or the premises covered thereby.

5. Nothing in this Section shall prohibit the lease or another agreement between the landlord and tenant from providing additional transfers of interests in a lease or additional events which shall be deemed to constitute an assignment or sublease and such additional transfers of interests or additional events shall be subject to this Section.

Section 11-2-11. Encumbrance of Lease.

1. Unless a provision of the lease expressly permits a tenant to mortgage or encumber the lease, a tenant may not mortgage or encumber the lease, tenancy, or any interest of the tenant in the premises without the written consent of the landlord, which consent may be unconditionally withheld without cause.

2. Any mortgage or encumbrance of a lease or interest of the tenant in the premises which does not comply with the provisions of this Section shall constitute a material breach of the lease and the mortgage or encumbrance shall be void and of no effect against the landlord or the premises covered thereby.

Section 11-2-12. Legal Counsel Fees. Unless the other party is the Tribe, in an action to enforce a right or remedy arising under a lease or this Title, the Tribal Court may award the prevailing party reasonable legal counsel's fees if the Tribal Court determines that the other party:

1. Did not act in good faith;
2. Willfully performed an act prohibited by the lease or this Title; or
3. Willfully refrained from performing an act required by the lease or this Title.

Section 11-2-13. Security Deposits.

1. Except when the Tribe is the landlord, a landlord may not demand or receive security, however denominated, in an amount or value in excess of two (2) months periodic rent,

provided such limit shall not include the first month's rent or fees.

2. Except as otherwise provided by applicable law other than this Title, if a tenant keeps a pet on the premises or is permitted by the lease to make alterations to the premises, the landlord may require the tenant to pay an additional security deposit in an amount commensurate with the additional risk of damage to the premises. Nothing in this subsection shall require a landlord to permit a tenant to keep a pet on the premises except where applicable law other than this Title provides otherwise.

3. Any security, if nonrefundable, must be so stated in writing by the landlord.

4. The following rules apply to interests in a security deposit:

a. The landlord's interest is limited to a security interest and shall not be subject to execution, garnishment, attachment, or other process;

b. Notwithstanding any other law to the contrary, the landlord's security interest is effective against and has priority over each creditor of and transferee from the tenant;

c. A creditor of and transferee from the landlord can acquire no greater interest in a security deposit than the interest of the landlord;

d. Notwithstanding any other law to the contrary, the tenant's interest has priority over any right of setoff the bank in which the security deposit is held may have for obligations owed to the bank; and

e. The tenant's interest is not adversely affected if the deposit is commingled with the deposits of other tenants or other funds.

5. With respect to funds constituting a security deposit, a landlord:

a. Shall maintain the ability to identify the funds:

i. By holding the funds in a bank account that is used exclusively for security deposits, that is maintained with a federally insured bank, and the title of which indicates that it contains security deposits; and

ii. By maintaining records that indicate at all times the amount of the funds attributable to each tenant whose funds are being held in the account; and

b. May commingle the funds received from other tenants as security deposits in the same bank account but may not commingle other funds, including the landlord's personal or business funds, in the account.

6. Subsection 5 of this Section shall not apply to security deposits held by the Tribe as a landlord provided that the Tribe shall maintain records that indicate at all times funds in its possession attributable to each tenant whose funds are being held by the Tribe as a security deposit.

7. If a landlord other than the Tribe fails to comply with subsection 5 of this Section, the tenant may recover actual damages or one (1) times the periodic rent, whichever is greater.

8. A bank in which a landlord deposits funds constituting a security deposit has no duty to ensure that the landlord properly applies the funds.

9. Unless a lease provides otherwise, the landlord is not required to deposit a security deposit into an interest-bearing account or to pay the tenant interest on the deposit.

10. Upon termination of the tenancy:

a. The tenant is entitled to the amount by which the security deposit and any unearned rent exceeds the amount the landlord is owed under the lease or this Title;

b. Not later than thirty (30) days after a tenancy terminates and the tenant vacates the premises, the landlord shall determine the amount the landlord believes the tenant is entitled to under this subsection and:

i. Tender that amount to the tenant;

ii. Send that amount by first-class mail, postage prepaid, to an address provided by the tenant or, in the absence of that address, to the relevant address specified in Section 11-2-3; or

iii. Cause a funds transfer in that amount to be made, with the cost of transfer paid by the landlord, to a bank account designated by the tenant;

c. If the amount paid to the tenant under this subsection is less than the sum of the tenant's security deposit and any unearned rent, the landlord shall provide the tenant on or before returning such amount to the tenant a written itemization specifying each item of property damage or other unfulfilled obligation of the tenant to which the security deposit or unearned rent was applied and the amount applied to each item;

d. If the amount to which the tenant is entitled under this subsection is greater than the amount paid to the tenant, the tenant may recover the difference;

e. If a security deposit and unearned rent held by a landlord are insufficient to satisfy the tenant's obligations under the lease and this Title, the landlord may recover from the tenant the amount necessary to satisfy those obligations; and

f. If the landlord fails to comply with this subsection or fails to pay any amounts to which the tenant is entitled under this subsection, the tenant may recover the property and money due the tenant together with, in the case of a landlord other than the Tribe, damages in an amount equal to twice the amount wrongfully withheld.

11. When a landlord's interest in the premises terminates, the landlord shall:

a. If the lease continues, not later than thirty (30) days after the termination of the landlord's interest:

i. Transfer to the person succeeding the landlord's interest in the premises any security deposit being held by the landlord;

ii. Notify the tenant in writing of the successor's name and address, the amount transferred,

and any claim previously made against the security deposit; or

b. If the lease terminates as a result of the termination of the landlord's interest, comply with subsection 10 of this Section.

12. A successor to a landlord's interest in the premises has all rights and obligations of the landlord under this Title with respect to any security deposit held by the predecessor landlord which has not been returned to the tenant, whether or not the security deposit was transferred or distributed to the successor. If a predecessor landlord fails to transfer or distribute the security deposit to the successor as provided in this Section, the tenant shall have no action against the successor, but the tenant or, if he or she pays the tenant amounts due under this Section, the successor may recover from the predecessor landlord an amount equal to twice the amount due the tenant under this Section or, where the predecessor landlord is the Tribe, the actual amount due the tenant.

13. This Section shall not preclude the landlord or tenant from recovering other damages to which either may be entitled under this Title.

Section 11-2-14. Rules of Landlord.

1. Except as otherwise provided in the laws of the Tribe, a landlord may enforce a rule of the landlord in existence at the time the lease commenced only if the rule was disclosed to the tenant under Section 11-2-2.

2. Except as otherwise provided in this Section, after commencement of the term of a lease, the landlord may adopt or modify a rule concerning the tenant's use and enjoyment of the premises, but the rule or modification may not take effect earlier than thirty (30) days after the landlord gives the tenant written notice of the rule or modification.

3. In a periodic tenancy, a rule or modification adopted after commencement of the term of the lease may not take effect before the expiration of the period during which the tenant or landlord could have exercised the right to terminate the tenancy.

Section 11-2-15. Title to Premises.

1. When a person enters into possession of real property under a lease, he or she may not, while in possession, deny the title of the landlord in an action brought upon the lease by the landlord.

2. Notwithstanding any other law to the contrary:

a. No possession by any person, no matter how long continued, of any land, water, water right, easement, or other property whatsoever in the territory of the Tribe dedicated to, held in trust for, or owned by the Tribe or any of its councils, commissions, boards, agencies, departments, divisions, instrumentalities, or economic enterprises shall ever ripen into any title, interest, or right against the Tribe or such council, commission, board, agency, department, division, instrumentality, or economic enterprise;

b. No prescription or statute of limitations shall run, or continue to run, against the title of the Tribe or any of its councils, commissions, boards, agencies, departments, divisions, instrumentalities, or economic enterprises to lands in the territory of the Tribe;

c. No title to any lands of the Tribe or any of its councils, commissions, boards, agencies, departments, divisions, instrumentalities, or economic enterprises in the territory of the Tribe, or any right therein, shall be acquired by adverse possession or prescription or otherwise than by conveyance from the Tribe or such council, commission, board, agency, department, division, instrumentality, or economic enterprise.

CHAPTER 3 TERMINATION OF TENANCIES

Section 11-3-1. Termination of Tenancies.

1. A periodic tenancy continues until the landlord or tenant gives the other the notice required in this Section.

2. Except as otherwise provided in this Title, in the absence of a provision in the lease or other written agreement signed by the landlord and tenant providing otherwise, a landlord or tenant may terminate a periodic tenancy:

a. For week to week, by giving the other at least seven (7) days' written notice of the party's intent to terminate the tenancy at the end of the weekly period;

b. For month to month, by giving the other at least thirty (30) days' written notice of the party's intent to terminate the tenancy at the end of the monthly period; and

c. For other successive periods, by giving the other at least ninety (90) days' written notice of the party's intent to terminate the tenancy at the end of the period.

3. A tenancy for a fixed term continues until the end of the term, provided that a landlord or tenant may terminate a tenancy for a fixed term prior to the end of the term:

a. By mutual agreement;

b. Unless prohibited by this Title, as provided in the lease; or

c. As otherwise permitted in this Title.

Section 11-3-2. Holdover Tenant.

1. Except as otherwise provided in this Title, if a tenant remains in possession without the landlord's consent after expiration of a tenancy for a fixed term or termination of a periodic tenancy, the landlord may bring an action for eviction pursuant to this Title. If the tenant's holdover is willful, the landlord may recover three (3) times the periodic rent or three (3) times the actual damages, whichever is greater.

2. Unless a landlord and tenant otherwise agree in writing, if the tenant remains in possession with the landlord's consent after expiration of a tenancy for a fixed term, a periodic tenancy for month to month arises under the same terms as the expired lease.

3. In addition to the ability to bring an action for eviction pursuant to this Section, if a tenant remains in possession of land owned by or held in trust for the Tribe without the Tribe's consent after expiration of a tenancy for a fixed term or termination of a periodic tenancy, such possession shall also be deemed a trespass subject to any applicable civil or criminal law governing the same, including criminal

prosecution and a civil fine not to exceed eight hundred dollars (\$800) per day of such trespass.

Section 11-3-3. Death of Tenant.

1. If a sole tenant under a lease of a dwelling unit dies before the end of a tenancy for a fixed term or a periodic tenancy:

a. The tenant's surviving spouse who resides in the dwelling unit may assume the lease and become the tenant under the lease by giving the landlord written notice stating the intent of the spouse to assume the lease no later than twenty (20) days after the tenant's death; or

b. Except as otherwise provided in applicable law other than this Title, no sooner than twenty (20) days after the tenant's death, a landlord or tenant representative may terminate the lease by giving to the other and to a surviving spouse of the tenant who resides in the dwelling unit written notice which states:

i. The lease will terminate on a specified date after receipt of the notice which must be, in the case of a periodic tenancy, consistent with the provisions of this Chapter, and, in the case of a tenancy for a fixed term, at least thirty (30) days; and

ii. In the case of notice to a surviving spouse, that the surviving spouse has twenty (20) days after receipt of the notice to assume the lease and, if the spouse assumes the lease, the spouse will become the tenant under the lease.

2. Unless the lease provides otherwise, if a sole individual tenant or principal owner of a tenant that is not an individual under a non-residential lease dies before the end of a tenancy for a fixed term or a periodic tenancy:

a. In the case of a tenancy for a fixed term, the lease will remain in force and the personal representative for the deceased tenant's estate shall become the tenant for the duration of the lease term;

b. In the case of a periodic tenancy, the tenancy will automatically terminate at the end of the current periodic term unless the personal representative for the

deceased tenant's estate assumes the tenancy and becomes the tenant under the lease by giving the landlord written notice stating the intent of the personal representative to assume the tenancy no later than twenty (20) days after the tenant's death; and

c. Notwithstanding any provision of the lease to the contrary, if the personal representative for the deceased tenant's estate becomes the tenant under the lease or periodic tenancy, such personal representative shall have the authority to assign the lease in accordance with the provisions of this Title without approval of the landlord, other than a landlord that is the Tribe, to the heir or successor of the tenant who shall become the tenant under the lease.

3. If a landlord is unable to contact a deceased tenant's surviving spouse who resides in a dwelling unit or tenant representative the purpose of terminating a lease under this Section, the landlord may terminate the lease without notice if rent that was due was not paid for at least twenty-five (25) days.

Section 11-3-4. Destruction of Premises.

1. If leased premises or part of the leased premises is substantially damaged or destroyed by a fire, other casualty, or natural disaster and:

a. If the premises or part of the premises is uninhabitable or inaccessible or continued occupancy of the premises is unlawful or dangerous, the tenant may vacate the premises immediately and, not later than fourteen (14) days after vacating the premises, give the landlord written notice of the tenant's intent to terminate the lease, in which case the lease terminates as of the date the tenant vacates the premises;

b. If the premises are habitable and continued occupancy of the premises is lawful and not dangerous, subject to the landlord's right to terminate the lease under this subsection, the tenant may continue the lease, subject to the remedies available to the tenant under Chapter 4 of this Title; or

c. If continued occupancy of the premises is unlawful or dangerous or requires repairs that can be made

only if the tenant vacates the premises, the landlord may terminate the lease by giving the tenant written notice that the lease will terminate on a specified date, which must be at least five (5) days after the notice is given.

2. If a lease is terminated under this Section, the landlord shall return any security deposit and unearned rent to which the tenant is entitled under this Title.

3. This Section does not preclude:

a. A landlord from seeking actual damages from the tenant for damage to the premises caused by an act or omission of the tenant or the tenant's guest; or

b. A tenant from seeking actual damages from the landlord if the fire or other casualty was caused by an act or omission of the landlord or landlord's agent.

4. A non-residential lease may contain provisions governing the damage or destruction of the leased premises which are different from or additional to the provisions of this Section.

Section 11-3-5. Abandonment.

1. A tenant abandons a leased premises if:

a. The tenant delivers possession of the premises to the landlord before the end of the term by returning the keys or other means of access or otherwise notifies the landlord the premises has been vacated;

b. Rent that is due was not paid for at least five (5) days and the tenant has:

i. Vacated the premises by removing substantially all of the tenant's personal property from the premises; and

ii. Caused the termination of an essential service or otherwise indicated by words or conduct that the tenant has no intention to return to the premises; or

c. The tenant engages or fails to engage in other conduct defined as an abandonment under the lease.

2. If a tenant abandons the premises before the end of the term of the lease, the landlord may recover possession of the premises without a court order and may:

a. Accept the tenant's abandonment of the premises by written notice given to the tenant, in which case:

i. The lease terminates on the date of abandonment;

ii. The landlord and tenant are liable to each other under the lease only for a noncompliance with the lease or this Title which occurred before the lease terminates; and

iii. The landlord shall return any security deposit and unearned rent to which the tenant is entitled under this Title; or

b. Treat the abandonment as wrongful.

3. If a landlord treats abandonment of a leased premises as wrongful, the tenant remains liable under the lease and the landlord has a duty to mitigate by making a reasonable effort to rent the premises, subject to the following rules:

a. The landlord's duty to mitigate does not take priority over the landlord's right to lease first any other premises the landlord has available to lease;

b. If the landlord leases the abandoned premises to another person for a term beginning before the expiration of the term of the lease of the abandoning tenant, the lease terminates as of the date of the new tenancy and the landlord may recover actual damages from the abandoning tenant;

c. If the landlord makes a reasonable effort to lease the abandoning tenant's premises but is unable to lease it or is able to lease it only for an amount less than the rent payable by the abandoning tenant, the landlord may recover actual damages from the abandoning tenant;

d. If the landlord fails to make a reasonable effort to lease the abandoning tenant's premises, the lease

terminates as of the date of abandonment, and the landlord and tenant are liable to each other under the lease or this Title only for a noncompliance with the lease or this Title which occurred before the date of abandonment; and

e. After deducting the landlord's actual damages, the landlord shall return any security deposit and unearned rent to which the tenant is entitled under this Title.

4. In this Section, "reasonable efforts" means steps a landlord would take to rent premises if the premises were vacated at the end of a term, including showing the premises to a prospective tenant or advertising the availability of the premises.

Section 11-3-6. Disposition of Property on Termination or Abandonment.

1. If personal property remains on the premises after the tenant vacates the premises at the termination of the tenancy, including pursuant to an eviction under this Title or court order, or the tenant abandons the premises under this Chapter and the landlord and tenant do not agree otherwise at the time of relinquishment, the landlord shall:

a. Give the tenant written notice in accordance with this Section of the tenant's right to retrieve the property; and

b. Leave the property on the premises or inventory the property and store it on the premises or in another place of safekeeping and exercise reasonable care in moving or storing the property.

2. The notice required by this Section must be posted at the premises and:

a. Be sent to any forwarding address the tenant provided to the landlord, an address provided under Section 11-2-3, another address of the tenant known to the landlord, or, if no address is provided or known, to the address of the premises;

b. Inform the tenant of the right to contact the landlord to claim the property within a stated period of time which is no less than thirty (30) days after receipt

of the notice, subject to payment of the landlord's inventorying, moving, and storage costs; and

c. Provide a telephone number, e-mail address, or mailing address at which the landlord may be contacted.

3. If a tenant contacts the landlord to claim personal property not later than the time provided by the landlord in the notice to the tenant under this Section, the landlord shall permit the tenant to retrieve personal property not later than five (5) days after the date of contact or within a longer period to which the parties agree.

4. A landlord may require the tenant to pay reasonable inventorying, moving, and storage costs before retrieving personal property under this Section. The landlord shall not condition the retrieving or return of a tenant's personal property on the payment of any other costs, fees, or amounts. If the landlord attempts to condition the retrieving or return of personal property on payment of any other costs, fees, or amounts, the landlord shall forfeit the landlord's right to recovery or payment of all inventorying, moving, and storage costs.

5. This Section does not prohibit a landlord from immediately disposing of perishable food, hazardous material, garbage, and trash or transferring an animal to an animal-control officer, humane society, or other person willing to care for the animal.

6. If a deceased tenant's personal property is not retrieved within the time specified in this Section, the landlord may dispose of the property in compliance with Section 11-3-8.

7. A landlord that complies with this Section is not liable to the tenant or another person for a claim arising from removal of personal property from the premises.

Section 11-3-7. Disposition of Property on Death.

1. If a landlord knows that a tenant who was the sole occupant of the premises has died, the landlord:

a. Shall give written notice in accordance with this Section; and

b. Leave the property on the premises or inventory the property and store it on the premises or in another place of safekeeping and exercise reasonable care in moving or storing the property.

2. The notice required by this Section must be posted at the premises and:

a. Be sent to any tenant representative known to the landlord or, in the absence of a tenant representative, to the tenant at the tenant's last-known address or other address of the tenant known to the landlord and to any person the tenant has told the landlord to contact in the case of an emergency;

b. State the name of the tenant and address of the premises;

c. State the approximate date of the tenant's death;

d. Inform the person receiving the notice that, if the personal property on the premises is not claimed within sixty (60) days after the notice was sent, the property is subject to disposal by the landlord; and

e. Provide the landlord's name, telephone number, and mail or e-mail address at which the landlord may be contacted.

3. If the tenant representative or other person contacts the landlord to claim personal property of the tenant not later than the time provided by the landlord in the notice under this Section, the landlord shall give the tenant representative or other person access at a reasonable time to retrieve any personal property of the tenant. The landlord may require a person retrieving the property to prepare and sign an inventory of the property being retrieved and pay the reasonable inventorying, moving, and storage costs before retrieving the property.

4. This Section does not prohibit a landlord from immediately disposing of perishable food, hazardous material, garbage, and trash or transferring an animal to an animal-control officer, humane society, or other person willing to care for the animal.

5. The landlord shall pay the tenant representative the deceased tenant's security deposit and unearned rent to which the tenant otherwise would have been entitled under this Title.

6. If a deceased tenant's personal property is not retrieved within the time specified in this Section, the landlord may dispose of the property in compliance with Section 11-3-8.

7. A landlord that complies with this Section is not liable to the tenant's estate or another person for unearned rent, a security deposit, or a claim arising from removal of personal property from the premises.

8. A landlord that willfully violates this Section is liable to the estate of the deceased tenant for actual damages.

Section 11-3-8. Disposal of Abandoned Property.

1. Except as otherwise provided in this Section, unless a landlord and tenant otherwise agree, if the tenant or tenant representative fails to contact the landlord or retrieve personal property as provided in this Chapter, the property is deemed abandoned and:

a. If a sale is economically feasible, the landlord shall sell the property and, after deducting the reasonable cost of inventorying, moving, storing, and disposing of the property, shall treat the proceeds as part of the tenant's security deposit; or

b. If a sale is not economically feasible, the landlord may dispose of the property in any manner the landlord considers appropriate.

2. If personal property that is deemed abandoned under this Section is of cultural, religious, or ceremonial significance, the landlord shall return such personal property to the tenant, the tenant's immediate or extended family, and/or the Culture Department of the Tribe.

Section 11-3-9. Domestic or Family Violence.

1. If a victim, and not a perpetrator, of an act of domestic or family violence is a tenant of a dwelling unit and has a reasonable fear of suffering psychological harm or a further act of domestic or family violence if the victim

continues to reside in the dwelling unit, the tenant, without the necessity of the landlord's consent, is released from the lease if the tenant gives the landlord a notice that complies with this Section and:

a. A copy of a court order that restrains a perpetrator from contact with the tenant;

b. Evidence of the conviction or adjudication of a perpetrator for an act of domestic or family violence against the tenant; or

c. A verification that complies with this Section.

2. To be released from a lease under this Section, the tenant must give the landlord written notice which:

a. States the tenant's intent to be released from the lease on a date which must be at least thirty (30) days from the date of the notice or, if the perpetrator is a cotenant of the dwelling unit, an earlier date;

b. States facts giving rise to the fear of psychological harm or suffering a further act of domestic or family violence if the victim continues to reside in the dwelling unit; and

c. Is given to the landlord:

i. Not later than ninety (90) days after an act of domestic or family violence against the tenant;

ii. When a court order exists that restrains a perpetrator from contact with the tenant because of an act of domestic or family violence; or

iii. If the perpetrator was incarcerated, not later than ninety (90) days after the tenant acquired knowledge that the perpetrator is no longer incarcerated.

3. A verification given by a tenant under this Section must be under oath and include the following:

a. From the tenant:

i. The tenant's name and the address of the dwelling unit;

ii. The approximate dates on which an act of domestic or family violence occurred;

iii. The approximate date of the most recent act of domestic or family violence;

iv. A statement that because of an act of domestic or family violence, the tenant has a reasonable fear that the tenant or immediate or extended family member residing in the dwelling unit will suffer psychological harm or a further act of domestic or family violence if the tenant or family member continues to reside in the dwelling unit; and

v. A statement that the representations in the verification are true and accurate to the best of the tenant's knowledge and the tenant understands that the verification could be used as evidence in court; and

b. From an attesting third party:

i. The name, address, and telephone number of the party;

ii. The capacity in which the party received the information regarding the act of domestic or family violence;

iii. A statement that the party has read the tenant's verification and been advised by the tenant that the tenant is the victim of an act of domestic or family violence and has a reasonable fear that the tenant or immediate or extended family member residing in the dwelling unit will suffer psychological harm or a further act of domestic or family violence if the tenant or family member continues to reside in the dwelling unit; and

iv. A statement that the party, based on the tenant's verification, believes the tenant and understands that the verification may be used as the ground for releasing the tenant from a lease or terminating the tenant's interest under the lease.

4. If there is only one individual tenant of the dwelling unit:

a. A release under this Section terminates the lease on the date specified in the notice under this Section if the tenant vacates the dwelling unit on or before that date; and

b. The tenant is not liable for rent accruing after the lease terminates or other actual damages resulting from termination of the lease, but the tenant remains liable to the landlord for rent and other amounts owed to the landlord before termination of the lease.

5. If there are multiple individual tenants of the dwelling unit:

a. The tenant who gave notice under this Section is released from the lease as of the date specified in the notice if the tenant vacates the dwelling unit on or before the specified date, but the release of one tenant under this Section does not terminate the lease with respect to other tenants;

b. The tenant released from the lease is not liable to the landlord or any other person for rent accruing after the tenant's release or actual damages resulting from the tenant's release;

c. Any other tenant under the lease may recover from the perpetrator actual damages resulting from the termination; and

d. The landlord is not required to return to the tenant released from the lease or a remaining tenant any security deposit or unearned rent to which the tenant is otherwise entitled under this Title until the lease terminates with respect to all tenants.

6. If a tenant is released from a lease under this Section, the landlord:

a. Except as otherwise provided in this Section, shall return any security deposit and unearned rent to which the tenant is entitled under this Title after the tenant vacates the dwelling unit;

b. May not assess a fee or penalty against the tenant for exercising a right granted under this Section; and

c. May not disclose information required to be reported to the landlord under this Section unless:

i. The tenant provides specific, time-limited, and contemporaneous consent to the disclosure in writing signed by the tenant; or

ii. The information is required to be disclosed by a court order or applicable law other than this Title.

7. A landlord may terminate the lease of a tenant of a dwelling unit by giving the tenant written notice that the lease will terminate on a date specified in the notice, which must be at least thirty (30) days after notice is given, and such termination shall not constitute retaliation if:

a. Without the landlord's permission, the tenant invited a perpetrator of domestic or family violence onto the premises or allowed a perpetrator of domestic or family violence to occupy the dwelling unit:

i. After the landlord gave the tenant written notice to refrain from inviting the perpetrator onto the premises; or

ii. During a time the tenant knows the perpetrator is subject to a no-contact court order or a court order barring the perpetrator from the premises; and

b. The landlord demonstrates that:

i. There is an actual and imminent threat to the health or safety of any individual on the premises, the landlord, or the landlord's agent if the lease is not terminated; or

ii. The perpetrator has damaged the premises.

8. If a perpetrator is a party to the lease of the dwelling unit, on issuance of a court order requiring the perpetrator to vacate the dwelling unit, other than an order

granted ex parte without a hearing and subject to the provisions of Title IV of this Code governing orders for possession related to orders for protection, the perpetrator's interest under the lease terminates and the landlord and any remaining tenant may recover from the perpetrator actual damages resulting from the termination, provided that:

a. Termination of a perpetrator's interest under this subsection does not terminate the interest or alter the obligations of any other tenant under the lease; and

b. The landlord shall not be required to return to the perpetrator or any remaining tenant any security deposit or unearned rent until the lease terminates with respect to all tenants.

9. If a landlord has a reasonable belief that a tenant of a dwelling unit is the victim of an act of domestic or family violence and another tenant of the same landlord who resides in the same building as the tenant is the perpetrator, the landlord may terminate the perpetrator's interest in the lease by giving the perpetrator written notice that the perpetrator's interest will terminate immediately or on a later specified date, which is not later than thirty (30) days after notice is given. The notice must state that the landlord has a reasonable belief that the perpetrator has committed an act of domestic or family violence and the approximate date of the act. Termination pursuant to this subsection shall be subject to the following:

a. Before giving notice to the perpetrator, the landlord shall give notice, by any means reasonably calculated to reach the tenant, of the landlord's intent to terminate the perpetrator's interest to the tenant who was the victim of the act of domestic or family violence;

b. Failure of a tenant to receive notice of the landlord's intent to terminate the perpetrator's interest shall not affect the landlord's right to terminate under this subsection or expose the landlord to any liability;

c. If a landlord terminates a perpetrator's interest under a lease under this subsection, any other tenant under the lease may recover from the perpetrator actual damages resulting from the termination;

d. Termination of a perpetrator's interest under a lease under this subsection does not terminate the interest

or alter the obligations of any other tenant under the lease;

e. The landlord shall not be required to return to the perpetrator or any remaining tenant any security deposit or unearned rent until the lease terminates with respect to all tenants; and

f. In an action between a landlord and tenant involving the right of the landlord to terminate the tenant's interest under this subsection, the landlord must prove by a preponderance of the evidence that the landlord had a reasonable belief that the tenant was a perpetrator.

10. On issuance of a court order requiring a perpetrator to vacate a dwelling unit because of an act of domestic or family violence, other than an order granted ex parte without a hearing and subject to the provisions of Title IV of this Code governing orders for possession related to orders for protection, neither the landlord nor tenant has a duty to:

a. Allow the perpetrator access to the dwelling unit unless accompanied by a law enforcement officer; or

b. Provide the perpetrator with any means of access to the dwelling unit.

11. A landlord may recover from a perpetrator actual damages resulting from a tenant's exercise of a right under this Section and, if the perpetrator is a party to the lease who remains in possession of the dwelling unit, hold the perpetrator liable on the lease for all obligations under the lease or this Title.

12. A perpetrator may not recover actual damages or other relief resulting from the exercise of a right by a tenant or landlord under this Section.

13. Terms used in this Section which are defined in Title IV of this Code shall have the meanings set forth in Title IV of this Code.

CHAPTER 4
NON-RESIDENTIAL TENANCIES

Section 11-4-1. Applicability. This Chapter applies to nonresidential leases and all tenancies not governed by Chapter 5 of this Title.

Section 11-4-2. Landlord Lien for Rent.

1. A landlord shall have a lien for rent due on property of the tenant not exempt by the laws of the Tribe until the rent is paid as follows:

a. Upon crops, livestock, or other agricultural products raised on the premises for the current year, which lien shall be superior to all other liens regardless of the date the lien was acquired; and

b. Upon all other property of the tenant placed upon, used, or usually kept on the premises, which lien shall be superior to any lien acquired subsequent to the property being brought on the premises.

2. A landlord may enforce a lien under this Section through an action in the Tribal Court seeking a writ of execution in accordance with the laws of the Tribe.

3. When the premises are sublet or when the lease is assigned, a landlord shall have the same lien against the sublessee or assignee as the landlord would have against the tenant and may enforce the lien in like manner.

Section 11-4-3. Non-Residential Landlord Duties.

1. In the absence of a provision in the lease or other written agreement signed by the landlord and tenant otherwise, the landlord of a non-residential lease shall:

a. Comply with the obligations imposed on the landlord by the lease and this Title;

b. Comply with all obligations imposed on the landlord by any applicable building, housing, fire, or health code or other applicable law;

c. Maintain all structural elements of the premises in a safe and habitable condition, including making necessary repairs, including but not limited to, ensuring to the extent necessary for or applicable to the use of the premises or purpose of the lease:

i. Such structural elements comply with any applicable building, housing, fire, or health code or other applicable law;

ii. Floors, doors, windows, walls, ceilings, stairways, and railings are in good repair;

iii. The roof and exterior walls, including windows and doors, have effective waterproofing and weather protection;

iv. Plumbing facilities conform to applicable law and are maintained in good working order;

v. To the extent necessary and appropriate, there is a water supply approved under applicable law which can provide hot and cold running water;

vi. Ventilation and heating facilities conform to applicable law and are maintained in good working order;

vii. Electrical lighting, wiring, and equipment conform to applicable law and are maintained in good working order;

viii. Locks or other security devices on all exterior doors and on windows that open and close are in good repair;

ix. Any safety equipment required by applicable law is in good working order; and

x. Reasonable measures are in place to control the presence of rodents and other vermin and to prevent exposure to unsafe levels of radon, lead paint, asbestos, toxic mold, and other hazardous substances;

d. To the extent the premises include a parking area, common area, or other areas under the landlord's control, have reasonable measures in place to make the area:

i. Clean and sanitary;

ii. Safe for normal and reasonably foreseeable use consistent with the lease and in good repair; and

iii. Reasonably free of debris, filth, rubbish, garbage, vermin, and hazardous substances;

e. Have an adequate number of appropriate receptacles in reasonably clean condition if the landlord is obligated to provide trash removal or recycling service by applicable law or a written agreement signed by the landlord and tenant;

f. Have in good repair other facilities and appliances supplied or required to be supplied by the landlord;

g. Ensure the premises have access to essential services, provided the lease may require an account with a utility provider of an essential service be in the name of the tenant and the tenant pay the periodic cost for the service and, if the service is not provided because the tenant fails to pay for the service, the landlord does not fail to comply with this subsection; and

h. Not enter the premises unless:

i. Entry is as a member of the public in the same manner other members of the public may enter the premises;

ii. Entry is permitted by the lease, this Title, or the tenant otherwise agrees;

iii. Entry is for a legitimate emergency;

iv. Entry is to make necessary or agreed repairs, decorations, alterations, or improvements after written notice to the tenant of the date and time for the same;

v. Entry is to supply necessary or agreed services;

vi. Entry is under a court order;

vii. The tenant has abandoned the premises under this Title; or

viii. Permitted by applicable law other than this Title.

2. In this Section, "structural elements" means the parts of a premises related to the support of the premises, including but not limited to, roofs and roof membranes; sidewalks; walls; foundations; plumbing; pipes, tubes, and other conduits and utility lines leading to or from the premises or embedded into the structure of the premises; floor slabs and structures; exterior surfaces of the premises; building shell; structural members; and electrical, heating and air conditioning, plumbing, and ventilation systems.

3. If a sublessor is a landlord for purposes of this Title, the sublessor has the duty to comply with this Section except for duties that would require the sublessor to access parts of the premises beyond the sublessor's control.

Section 11-4-4. Non-Residential Tenant Duties. In the absence of a provision in the lease or other written agreement signed by the landlord and tenant otherwise, a tenant shall:

1. Comply with the obligations imposed on the tenant by the lease and this Title;

2. Comply with all applicable rules of the landlord adopted in accordance with this Title;

3. Comply with the obligations imposed on a tenant by any building, housing, fire, or health code or other applicable law;

4. Maintain, including making necessary repairs, all additions or improvements installed by the tenant, interior surfaces of the premises, and elements of the premises which are necessary only for the tenant's use of the premises, including but not limited to, partition walls, carpeting, lighting, wall coverings, and plumbing fixtures;

5. Comply with any applicable laws necessitated solely due to the tenant's particular use of the premises;

6. Unless the landlord and tenant otherwise agree, use the premises only for the purposes identified in the lease;

7. Except with respect to duties imposed on the landlord by the lease, this Title, or other applicable law, keep the premises reasonably safe and sanitary;

8. Remove all garbage, rubbish, and other debris from the premises in a clean and safe manner;

9. Use in a reasonable manner all electrical, plumbing, heating, ventilating, and air-conditioning systems and other facilities and appliances on the premises;

10. Without the landlord's consent, not intentionally or negligently, and not intentionally or negligently permit the tenant's guests to, destroy, deface, damage, impair, remove, or render inoperative any part of the premises or safety equipment on the premises;

11. Not engage in or permit the tenant's guests to engage in criminal activity on the premises;

12. Notify the landlord within a reasonable time of any condition of the premises which requires repair by the landlord under the lease or Section 11-4-3;

13. Not disturb the use and enjoyment of the premises by another tenant or permit the tenant's guests to do the same;

14. Return the premises to the landlord at the termination of the lease in the same condition as it was at the commencement of the term of the lease, with the premises free of any damage caused by the tenant or the tenant's guests, except for:

a. Normal wear and tear;

b. Damage resulting from a cause beyond the control of the tenant or the tenant's guests; and

c. Any addition or improvement installed on the premises with the landlord's consent, provided that if the tenant is required to or permitted to remove any such addition or improvement and removes such addition or improvement, the tenant shall restore the premises as closely as possible to their condition before the installation of such addition or improvement; and

15. Not unreasonably withhold consent for the landlord to enter the premises to:

- a. Inspect the premises;
- b. Make a necessary or agreed-to repair, alteration, or improvement;
- c. Supply a necessary or agreed-to service; or
- d. Exhibit the premises to a prospective or actual purchaser, mortgagee, tenant, worker, or contractor or to a public official responsible for enforcing a building, housing, fire, or health code or other applicable law.

Section 11-4-5. Maintenance Agreements.

1. A landlord and tenant may agree that the tenant is to perform specified repairs, maintenance tasks, alterations, or remodeling.

2. A landlord may not treat performance of an agreement described in this Section as a condition to the performance of any obligation under the lease or this Title.

**CHAPTER 5
RESIDENTIAL TENANCIES**

Section 11-5-1. Applicability. This Chapter applies to the leasing and rental of a dwelling unit.

Section 11-5-2. Landlord Lien Prohibited. Notwithstanding anything to the contrary in this Title, a landlord may not create, perfect, or enforce a lien or security interest on a tenant's tangible personal property to secure the tenant's performance under the lease or this Title.

Section 11-5-3. Residential Landlord Duties.

1. The landlord of a dwelling unit shall:
 - a. Comply with the obligations imposed on the landlord by the lease and this Title;
 - b. Maintain the premises in a habitable condition, including making necessary repairs, including but not limited to, ensuring that the premises:

i. Comply with all obligations imposed on the landlord by any applicable building, housing, fire, or health code or other applicable law;

ii. Have effective waterproofing and weather protection of the roof and exterior walls, including windows and doors;

iii. Have plumbing facilities that conform to applicable law and are maintained in good working order;

iv. Have access to a water supply approved under applicable law which can provide hot and cold running water;

v. Have adequate ventilation and heating facilities that conform to applicable law and are maintained in good working order;

vi. Have electrical lighting, with wiring and equipment that conform to applicable law and are maintained in good working order;

vii. Have reasonable measures in place to control the presence of rodents, bedbugs, and other vermin and to prevent exposure to unsafe levels of radon, lead paint, asbestos, toxic mold, and other hazardous substances;

viii. To the extent the premises include a common area or other areas under the landlord's control, have reasonable measures in place to make the area:

(1) Clean and sanitary;

(2) Safe for normal and reasonably foreseeable use consistent with the lease and in good repair; and

(3) Reasonably free of debris, filth, rubbish, garbage, vermin, and hazardous substances;

ix. Have an adequate number of appropriate receptacles in reasonably clean condition if the

landlord is obligated to provide trash removal or recycling service by applicable law or a written agreement signed by the landlord and tenant;

x. Have in good repair floors, doors, windows, walls, ceilings, stairways, and railings;

xi. Have in good repair other facilities and appliances supplied or required to be supplied by the landlord;

xii. Have in good repair locks or other security devices on all exterior doors and on windows that open and close, including those of the dwelling unit and other parts of the premises; and

xiii. Have in good working order any safety equipment required by applicable law;

c. Ensure the premises have access to essential services, provided the lease may require an account with a utility provider of an essential service be in the name of the tenant and the tenant pay the periodic cost for the service and, if the service is not provided because the tenant fails to pay for the service, the landlord does not fail to comply with this subsection; and

d. Not enter the dwelling unit unless:

i. Entry is permitted by the lease, this Title, or the tenant otherwise agrees;

ii. Entry is for a legitimate emergency;

iii. Entry is to make necessary or agreed repairs, decorations, alterations, or improvements after written notice to the tenant of the date and time for the same;

iv. Entry is to supply necessary or agreed services;

v. Entry is under a court order;

vi. The tenant has abandoned the dwelling unit under this Title; or

vii. Permitted by applicable law other than this Title.

2. The landlord and tenant of a dwelling unit which is a single family residence may provide for the tenant to be responsible for some or all of the landlord's duties under this Section in the lease or other written agreement signed by the landlord and tenant.

3. If a sublessor is a landlord for purposes of this Title, the sublessor has the duty to comply with this Section except for duties that would require the sublessor to access parts of the premises beyond the sublessor's control.

Section 11-5-4. Residential Tenant Duties. In the absence of a provision in the lease or other written agreement signed by the landlord and tenant otherwise, a tenant shall:

1. Comply with the obligations imposed on the tenant by the lease and this Title;

2. Comply with all applicable rules of the landlord adopted in accordance with this Title;

3. Comply with the obligations imposed on a tenant by any building, housing, fire, or health code or other applicable law;

4. Unless the landlord and tenant otherwise agree, use the dwelling unit only for residential purposes;

5. Except with respect to duties imposed on the landlord by the lease, this Title, or other applicable law, keep the premises reasonably safe and sanitary;

6. Remove all garbage, rubbish, and other debris from the premises in a clean and safe manner;

7. Keep all plumbing fixtures in the dwelling unit reasonably clean;

8. Use in a reasonable manner all electrical, plumbing, heating, ventilating, and air-conditioning systems and other facilities and appliances on the premises;

9. Without the landlord's consent, not intentionally or negligently, and not intentionally or negligently permit the tenant's guests to, destroy, deface, damage, impair, remove, or

render inoperative any part of the premises or safety equipment on the premises;

10. Not disturb the use and enjoyment of the premises by another tenant or permit the tenant's guests to do the same;

11. Not engage in or permit the tenant's guests to engage in criminal activity on the premises;

12. Notify the landlord within a reasonable time of any condition of the premises which requires repair by the landlord under the lease or Section 11-5-3 of this Chapter;

13. Return the premises to the landlord at the termination of the lease in the same condition as it was at the commencement of the term of the lease, with the premises free of any damage caused by the tenant or the tenant's guests, except for:

a. Normal wear and tear;

b. Damage resulting from a cause beyond the control of the tenant or the tenant's guests; and

c. Any addition or improvement installed on the premises with the landlord's consent, provided that if the tenant is required to or permitted to remove any such addition or improvement and removes such addition or improvement, the tenant shall restore the premises as closely as possible to their condition before the installation of such addition or improvement; and

14. Not unreasonably withhold consent for the landlord to enter the dwelling unit to:

a. Inspect the dwelling unit;

b. Make a necessary or agreed-to repair, alteration, or improvement;

c. Supply a necessary or agreed-to service; or

d. Exhibit the dwelling unit to a prospective or actual purchaser, mortgagee, tenant, worker, or contractor or to a public official responsible for enforcing a building, housing, fire, or health code or other applicable law.

Section 11-5-5. Maintenance Agreements.

1. A landlord and tenant may agree that the tenant is to perform specified repairs, maintenance tasks, alterations, or remodeling only if:

a. The agreement is in writing, other than the lease, signed by the parties and supported by adequate consideration;

b. The work is not necessary to cure the landlord's noncompliance with this Title; and

c. The agreement does not affect the obligation of the landlord to other tenants on the premises.

2. A landlord may not treat performance of an agreement described in this Section as a condition to the performance of any obligation under the lease or this Title.

Section 11-5-6. Domestic or Family Violence.

1. If a tenant is a victim of an act of domestic or family violence and the tenant has a reasonable fear that the perpetrator or other person acting on the perpetrator's behalf may attempt to gain access to the dwelling unit, the tenant, without the landlord's consent, may cause the locks or other security devices for the dwelling unit to be changed or rekeyed in a professional manner and shall give a key or other means of access for the new locks or security devices to the landlord and any other tenant that is a party to the lease, other than the perpetrator, provided:

a. If locks or other security devices are changed or rekeyed under this subsection, the landlord may change or rekey them, at the tenant's expense, to ensure compatibility with the landlord's master key or other means of access or otherwise accommodate the landlord's reasonable commercial needs; and

b. If a perpetrator is a party to the lease, locks or other security devices may not be changed or rekeyed under this subsection unless a court order, other than an order granted ex parte without a hearing and subject to the provisions of Title IV of this Code governing orders for possession related to orders for protection, expressly requires that the perpetrator vacate the dwelling unit or

restrains the perpetrator from contact with the tenant and a copy of the order has been given to the landlord.

2. A landlord may not refuse or threaten to refuse to rent a dwelling unit if the landlord's purpose for the refusal or threat is that a tenant is or has been the victim of an act of domestic or family violence.

3. A perpetrator may not recover actual damages or other relief resulting from the exercise of a right by a tenant or landlord under this Section.

4. Terms used in this Section which are defined in Title IV of this Code shall have the meanings set forth in Title IV of this Code.

CHAPTER 6 NONCOMPLIANCE

Section 11-6-1. Landlord Noncompliance.

1. Except as otherwise provided in this Title, a landlord shall be in noncompliance if the landlord fails to comply with the lease or this Title.

2. If a landlord's noncompliance results in the tenant not receiving an essential service, materially interferes with the health or safety of the tenant or the tenant's guests, or materially interferes with the use and enjoyment of the premises by the tenant and the noncompliance is not remedied during the applicable period specified in this Section, the tenant may:

a. If the noncompliance materially interferes with the health or safety of the tenant or the tenant's guests, terminate the lease immediately by giving written notice to the landlord of the tenant's intent to terminate the lease immediately;

b. If the noncompliance does not materially interfere with the health or safety of the tenant or the tenant's guests, terminate the lease by giving written notice to the landlord of the tenant's intent to terminate the lease on a specified date which is at least fourteen (14) days after the applicable period required to remedy the breach; or

c. Continue the lease and elect one or more of the following remedies:

i. Withhold rent for the period of noncompliance beginning on the date the tenant gave notice in accordance with this Section;

ii. Recover actual damages;

iii. Obtain injunctive relief, specific performance, or other equitable relief;

iv. Make repairs and deduct the cost from the rent as provided in this Section; or

v. Secure an essential service the landlord is obligated to provide or, in the case of a dwelling unit, comparable substitute housing during the period of noncompliance.

3. If a landlord's noncompliance materially interferes with the health or safety of a tenant or the use and enjoyment of the premises by the tenant and it is impossible for the landlord to remedy the noncompliance within thirty (30) days after the tenant gave notice of the noncompliance, the landlord may terminate the lease by giving the tenant written notice that the lease will terminate on a specified date, which must be at least thirty (30) days after the landlord gives the notice, provided that the landlord may not rent the premises for ninety (90) days after termination of the lease.

4. If a landlord's noncompliance does not materially interfere with the health or safety of the tenant or the tenant's guests or the use and enjoyment of the premises by the tenant, the tenant may:

a. Recover actual damages;

b. Obtain injunctive relief, specific performance, or other equitable relief; or

c. Make repairs and deduct the cost from the rent as provided in this Section.

5. A tenant may make repairs and deduct the cost from the rent to remedy the landlord's noncompliance under this Section subject to the following:

a. The tenant must give notice of the noncompliance in accordance with this Section;

b. The landlord must fail to remedy the noncompliance within the applicable period specified in this Section;

c. The reasonable cost to remedy the noncompliance may not exceed one month's periodic rent;

d. The repair must be made in a professional manner and in compliance with applicable law;

e. If the tenant makes repairs, the tenant is entitled to recover the actual and reasonable cost incurred or the reasonable value of the work performed to remedy the noncompliance, not exceeding one month's periodic rent;

f. Unless the tenant has been reimbursed by the landlord, the tenant may deduct the cost or value from rent after submitting to the landlord an itemized statement, accompanied by receipts for purchased items and services; and

g. The tenant's use of the remedy under this subsection is limited to one month's periodic rent during any twelve (12) month period.

6. If a lease is terminated under this Section, the landlord shall return any security deposit and unearned rent to which the tenant is entitled under this Title.

7. If a landlord is in noncompliance, the tenant has the remedies under this Section if the tenant gives the landlord:

a. Written notice of the noncompliance; and

b. An opportunity to remedy the noncompliance within the following periods:

i. If the noncompliance involves failure to provide an essential service or materially interferes with the health or safety of the tenant or the tenant's guest, as soon as practicable but not later than five (5) days after the tenant gave the notice; and

ii. In all other cases, not later than fourteen (14) days after the tenant gave the notice.

8. If a landlord is in noncompliance and the tenant has complied with the provisions of this Section governing notice and opportunity to remedy, the tenant may defend an action by the landlord based on nonpayment of rent on the ground that no rent was due because of the noncompliance.

9. A tenant is not entitled to a remedy under this Section to the extent:

a. The landlord's noncompliance was caused by an act or omission of the tenant or the tenant's guest; or

b. The tenant or the tenant's guest prevented the landlord from having access to the premises to remedy the act or omission described in the notice of the tenant.

Section 11-6-2. Tenant Noncompliance.

1. Except as otherwise provided in this Chapter, a tenant shall be in noncompliance if the tenant:

a. Fails to pay rent when due;

b. Fails to comply with the lease or this Title;

c. The tenant or the tenant's guest commits a criminal act on the premises; or

d. Is subject to eviction for any of the grounds specified in this Title.

2. Except as otherwise provided by applicable law other than this Title, if a tenant fails to pay rent when due, the landlord may terminate the lease by giving written notice to the tenant of the landlord's intent to terminate the lease on a specified date which is at least fourteen (14) days after the applicable period required to remedy the noncompliance.

3. Except as otherwise provided by applicable law other than this Title, if there is a material noncompliance with a lease or this Title by the tenant, other than nonpayment of rent, the landlord may terminate the lease by giving written notice to the tenant of the landlord's intent to terminate the

lease on a specified date which is at least thirty (30) days after the applicable period required to remedy the noncompliance.

4. If the tenant or the tenant's guest has committed a criminal act on the premises, the landlord may terminate the lease by giving written notice to the tenant of the landlord's intent to terminate the lease on a specified date, provided that a landlord may not terminate a lease under this subsection if the criminal act was the act of the tenant's guest and the tenant:

a. Neither knew nor should have known the act was going to be committed; and

b. Took reasonable steps to ensure that there will not be a repeated criminal act on the premises by the guest.

5. Except as otherwise provided in this Title, if a tenant is otherwise in noncompliance, the landlord may:

a. Obtain injunctive relief or specific performance;

b. Make repairs and recover the cost from the tenant; or

c. Regardless of whether the lease terminates as a result of the tenant's noncompliance, recover actual damages.

6. If a tenant is in noncompliance, the landlord has the remedies under this Section if the landlord gives the tenant:

a. Written notice of the noncompliance which shall specify the reason for the termination and the actions required to remedy the noncompliance;

b. An opportunity to remedy the noncompliance within fourteen (14) days after the landlord gave the notice, provided that a landlord may terminate the lease without giving the tenant an opportunity to remedy a noncompliance if:

i. The tenant failed to pay rent in a timely manner on at least two (2) occasions within the four

(4) month period preceding the notice to terminate the lease;

ii. The tenant committed substantially the same act or omission of material noncompliance for which notice was given within six (6) months preceding the latest noncompliance;

iii. The noncompliance by the tenant poses an actual and imminent threat to the health or safety of any individual on the premises or the landlord or landlord's agent; or

iv. Subject to the limitations in this Section, the tenant or the tenant's guest has committed a criminal act on the premises; and

c. If the landlord will terminate the lease, a statement that:

i. If termination is based on an actual and imminent threat to health or safety or criminal act as provided in this subsection, the lease will terminate immediately or on a later specified date; and

ii. In all other cases, the lease will terminate on a specified date, which must be at least fourteen (14) days after the landlord gave the notice.

7. Without limiting the rights of a landlord or tenant to terminate a periodic tenancy as provided in this Title, unless the landlord and tenant otherwise agree after the noncompliance occurs, a landlord waives the right to terminate the lease for the noncompliance by accepting:

a. Rent for two or more successive rental periods with knowledge of noncompliance by the tenant; or

b. The tenant's performance that varies from the terms of the lease or this Title.

Section 11-6-3. Retaliation.

1. A landlord may not take action against a tenant or engage in conduct if the landlord's purpose for taking the action or engaging in the conduct is to retaliate against a tenant that:

a. Complained to a governmental agency responsible for enforcement of a building, housing, fire, or health code or other applicable law, alleging a violation applicable to the premises materially affecting the health or safety of the tenant or the tenant's guests;

b. Complained to a governmental agency responsible for enforcement of applicable laws prohibiting discrimination related to the premises or, in the case of a dwelling unit, rental housing;

c. Complained to the landlord of noncompliance with the lease or this Title;

d. Organized or became a member of a tenant's union or similar organization;

e. Exercised or attempted to exercise a right or remedy under the lease, this Title, or applicable law other than this Title;

f. Pursued an action or administrative remedy against the landlord or testified against the landlord in court or an administrative proceeding; or

g. In the case of a dwelling unit, is a victim, or has an immediate family member that is a victim, of an act of domestic or family violence that resulted in either a violation of the lease or this Title by the tenant or a law enforcement or emergency response.

2. Conduct that may be retaliatory includes doing or threatening to do any of the following:

a. Increasing the rent or fees;

b. Decreasing services;

c. Increasing the tenant's obligations;

d. Imposing different rules on or selectively enforcing the landlord's rules against the tenant or the tenant's guests;

e. Otherwise materially altering the terms of the lease;

f. Bringing an action for eviction on a ground other than nonpayment of rent;

g. Refusing to renew a tenancy for a fixed term under a lease containing a renewal option that is exercisable by the tenant without negotiation with the landlord for any period after the lease would otherwise terminate;

h. Terminating a periodic tenancy; or

i. Committing a criminal act against the tenant or the tenant's guest.

3. A landlord is not liable for retaliation under this Section if:

a. The violation of which the tenant complained was caused primarily by the tenant or the tenant's guest;

b. The tenant's conduct which the landlord is alleged to be retaliating against was in an unreasonable manner or at an unreasonable time or was repeated in a manner harassing the landlord;

c. The tenant was in default in the payment of rent at the time notice of an action for eviction was sent;

d. The tenant or the tenant's guest engaged in conduct that threatened the health or safety of another tenant on the premises;

e. The tenant or the tenant's guest engaged in a criminal act;

f. The landlord is seeking to recover possession based on a notice to terminate the lease and the notice was given to the tenant before the tenant engaged in conduct which the landlord is alleged to be retaliating against; or

g. The landlord is complying or complied with a building, housing, fire, or health code or other applicable law by making a required repair, alteration, remodeling, or demolition that effectively deprives the tenant of the use and enjoyment of the premises.

4. Evidence that a tenant engaged in conduct described in subsection 1 of this Section within six (6) months before the landlord's alleged retaliatory conduct creates a rebuttable presumption that the purpose of the landlord's conduct was retaliation, provided that:

a. A presumption does not arise under this subsection if the tenant engaged in conduct described in subsection 1 of this Section after the landlord gave the tenant notice of the landlord's intent to engage in the conduct which is alleged to be retaliatory; and

b. A landlord may rebut a presumption under this subsection by a preponderance of evidence showing that the landlord had sufficient justification for engaging in the conduct that created the presumption and would have engaged in the conduct in the same manner and at the same time whether or not the tenant engaged in conduct described in subsection 1 of this Section.

5. If a landlord's purpose for taking action against a tenant or engaging in conduct is to retaliate against a tenant:

a. The tenant has a defense against an action for eviction, may recover possession, or may terminate the lease;

b. The tenant may recover three (3) times the periodic rent or three (3) times the actual damages, whichever is greater, or, where the Tribe is the landlord, the actual damages;

c. If a tenant terminates the lease under this subsection, the landlord shall return any security deposit and unearned rent to which the tenant is entitled under this Title; and

d. A tenant's exercise of a right under this subsection does not release the landlord from the landlord's duties under Chapter 4 or Chapter 5 of this Title, as applicable.

6. If a tenant engages in conduct described in subsection 1 of this Section knowing there is no factual or legal basis for the conduct, the landlord may recover actual damages and the Tribal Court may award the landlord up to three (3) times the periodic rent.

CHAPTER 7
EVICTIION

Section 11-7-1. Definitions. Unless the context requires otherwise or another definition is provided for a particular section, in this Chapter:

1. "Nuisance" means the maintenance on the premises of a condition which:

a. Unreasonably threatens the health or safety of the public or neighboring land users; or

b. Unreasonably and substantially interferes with the ability of neighboring property users to enjoy the reasonable use and occupancy of their property.

2. "Waste" means spoil or destruction of land, buildings, gardens, trees, or other improvements or natural occurrences which results in substantial injury to the landlord's interest in the premises.

Section 11-7-2. Grounds for Eviction. A tenant or other person may be evicted by the landlord in accordance with this Chapter if such person remains in possession of the premises under any of the following situations after the expiration of any opportunity to remedy required under this Title:

1. When such person fails to pay rent when due;

2. When such person owes to the landlord any costs, fees, or damages other than rent which have been due for thirty (30) days or more, provided that the receipt by the landlord of partial payments under an agreement shall not excuse the payment of any balance that is due upon demand;

3. When such person holds over or otherwise fails or refuses to vacate any part of the premises after the lease has ended or been terminated in accordance with the lease or this Title;

4. When such person materially breaches or violates any condition or covenant of the lease or violates any other condition or covenant of the lease where language in the lease

states that the violation or breach of the condition or covenant allows the landlord to terminate the lease;

5. When such person continues to fail to keep or perform any obligations primarily imposed upon tenants by applicable provisions of building, housing, fire, or health codes materially affecting health and safety;

6. When such person violates the rules of the landlord governing the premises when such rules have been either:

a. Adopted in accordance with this Title; or

b. Made a part of the lease by the landlord either before or after the lease is signed or agreed to;

7. When such person continues to commit or to permit waste upon the premises or maintain a nuisance upon the premises after having been given notice and opportunity to remedy;

8. Where such person disturbs the peace and quiet of the landlord or the other tenants or occupants on the premises;

9. When such person has caused or is causing intentional or reckless damage, destruction, or injury to the property of the landlord or other tenants or disturbed another tenant's right to quiet enjoyment of the premises;

10. When such person uses the premises in violation of applicable law or for a purpose not authorized under the lease or this Title;

11. When such person has engaged in conduct that creates or is reasonably likely to create immediate injury or death to other tenants or catastrophic destruction to the premises;

12. When such person knowingly gives false material information or omits material facts in an application for tenancy such that if the landlord had known the truth, the landlord's consistent and lawful policy would have been to deny the lease, provided that eviction is commenced no later than ninety (90) days after the falsity or omission is discovered;

13. When such person enters onto, remains, or occupies the premises without permission, agreement, or any substantial claim of a lease, tenancy, or title to the premises following any

reasonable demand by a person in authority over the premises to leave; or

14. Under other terms in the lease which do not conflict with the provisions of this Title.

Section 11-7-3. Self-Help Eviction Prohibited.

1. A landlord may evict a tenant or other person from the premises only in accordance with this Chapter. A landlord may not recover or take possession of premises which are still occupied by a tenant through an act of self-help or in any forceful manner, including but not limited to:

- a. A manner which causes a breach of the peace;
- b. Willful interruption or causing the willful interruption of an essential service to the premises;
- c. Forcing or changing locks;
- d. Breaking doors, windows, gates, fences, security systems or other parts of the premises;
- e. Removing the tenant's property from the premises;
or
- f. Threatening the tenant with bodily injury, harm, or loss of or harm to personal property.

2. Notwithstanding anything to the contrary in this Title, in the case of a non-residential lease, the landlord may change the locks or remove the tenant's property from the premises in a manner which does not cause a breach of the peace:

- a. When the lease has ended or been terminated by either party in accordance with the lease or this Title; or
- b. When the premises are occupied without permission or agreement following any reasonable demand by a person in authority over the premises to leave.

3. Nothing in this Section shall be construed as preventing the removal of any person trespassing on property by law enforcement or an authorized official of the Tribe.

Section 11-7-4. Notice to Quit.

1. Except as otherwise provided in this Section, a landlord or owner of any premises shall not commence an action in Tribal Court for eviction prior to fourteen (14) days from the date of service on the tenant of a written notice to vacate and quit the premises in accordance with this Section.

2. A notice issued pursuant to this Section shall be in writing substantially in the following form:

I (or we) hereby give you notice that you are to quit possession or occupancy of the premises now occupied by you at (insert the address or other reasonable description of the location of the premises), on or before the (insert the date) for the following reason(s) (insert the legally cognizable reason or reasons for the notice to quit possession using statutory language or words of similar import). Signed, (insert the signature, name and address of the landlord as well as the date and place of signing).

3. A notice issued pursuant to this Section shall be given to the tenant by either:

a. Delivering a copy personally to the tenant or to any adult member of his or her family resident on the premises;

b. By sending a copy to the tenant by certified mail, return receipt requested, properly addressed, postage prepaid; or

c. Posting said notice in a conspicuous place near the entrance to said premises, and by sending an additional copy to the tenant by certified mail, return receipt requested, properly addressed, postage prepaid.

4. A notice under this Section shall not be required:

a. When the lease has ended or been terminated by either party in accordance with the lease or this Title; or

b. When the premises are occupied without permission or agreement following any reasonable demand by a person in authority over the premises to leave.

Section 11-7-5. Procedure.

1. Proceedings in the Tribal Court under this Chapter shall be governed by the rules of procedure for the Tribal Court which are not in conflict with this Title.

2. The Tribal Court may issue orders under this Chapter by telephone, facsimile, or other electronic means and such orders shall have the same force and effect as original written orders. Order issued by telephone shall be followed by a written order as soon thereafter as possible.

Section 11-7-6. Rights of Parties.

1. Every party to a proceeding under this Title has the following rights:

- a. To be represented by legal counsel at their own expense in all proceedings in the matter;
- b. To introduce evidence;
- c. To be heard on his or her own behalf;
- d. To have the Tribal Court compel the attendance of a witness on his or her behalf; and
- e. To examine witnesses.

2. All parties shall be entitled to advance copies of court documents, including complaints and motions.

Section 11-7-7. Initiation of Proceedings.

1. Proceedings in the Tribal Court to evict a person from premises shall be initiated by the filing of a complaint.

2. Complaints may be filed by the landlord or other person with authority over the premises.

3. In addition to any other information required by the laws of the Tribe, all complaints under this Section shall contain the following information:

- a. The name(s) of the person(s) sought to be evicted;
- b. The basis for the Tribal Court's jurisdiction;

- c. The address or reasonable description of the location of the premises;
- d. A description of the lease, if any;
- e. The grounds for eviction;
- f. Any claim for damages or compensation due from the persons to be evicted;
- g. Evidence that a notice to quit has been properly served or information as to why a notice to quit is not required under this Chapter;
- h. Copies of the written lease and notice to quit, if any;
- i. Copies of any notices, decisions, orders, or judgments relating to the termination of the lease, if any; and
- j. The relief demanded, including any claims for possession of the premises, damages, fees, costs, or other special relief.

4. Two (2) or more persons occupying the same premises may be included in the same complaint.

5. A complaint which substantially complies with the requirements of this Section shall not be dismissed for violation of this Section.

Section 11-7-8. Summons and Service of Process.

1. Upon the filing of a complaint, a summons shall be issued to all named defendants to the petition in accordance with the general rules governing the issuance of summons by the Tribal Court.

2. The summons shall be served in accordance with the Tribal Rules of Civil Procedure and shall be made at least ten (10) days before the first hearing on the complaint.

Section 11-7-9. Responsive Pleading.

1. Any defendant may file a responsive pleading.

2. Any responsive pleading shall be filed with the Tribal Court and served on all parties within the time period provided in the rules of procedure for the Tribal Court for answering or responding to a claim or at least seven (7) business days before the first hearing, whichever is earlier.

3. Failure to file a responsive pleading shall not constitute an admission of any allegation contained in the complaint.

Section 11-7-10. Defenses. The Tribal Court shall evict the tenant as provided in this Chapter unless:

1. Due to the fault of the landlord and no fault of the tenant, the premises are uninhabitable;

2. The landlord, after the expiration of any opportunity to remedy required under this Title, has failed to comply with the lease or the obligations placed on landlords under this Title and such failure:

a. Has resulted in the tenant not receiving an essential service;

b. Materially interferes with the health or safety of the tenant or the tenant's guests; or

c. Materially interferes with the use and enjoyment of the premises by the tenant;

3. The landlord has failed to keep or perform any material condition or covenant of the lease after the expiration of any opportunity to remedy required under this Title;

4. The landlord is evicting the tenant because of the race, sex, sexual orientation, religion, age, marital status, family status, or disability of the tenant;

5. The landlord is evicting the tenant or terminated the lease to retaliate against the tenant as prohibited by this Title;

6. The tenant has remedied any default or otherwise rendered moot any alleged ground for eviction; or

7. This Title provides another legal defense to eviction.

Section 11-7-11. Settlement.

1. After a notice to quit has been served on a tenant and anytime before the entering of a judgment by the Tribal Court in a proceeding under this Chapter, a landlord and tenant may settle the matter between the parties without affecting their rights in any manner except as agreed upon. Such settlement may include, but is not limited to:

a. The tenant voluntarily quitting the premises without the landlord filing an action or the Tribal Court entering a judgment under this Chapter;

b. The barter for services or goods, or any other means of securing a fair exchange of value for the use of the premises;

c. The stipulation of a judgement to be entered by the Tribal Court; or

d. The dismissal of the matter in exchange for any agreement reached.

2. The Tribal Court may stay an action under this Chapter, as necessary and just, where the parties have entered negotiations for settlement.

Section 11-7-12. Discovery. The parties may conduct discovery in a proceeding under this Chapter in accordance with the Tribal Rules of Civil Procedure, subject to the following:

1. Initial disclosures shall not be required;

2. Any party may serve discovery on an opposing party after service of the complaint has been completed;

3. The party upon whom a discovery request has been served shall serve his or her response, and objections if any, within five (5) days after the service of the discovery;

4. All discovery must be completed no later than five (5) days prior to the first hearing on the complaint; and

5. Extensive, prolonged, or time consuming discovery or discovery beyond the time limits permitted in this Section shall not be permitted unless the Tribal Court finds, upon motion of a

party, that there is good cause for such discovery and the interests of justice require it.

Section 11-7-13. Conduct of Hearings. All hearings involving proceedings under this Chapter shall be conducted in accordance with the following:

1. Hearings shall be informal in nature, but orderly;
2. Concerned parties shall be provided an opportunity to introduce evidence, be heard on their own behalf, and examine witnesses;
3. Any matter or information relevant and material to the subject matter of the hearing is admissible and may be received in evidence;
4. Hearsay evidence will not be excluded as long as it is reasonably reliable; and
5. A verbatim record shall be taken of all hearings.

Section 11-7-14. Continuance.

1. Upon request of a defendant in a proceeding under this Chapter, the Tribal Court may continue a hearing under this Chapter beyond the time limit within which the hearing is otherwise required to be held for good cause and upon provision of security by the defendant in an amount equal to the fair rental value of the premises subject of the complaint for an amount of time equal to the length of the continuance granted.

2. Upon request of a plaintiff in a proceeding under this Chapter, the Tribal Court may for good cause continue any hearing under this Chapter for such period of time as is necessary, provided that if such continuance is granted over the objection of the defendant, the defendant shall not be liable for the use and occupancy of the premises during the period of the length of the continuance granted.

3. In no event may any hearing under this Chapter be postponed or continued for more than one hundred eighty (180) days.

Section 11-7-15. Hearing on Complaint.

1. Upon the filing of the proof of service of a complaint filed under this Chapter, the Tribal Court shall schedule and conduct a hearing on the complaint on the first scheduled court day that is at least fifteen (15) days after service of the complaint has been completed.

2. The purpose of a hearing on the complaint is to determine whether the tenant or other person should be evicted and whether the plaintiff is entitled to any other relief requested.

3. The Tribal Court shall consider any and all relevant testimony or evidence presented at hearing.

4. The Tribal Court shall order the eviction of the defendant if:

a. The defendant was properly served with notice of the action and the hearing in accordance with the laws of the Tribe;

b. The landlord has complied with all applicable provisions of this Chapter and the lease governing eviction of the defendant; and

c. One or more grounds for eviction enumerated in this Chapter exists without a valid defense of the defendant permitted under this Chapter.

5. The burden of proof shall lie with the plaintiff to prove by a preponderance of the evidence that eviction should be ordered and any other relief requested by the plaintiff be granted. The burden of proof shall lie with the defendant to prove by a preponderance of the evidence any valid defense to the eviction and that any relief requested by the defendant be granted.

Section 11-7-16. Judgment.

1. No later than five (5) days after a hearing on a complaint filed under this Chapter, the Tribal Court shall enter a written judgment based on the results of said hearing.

2. If the Tribal Court orders the eviction of the defendant, the Tribal Court's judgment shall order the immediate eviction of the defendant and delivery of the premises to the plaintiff or other appropriate person no later than fourteen

(14) days after the entry of the judgment unless the parties agree otherwise.

3. If the Tribal Court finds in favor of the plaintiff, in whole or in part, the Tribal Court's judgment may also:

a. Award the payment of back rent, unpaid utilities, or unpaid charges due the plaintiff under the lease;

b. Award to the plaintiff damages caused by the defendant to the premises other than ordinary wear and tear or damages otherwise required by the lease or this Title;

c. Order the performance of any obligation required by law; and

d. Grant any other necessary and just relief.

4. If the Tribal Court finds in favor of the defendant, in whole or in part, the Tribal Court's judgment may:

a. Award to the defendant the payment of damages for injury caused by the plaintiff or required by the lease or this Title, except where such damages would be awarded against the Tribe;

b. Award possession of the premises by the defendant;

c. Order the performance of any obligation required by law; and

d. Grant any other necessary and just relief.

5. If the Tribal Court's judgment awards damages to either party, such damages shall be limited to the extent the other party failed to mitigate his or her damages.

6. The Tribal Court's judgment may award to the prevailing party his or her reasonable legal counsel fees, except where such legal counsel fees would be awarded against the Tribe.

7. If the Tribal Court orders the eviction of the defendant, the Tribal Court's judgment shall inform the defendant that if he or she does not vacate the premises

voluntarily within fourteen (14) days of the entry of the judgment:

a. The defendant will be subject to being forcibly evicted;

b. The defendant's property will be subject to storage, sale, and disposal in accordance with this Title;

c. The defendant will be subject to the fines provided in this Chapter for each day the defendant remains on the premises; and

d. The defendant will be considered in trespass and may be subject to arrest and/or prosecution for the same.

8. A judgment issued under this Section is a final order and subject to appeal in accordance with the laws of the Tribe governing civil appeals, except that the notice of appeal must be filed within ten (10) days after entry of the judgment.

Section 11-7-17. Stay of Judgment.

1. After the entry of a judgment against a defendant under this Chapter, such defendant may apply to the Tribal Court for a stay of execution of such judgment if, within ten (10) days of the entry of the judgment, the defendant:

a. Establishes good and reasonable grounds affecting the well-being of the party or that execution of any order of eviction will or likely will result in extreme hardship for the defendant;

b. Establishes that there would not be substantial prejudice or injury to the plaintiff or owner during the period of the stay; and

c. A bond is posted or monies paid to the Tribal Court to satisfy the judgment or pay for the reasonable use and occupancy of the premises during the period of the stay, provided such monies shall be paid to the plaintiff upon expiration of the stay.

2. No judgment issued under this Chapter may be stayed pursuant to this Section for longer than three (3) months from the date of entry of the judgment.

3. If a defendant timely appeals an order evicting the defendant from the premises, the order of eviction shall be automatically stayed pending the resolution of such appeal, but all other aspects of the judgment shall not be stayed in the absence of an order staying enforcement of the judgment in accordance with the Tribal Rules of Civil Procedure, provided that, upon request of the plaintiff, the Tribal Court may require the defendant to post a bond or pay monies to the Tribal Court to pay for the reasonable use and occupancy of the premises during the period of the automatic stay of the order of eviction pending appeal.

4. Any stay of an order of eviction, including during an appeal, shall not relieve the defendant of liability for payment of the reasonable use and occupancy of the premises during the period of the stay. The plaintiff may request that the Tribal Court modify the judgment to award the plaintiff amounts for the reasonable use and occupancy of the premises during the period of such stay, including an appeal, in accordance with the Tribal Rules of Civil Procedure, provided that the time for requesting such modification shall be ten (10) days from the date the judgment becomes final or the stay expires, whichever is later.

Section 11-7-18. Enforcement of Eviction.

1. If a defendant fails or refuses to vacate the premises and deliver the same to the plaintiff or other appropriate person after the expiration of fourteen (14) days after the entry of judgment and the defendant has not obtained a stay of execution or filed an appeal in accordance with the laws of the Tribe, any duly authorized law enforcement officer, authorized official of the Tribe, or officer of the Tribal Court appointed by the Tribal Court for such a purpose shall enforce such judgment, as necessary, within five (5) calendar days of receipt of a copy of such judgment by:

a. Providing a copy of the judgment to all adult tenants or, if no adult tenant is present at the time of enforcement, posting copies of the judgment on the doors of the premises;

b. Removing all evicted persons from the premises and verbally ordering them not to re-enter; and

c. Supervising the removal of all personal property of the evicted persons from the premises.

2. A plaintiff may move the Tribal Court to appoint an officer of the Tribal Court to enforce the judgement of the Tribal Court in accordance with this Section.

3. A defendant who fails or refuses to vacate the premises and deliver the same to the plaintiff or other appropriate person after the expiration of fourteen (14) days after the entry of judgment without obtaining a stay of execution or filing an appeal in accordance with the laws of the Tribe shall be subject to a civil fine not to exceed one hundred dollars (\$100) plus an amount for the reasonable use and occupancy of the premises for each day the defendant fails or refuses to vacate the premises. Such fine may be enforced and collected through a civil cause of action brought by the plaintiff on behalf of the Tribe in a proceeding in the Tribal Court and any plaintiff other than the Tribe who brings such an action shall be entitled to ten percent (10%) of any fine recovered in such action. The imposition of a fine pursuant to this Section shall not preclude the Tribal Court from finding the defendant in contempt and enforcing such contempt in accordance with the laws of the Tribe.

4. A defendant who fails or refuses to vacate the premises and deliver the same to the plaintiff or other appropriate person after the expiration of fourteen (14) days after the entry of judgment without obtaining a stay of execution or filing an appeal in accordance with the laws of the Tribe shall be deemed in trespass and subject to any applicable civil or criminal law governing the same.