

CHAPTER 10 NON-ALIENATION OF NATION LAND,
USE RIGHTS AND HOMEOWNER AGREEMENTS, SALES,
RECORDATION, SPECIAL NATION REQUIREMENTS
FOR LOANS AND INSURANCE

1001. NON-ALIENATION OF NATION LAND

Neither Nation land, nor any improvement therein, may be alienated by any Nation member or other person. Nor may any improvement affixed to Nation land be removed from Nation land without Nation consent.

1002. USE RIGHTS AND HOMEOWNER AGREEMENT

- A. Any person residing or intending to reside in a Home on Nation land pursuant to Chapter 7, 8 or 9 of this Code must enter into a Use Rights and Homeowner Agreement. A person's interest in a Home is defined by the Use Rights and Homeowner Agreement between that person and the Nation. The Use Rights and Homeowner Agreement grants the person the right to construct, improve, rehabilitate and/or purchase an interest in the use of a Home on Nation land subject to the requirements of Nation laws. The Nation shall at all times retain ownership in the land and the improvements thereon. Those interests in the Home not held by the Homeowner under the Use Rights and Homeowner Agreement are retained by the Nation. A person may mortgage an interest in a Use Rights and Homeowner Agreement to obtain a loan for the Home.
- B. The Use Rights and Homeowner Agreement shall be for a term of no more than fifty (50) years.
- C. Any Use Rights and Homeowner Agreement entered into by the Homeowner individually shall terminate on the death of the Homeowner under all circumstances. A Use Rights and Homeowner Agreement is not devisable and anyone to whom the deceased intended to transfer an interest in a Home shall execute a new Use Rights and Homeowner Agreement in order to receive that interest in accordance with Chapter 9 of the Nation Housing Code.
- D. A Use Rights and Homeowner Agreement shall not be sold or transferred, except that a Use Rights and Homeowner Agreement may be assigned for a certain period of time with Nation approval. An assignment of a Use Rights and Homeowner Agreement does not alter the duties of the Homeowner to the Nation under that Agreement. The right to enter into a Use Rights and Homeowner Agreement for a Home may be sold or transferred in accordance with Section 1004 of this Chapter 10.

- E. Each of the following shall constitute an "Event of Default" under a Use Rights and Homeowner Agreement:
1. If Homeowner fails to pay the Annual Costs, including the Fixed Payment or Additional Costs, as such costs are defined in the Use Rights and Homeowner Agreement, and if such default shall continue for thirty (30) days after receipt of written notice from the Nation to Homeowner regarding such default;
 2. If Homeowner defaults in the performance of any other of Homeowner's obligations hereunder and if such default shall continue for thirty (30) days after written notice from the Nation to Homeowner regarding such other default or defaults, provided that if the default is of such a character as cannot reasonably be cured within said period, and if Homeowner has commenced diligently to correct the default or defaults after receipt of such notice and thereafter diligently pursues such correction, then said period shall be extended for an additional period up to sixty (60) days;
 3. If Homeowner, without the prior written consent of the Nation, fails to use the Home as such Homeowner's principal private residence for a continuous period of thirty (30) days; or
 4. If Homeowner fails to pay or perform any obligation under any financing arrangement with the Nation or any financing arrangement guaranteed by the Nation.
- F. If any Event of Default occurs, the Nation, at the Nation's option, may terminate the Use Rights and Homeowner Agreement and recover possession of the Home or recover possession of the Home without terminating the Agreement. In the event the Nation elects to terminate the Use Rights and Homeowner Agreement, then the Agreement and all rights of Homeowner hereunder shall expire and terminate as if the date specified in such notice were the date fixed for the expiration of the Term of the Agreement. Following any Event of Default, the Nation and the agents and servants of the Nation lawfully may, in addition to and not in derogation of any other remedies, immediately or at any time thereafter and without demand or notice and with or without process of law enter into and upon the Home or any part thereof in the name of the whole and repossess the same and expel Homeowner and those claiming through or under Homeowner, including, without limitation, any authorized assignee (with or without the institution of legal proceedings to evict) and remove its and their effects without being deemed guilty of any manner of trespass or disturbance of the peace and without prejudice to any remedies which might otherwise be used for arrears of payments or prior breach of covenant, and the Nation, without notice to Homeowner, may store

Homeowner's effects, and those of any person claiming through or under Homeowner at the expense and risk of Homeowner, and, if the Nation so elects, may sell such effects at public auction or private sale and apply the net proceeds to the payment of all sums due to the Nation from Homeowner, if any, and pay over the balance, if any, to Homeowner. If the Use Rights and Homeowner Agreement shall terminate as a result of or while there exists any Event of Default, any funds (including the member's Distributions from the Nation) in which Homeowner has an interest then held by or acquired the Nation may be applied by the Nation to any damages payable by Homeowner (whether provided for herein or by law or in equity) as a result of such termination or Event of Default, and the balance remaining, if any, shall be paid to Homeowner, if Homeowner would be entitled to receive such funds but for such termination or Event of Default. The Nation shall be entitled to reasonable attorneys' fees and all other costs and expenses actually incurred by the Nation in exercising its remedies hereunder.

- G. The form of the Use Rights and Homeowner Agreement is attached as Appendix I to this Code.
- H. A certificate acknowledging the grant by the Nation under a Use Rights and Homeowner Agreement of the use and occupancy rights to a Home shall be issued to the Homeowner executing the Use Rights and Homeowner Agreement. Such Homeowner certificate is for informational purposes only, and shall be valid only so long as the Use Rights and Homeowner Agreement to which it relates is valid. A new certificate shall be issued in the event of any assignment, sale or other transfer of the rights to use and occupy the Home to a different Homeowner.

1003. SPECIAL LOAN REQUIREMENTS

- A. Notice and Approval of Loans Relating to a Home.
 - 1. Any Nation member or other individual seeking to obtain a loan must notify the Nation Housing Entity at least thirty (30) days prior to requesting a loan.
 - 2. No loan shall be obtained for a Home without written approval by the Nation Housing Entity. Any loan effectuated without approval shall be voidable at the discretion of the Nation. The Nation may void any pledge of any interest in the Use Rights and Homeowner Agreement for lack of Nation approval with written notice to the Lender and Nation member.
 - 3. No Home loan shall be valid or effective unless there is an executed Use Rights and Homeowner Agreement as defined in Section 1002 of this Chapter between the Nation and Nation member seeking the loan, which

Agreement applies to the Home covered by the loan for the period of the loan.

B. Land is Not Available Collateral.

No loan shall be collateralized or secured by Nation land or any improvements thereon. Any instrument attempting to assert a lien against Nation land or any improvement thereon shall be null and void.

1004. HOME SALE

A. Authorized Buyers.

A Homeowner's interest in a Home to which a Contribution has been invested or for which the Nation has guaranteed a loan, may be sold or transferred, by operation of law or otherwise, by a Homeowner only to the Nation, a member of the Nation, or a qualified beneficiary under Chapter 9. Any sale or transfer must be approved by the Nation Housing Entity.

B. A New Use Rights and Homeowner Agreement Is Required Upon Sale or Transfer.

Any person intending to reside in a Home on Nation land must execute a Use Rights and Homeowner Agreement prior to occupancy unless that person has been assigned an Agreement with the approval of the Nation.

C. Nation Home Sale Assistance.

The Nation will assist any Nation member in the sale of such member's interest in a Home. Upon request of the Nation member Homeowner, the Nation will arrange at Nation expense for an appraisal of the fair market value of the Home. Regardless of the appraised amount, the actual selling price shall be negotiated between buyer and seller.

D. Nation Option to Purchase.

1. The Nation reserves the option to submit a purchase offer to the seller of such seller's interest in a Home on Nation land. This purchase offer may be extended, at the discretion of the Nation, to any Nation member who has made "good faith" efforts to sell such member's Home but has been unsuccessful in his efforts.
2. "Good faith" efforts shall include those which attempt to inform the Oneida community of the availability of the Home, such as by public posting of "For Sale" notices and through the Nation member newsletter; offering the Home for sale at a reasonable selling price (based upon

appraised value); and making such efforts for a period of at least twelve (12) months.

1005. RECORDS

- A. The Clerk of the Nation shall record:
 - 1. Each Use Rights and Homeowner Agreement;
 - 2. Any assignment related to any Use Rights and Homeowner Agreement;
 - 3. Any loan, Contribution, Loan Guaranty, and/or promissory note; and
 - 4. Any sale and transfer by the holder of a Use Rights and Homeowner Agreement of the rights to use and occupy a Home.
 - 5. Any amendment, modification or termination of any of the aforementioned documents.
- B. The Nation Housing Corporation shall maintain its own record of the aforementioned documents as well as copies of each application for, each loan with, and any insurance certificate or indemnity policy related to any Use Rights and Homeowner Agreement.
- C. The Nation Housing Corporation also shall maintain a record of each Contribution made by the Nation on behalf of a Nation member, the vesting of each Contribution, and the enforcement of any promissory note, and the performance of any loan, including any Loan Guaranty paid by the Nation on a loan.

1006. INSURANCE

- A. A person with a Use Rights and Homeowner Agreement shall obtain, maintain, and faithfully comply with any property, liability and other insurance policy as may be required by the Nation Housing Corporation and/or a Lender. All insurance policies shall:
 - 1. Name the Nation, the Homeowner, and any Mortgagee as insured, as their respective interests may appear, and shall include an effective waiver by the issuer of all rights of subrogation against any insured or such insured's interest in the Home or any income derived therefrom;
 - 2. Provide that all claims for losses shall be adjusted by Homeowner subject to the approval of the Nation;
 - 3. Provide that any losses shall be payable notwithstanding any act or failure to act or negligence of the Nation or Homeowner or any other person;

4. Provide that no cancellation, reduction in amount or material change in coverage thereof shall be effective until at least thirty (30) days after receipt by the Nation, the Homeowner and any Mortgagee of written notice thereof;
 5. Require the insurer to promptly notify the Nation of any non-payment of any premium when due; and
 6. Provide that the Nation shall have sole authority to invoke the defense of sovereign immunity in connection with any proceeding asserting liability against the Nation.
- B. The Mortgagee, if any, shall require that an insurance escrow or impoundment account be established with such Mortgagee, and the Homeowner shall escrow such funds with Mortgagee for payment by the Mortgagee of the insurance premium, as and when payment therefore is due. The Homeowner shall also escrow in this same account such funds sufficient to cover payment by the Borrower/Mortgagor of any Nation assessment, such as the service assessment applicable to and due from residents of the Village of White Pines.
- C. Homeowner shall deliver to the Nation evidence of the payment of the annual insurance premium for insurance whether paid directly by the Homeowner or, in the event of a mortgage, by the Mortgagee in compliance with the foregoing section.