

Ordinance Number: 2.400
Approved by Ordinance: 082422-O-02
Amended by Resolution(s):

PUBLIC RECORDS ORDINANCE
Eastern Shawnee Tribal Code § 2.400

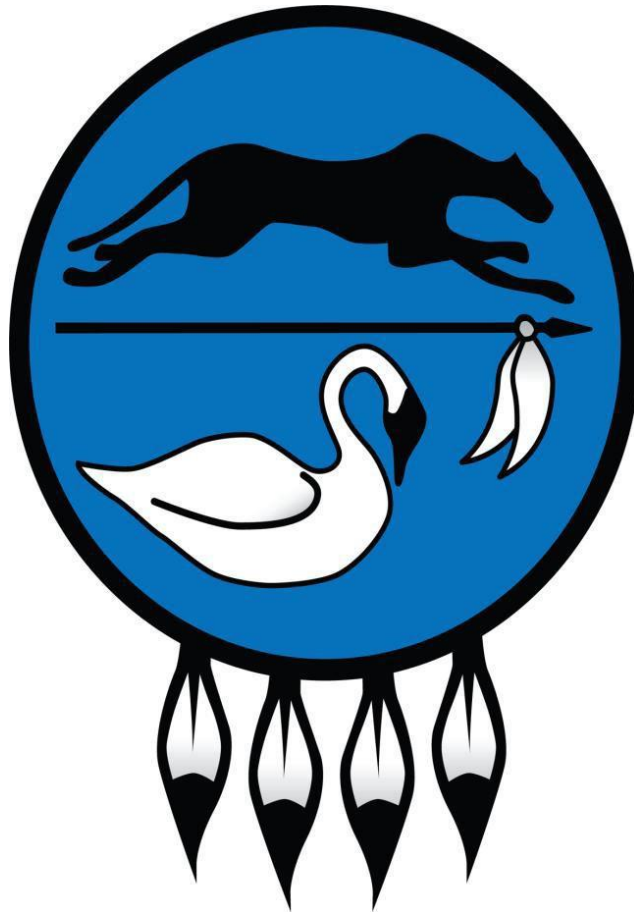


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§ 2.401 PURPOSE AND AUTHORITY

- A. The Business Committee of the Eastern Shawnee Tribe enacts this Ordinance to establish formal procedures for the orderly access to tribal government records and to respond to requests to copy tribal government records. The Business Committee has authority under Article IX, Section 1 of the Eastern Shawnee Constitution to exercise legislative authority of the Eastern Shawnee Tribe, including the authority to enact ordinances.

§ 2.402 DEFINITIONS

- A. Business Day – Monday through Friday excluding federal and tribal holidays.
- B. Record - Includes, but is not limited to, documents, books, papers, photographs, files, maps, Business Committee Records, and Tribal Government Financial Records which are made in connection with the transaction of tribal business. “Record” does not include:
 - 1. Documents determined by the custodian of the records, or in the event of cultural or historical documents, the Ceremonial Chief, too fragile to be handled or copied.
 - 2. Library materials.
 - 3. Publications received by the Tribe.
 - 4. Messages on voice mail or other telephone message storage and retrieval systems.
 - 5. Electronic (email) messages.
 - 6. Calendars and schedules.
 - 7. Law enforcement records.
 - 8. Information determined by the In-House Counsel to be confidential.
- C. Tribal Administration - The administration of the Eastern Shawnee Tribe, and includes the Executive offices, the Business Committee, and all programs and departments. Tribal Administration does not include tribal corporations, tribal enterprises, or the Eastern Shawnee Gaming Commission.

- D. Tribal Member - An enrolled member of the Eastern Shawnee Tribe.

§ 2.403 POLICY AND SCOPE

- A. It is the policy of the Eastern Shawnee Tribe to make tribal government records available to tribal members, where providing access to such records or allowing tribal members to copy such records does not interfere with tribal government operation, does not compromise the reasonable confidentiality expectations of tribal members and tribal government records and activities, does not jeopardize the confidential government or legal activities of the Tribe, or where access to records is not otherwise restricted by applicable law. The policy that will guide application and interpretation of this Ordinance is that tribal members generally have an interest in access to tribal documents that affect them, or that involve general tribal government activities. Non-members have an interest in access to tribal documents and records only as required by law, or as determined by tribal officials to be consistent with the interests of the Tribe.
- B. The Chief of the Eastern Shawnee Tribe shall be responsible for implementing this Ordinance as outlined in Article VII, Section 2 of the Eastern Shawnee Constitution.

§ 2.404 PROCEDURE FOR ACCESS TO OR COPYING OF TRIBAL RECORDS BY TRIBAL MEMBERS

The Business Committee of the Eastern Shawnee Tribe recognizes there are different types of records that will be requested by tribal members and have established procedures for each type of request.

- A. BUSINESS COMMITTEE RECORDS
 1. Business Committee Records shall include Resolutions, Ordinances, Business Committee Meeting Agenda's, and Business Committee Meeting Minutes.
 2. Requests by tribal members for access to copying of Business Committee records shall be made in writing to the Tribal Secretary or Chief of Staff to the Business Committee. Requests made to the Chief of Staff to the Business Committee shall be communicated to the Tribal Secretary.
 3. A tribal member requesting access to or copies of Business Committee records shall provide proof of tribal enrollment at the time such request is made. Physical copies shall be billed at the current click charge rate.
 4. The Tribal Secretary or Chief of Staff for the Business Committee or their designee(s) shall respond to requests to Business Committee records in a reasonable time. If a tribal member believes a request for Business Committee records is taking too long, the tribal member may appeal his or her request to the Business Committee.
 5. The Tribal Secretary or Chief of Staff for the Business Committee may deny access to any attachments in whole or part to Resolutions and Ordinances that are confidential in nature.
 6. The Business Committee authorizes the Information Technology Department to upload Business Committee Records to the tribal website once all information has been redacted for confidentiality purposes. No upload of records shall take place without first receiving authorization from the In-House Counsel. The In-House Counsel shall also be responsible for notifying the Information Technology Department when Business

Committee records are rescinded or superseded. Business Committee Records accessible and accessed online through the tribal webpage shall not require a written request to the Tribal Secretary or Chief of Staff for the Business Committee.

B. TRIBAL GOVERNMENT FINANCIAL RECORDS

1. Tribal Government Financial Records shall include the Tribal Government Budget and any grant budgets.
2. Requests by tribal members for access to copying of Tribal Government Financial Records shall be made in writing to the Tribal Treasurer or the Chief of Staff for the Business Committee. Requests made to the Chief of Staff for the Business Committee shall be communicated to the Tribal Treasurer.
3. A tribal member requesting access to, or copies of, Tribal Government Financial Records shall provide proof of tribal enrollment at the time such request is made. Physical copies shall be billed at the current click charge rate.
4. The Tribal Treasurer or Chief of Staff for the Business Committee or their designee(s) shall respond to requests to Tribal Government Financial Records in a reasonable time. If a tribal member believes a request for Business Committee records is taking too long, the tribal member may appeal his or her request to the Business Committee.
5. The Tribal Treasurer or Chief of Staff for the Business Committee may deny access to any attachments in whole or part to Tribal Government Financial Records that are confidential in nature.

C. OTHER RECORDS

1. Other Records shall include grant records, Shooting Star newsletters, committee minutes and agendas, and other non-confidential public records as determined by the Business Committee.
2. Requests by tribal members for access to copying of Other Records shall be made in writing to the Tribal Secretary or Chief of Staff for the Business Committee. Requests made to the Chief of Staff for the Business Committee shall be communicated to the Tribal Secretary.
3. A tribal member requesting access to, or copies of, Other Records shall provide proof of tribal enrollment at the time such request is made. Physical copies shall be billed at the current click charge rate.
4. The Tribal Secretary or Chief of Staff for the Business Committee or their designee(s) shall respond to requests to Other Records in a reasonable time. If a tribal member believes a request for Other Records is taking too long, the tribal member may appeal his or her request to the Business Committee.
5. The Tribal Treasurer or Chief of Staff for the Business Committee may deny access to any attachments in whole or part to Other Records that are confidential in nature.
6. The Business Committee authorizes the Information Technology Department to upload Other Records to the tribal website once all information has been redacted for confidentiality purposes. No upload of records shall take place without first receiving authorization from the In-House Counsel. Other Records accessible and accessed online through the tribal webpage shall not require a written request to the Tribal Secretary or Chief of Staff for the Business Committee.

§ 2.405 EXEMPT RECORDS

- A. The following Records are exempt and not available for public dissemination:
 - 1. Records considered confidential under applicable tribal, federal, or state laws or policies. Including, but not limited to, records of:
 - a. Personnel;
 - b. Payroll;
 - c. Medical;
 - d. Alcohol and drug treatment;
 - e. Benefits and social services;
 - f. Foster care;
 - g. Housing;
 - h. Financial; and
 - i. Personal information, including but not limited to telephone numbers, Social Security numbers, copies of drivers' licenses, and home addresses.
 - 2. Records related to investigations and audits, provided that the Business Committee may authorize the release of any such Record by resolution.
 - 3. Records subject to a confidentiality provision or court order preventing disclosure.
 - 4. Records subject to attorney-client privilege or which might be considered attorney work product, provided that the Business Committee may authorize the release of any such Record by resolution.
 - 5. Records, disclosure of which the Business Committee has determined might adversely impact tribal business strategies.
 - 6. Investment Management directives, strategies, and actual investment holdings.

§ 2.406 RETENTION, MANAGEMENT, AND DESTRUCTION OF RECORDS

- A. Tribal Government shall adopt policies for the retention, management, and destruction of Records that are in its custody. In developing these policies, the value of Records for cultural, historical, legal, administrative, and research purposes will be considered. The Tribe shall abide by any applicable records retention requirements of the United States.

§ 2.407 INAPPROPRIATE DISCLOSURE AND POSSESSION OF TRIBAL RECORDS

- A. It shall be a violation of tribal law for any tribal official or employee to provide a Record, or the information contained in a Record, to someone who is not authorized to have access to the Record under this Ordinance, unless it is otherwise part of the ordinary course of the tribal official's or employee's position to provide the Record to such person or unless authorized by the Business Committee.
- B. It shall be a violation of tribal law for anyone to knowingly possess or distribute a Record, or information contained in a Record, that he or she is not authorized to possess or distribute.
- C. Inappropriate disclosure and possession of a Record by an employee can result in disciplinary action up to and including termination. The Business Committee reserves the right to take disciplinary action of their own on any employee of the Tribal Government or the Tribe's business entities for violation of this Ordinance, up to and including termination.

§ 2.408 PROCEDURE FOR APPEAL

- A. An appeal may be submitted only for a denied request for records or an unreasonably long delay in accessing requested records. An appeal shall be initiated by delivering a written grievance detailing their complaint to the Tribal Secretary or Chief of Staff for the Business Committee within five (5) days of the event triggering the appeal. The appeal shall be placed on a regularly scheduled Business Committee meeting agenda within twenty (20) business days of receipt of the written appeal. The decision of the Business Committee shall be final and binding. A written copy of the Business Committee's decision will be mailed to the appellant within five (5) business days of the Business Committee's decision.

§ 2.409 LIBERAL INTERPRETATION/SEVERABILITY

- A. The provisions of this Ordinance shall be construed liberally to affect the purpose contained herein. Any section or subsection headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any section or subsection of this Ordinance.
- B. The provisions of this Ordinance are severable and if any part or provision hereof shall be held void by appropriate judicial authority, the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this Ordinance.

§ 2.410 REPEAL OF PREVIOUS ENACTMENTS

- A. This Ordinance hereby repeals all previous resolutions and ordinances regarding access to public records.

§ 2.411 EFFECTIVE DATE

- A. This Ordinance shall become effective immediately upon the signature of the Chief.