



23rd Navajo Nation Council

MEMORANDUM

To : Manuel Rico, Senior Programs and Projects Specialist
OFFICE OF LEGISLATIVE SERVICES

From : 15711
Tom Platero, Executive Director
OFFICE OF LEGISLATIVE SERVICES

Date : January 9, 2019

Subject : ***23rd Navajo Nation Council Expired Legislation***

Pursuant to 2 N.N.C. § 164 (A) (1), "The last day for consideration of resolutions shall be December 31st of the year immediately preceding the swearing in of the new Council", the following legislation need to be closed out and labeled as "expired":

NAVAJO NATION COUNCIL:

0399-17	0424-17	0098-18	0136-18
0183-18	0224-18	0328-18	0344-18
0356-18	0358-18	0367-18	0373-18
0385-18	0393-18	0404-18	0416-18
0422-18			

NAABIK'YATI' COMMITTEE:

0224-15	0361-16	0341-18	0406-18
0418-18	0427-18		

BUDGET AND FINANCE COMMITTEE:

0021-17	0392-17	0099-18	0261-18
0287-18	0398-18	0435-18	0436-18

HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE:

0414-18	0419-18	0451-18
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LAW AND ORDER COMMITTEE:

0114-17	0031-18	0217-18	0307-18
0353-18	0360-18	0364-18	0437-18

RESOURCES AND DEVELOPMENT COMMITTEE:

0402-15	0104-16	0121-16	0183-16
0282-16	0296-16	0370-16	0384-16
0135-17	0176-17	0386-17	0400-17
0076-18	0395-18	0415-18	0443-18

Legislation need to be closed out as soon as possible. If you have any questions, please let me know.

CONCURRENCE:



Honorable LoRenzo C. Bates, Speaker
23rd Navajo Nation Council

COPIES: Pete K. Atcitty, Chief of Staff, Office of the Speaker
Ed McCool, Acting Chief Legislative Counsel, Office of Legislative Counsel
Files

LEGISLATIVE SUMMARY SHEET

Tracking No. 0076-18

DATE: February 23, 2018

TITLE OF RESOLUTION: PROPOSED NAVAJO NATION COUNCIL RESOLUTION; AN ACT RELATING TO RESOURCES AND DEVELOPMENT, LAW AND ORDER AND NAABIK'ÍYÁTI' COMMITTEES; AND THE NAVAJO NATION COUNCIL; AMENDING 26 N.N.C. § 2004 (D) (2) OF THE NAVAJO NATION CODE SUCH THAT THE COMMUNITY BASED LAND USE PLANS BE REEVALUATED AND READJUSTED EVERY TEN YEARS INSTEAD OF EVERY FIVE YEARS

PURPOSE: The purpose of this proposed resolution is amend Title 26 at 26 N.N.C. § 2004 (D) (2) to provide that a chapter's Community Based Land Use Plans be reevaluated and readjusted every ten years instead of the current 26 N.N.C. § 2004 (D) (2) requirement of reevaluations and readjustments occurring every five years. Title 26 at 26 N.N.C. § 1 (E), requires approval of a majority of all chapters to amend Title 26.

This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.

5-DAY BILL HOLD PERIOD: None
Website Posting Time/Date: 3:21pm 2/27/18
Posting End Date: 3/4/2018
Eligible for Action: 3/5/2018

Resources & Development Committee

THENCE

Law & Order Committee

THENCE

Naa'bik'íyáti' Committee

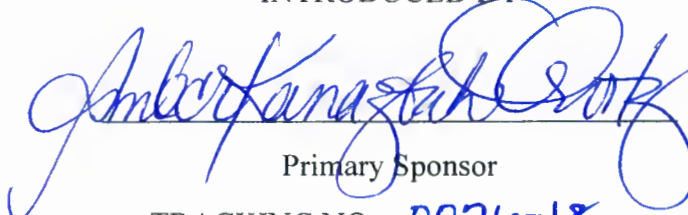
THENCE

Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION

23rd NAVAJO NATION COUNCIL—Fourth Year, 2018

INTRODUCED BY



Primary Sponsor

TRACKING NO. 0076-18

AN ACT

RELATING TO RESOURCES AND DEVELOPMENT, LAW AND ORDER AND
NAABIK'ÍYÁTI' COMMITTEES; AND THE NAVAJO NATION COUNCIL;
AMENDING 26 N.N.C. § 2004 (D) (2) OF THE NAVAJO NATION CODE SUCH
THAT THE COMMUNITY BASED LAND USE PLANS BE REEVALUATED AND
READJUSTED EVERY TEN YEARS INSTEAD OF EVERY FIVE YEARS

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Resources and Development Committee is a standing committee of the Navajo Nation Council with oversight authority over chapters. 2 N.N.C. §§ 500(A) and 501(C)(1).
- B. The Law and Order Committee is a standing committee of the Navajo Nation Council and as such empowered LOC to review and make recommendations to the Navajo Nation Council on proposed Navajo Nation Code amendments and enactments. 2 N.N.C. §§ 600 (A) and 601 (B) (14).
- C. The Navajo Nation Council established the Naabik'íyáti' Committee as a Navajo Nation standing committee and as such proposed legislation that requires final action by the Navajo Nation Council shall be assigned to the Naabik'íyáti' Committee. 2 N.N.C. §§ 164 (A) (9), 700 (A).

1 D. The Navajo Nation Council must review and approve enactments or amendments of
2 positive law. 2 N.N.C. § 164 (A).

3 E. Pursuant to 26 N.N.C. § 1 (E), Title 26 of the Navajo Nation Code “may be amended
4 by the Navajo Nation Council subject to approval of a majority of all chapters of the
5 Navajo Nation; or this Act [Title 26] may be amended by referendum vote of a
6 majority of all chapters as set forth in 11 N.N.C., Navajo Nation Election Code.”

7 8 **SECTION TWO. FINDINGS**

9 A. Title 26 of the Navajo Nation Code provides the Navajo Nation chapters the
10 responsibility to develop Community Based Land Use Plans. The “plan shall project
11 future community land needs, shown by location and extent, of areas identified for
12 residential, commercial, industrial, and public purposes. The land use plan shall be
13 based upon the guiding principles and vision as articulated by the community; along
14 with information revealed in inventories and assessments of the natural, cultural,
15 human resources, and community infrastructure; and, finally with consideration for
16 the land-carrying capacity. Such a plan may also include the following:

17 1. An open space plan which preserves for the people certain areas to be retained in
18 their natural state or developed for recreational purposes.

19 2. A thoroughfare plan which provides information about the existing and proposed
20 road network in relation to the land use of the surrounding area.

21 3. A community facilities plan which shows the location, type, capacity, and area
22 served, of present and projected or required community facilities including, but not
23 limited to, recreation areas, schools, libraries, and other public buildings. It will also
24 show related public utilities and services and indicate how these services are
25 associated with future land use.” 26 N.N.C. § 2004 (B).

26 B. A chapter’s Community Based Land Use Plan is developed by a Community Based
27 Land Use Plan Committee. 26 N.N.C. § 2004 (C). The chapter approved
28 Community Based Land Use Plan is then presented to the Resources and
29 Development Committee for approval. 26 N.N.C. § 2004 (D). A chapter’s
30

1 Community Based Land Use Plan is to be reevaluated and readjusted every five
2 years. 26 N.N.C. § 2004 (D) (2).

- 3 C. There is concern that the five year time period is too short. For example, the
4 Toadlena/Two Grey Hills Chapter “feels that the Five Year Plan Recertification is not
5 sufficiently funded to allow the local government the time needed to develop projects
6 that would require five years to develop and implement”; the Chapter finds that since
7 its last approved Community Based Land Use Plan, “there has not been substantial
8 changes in the proposed plan in the areas of Business and Economic Development”
9 and the Chapter believes that “[d]eveloping a Five Year Land Use Plan every five
10 years that has changed very little is not cost effective and cannot be sustained by the
11 Chapter’s Fiscal Year Budget Allocations.” See attached **Exhibit A**, Toadlena/Two
12 Grey Hills Chapter Resolution Number TDLA/TGH-15-02-03-07.
- 13 D. The recommendation is made that a chapter’s Community Based Land Use Plans be
14 reevaluated and readjusted every ten years instead of the current 26 N.N.C. § 2004 (D)
15 (2) requirement of reevaluations and readjustments occurring every five years.

16
17 **SECTION THREE. AMENDMENT TO TITLE 26**

18 The Navajo Nation Council amends Title 26 as follows:

19 _____
20 **NAVAJO NATION CODE**
21 **TITLE 26. NAVAJO NATION LOCAL GOVERNANCE ACT**
22 **CHAPTER 2. CHAPTER GOVERNMENT**
23 **SUBCHAPTER 7. NAVAJO NATION CHAPTER REGULATIONS AND**
24 **PROCEDURE**

25
26 ***

27 **§ 2004. Zoning; Community Based Land Use Plan; Land Use Variations**

28
29 ***
30

1 D. Presentation and Approval of the Community Based Land Use Plan by the Chapter
2 and Certification by the ~~Transportation and Community~~ Resources and Development
3 Committee
4

5 1. Upon completion of the resource inventory, assessments, and community
6 assessment, the CLUPC shall prepare a community based land use plan as described in §
7 101. Local planning and zoning ordinances may also be presented at this time. The
8 community based land plan shall be presented to the local residents in one or more public
9 meetings and through various multimedia. The community members shall have 60 days
10 to comment in writing or in testimony at a final public hearing. Upon compliance with
11 the notice requirements, the chapter, at a duly-called chapter meeting, shall by resolution,
12 vote to adopt the community based land use plan.
13

14 2. The CLUPC shall make necessary adjustments, as approved by the chapter
15 membership, and shall submit the plan to the ~~Transportation and Community~~ Resources
16 and Development Committee of the Navajo Nation Council. The ~~Transportation and~~
17 ~~Community~~ Resources and Development Committee by resolution shall certify the
18 community based land use plan. Every ~~five~~ ten years the plan shall be reevaluated and
19 readjusted to meet the needs of the changing community.
20

21 *****
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23 **SECTION FOUR. CODIFICATION**

24 The provisions of this Act which amend or adopt new sections of the Navajo Nation
25 Code shall be codified by the Office of Legislative Counsel. The Office of Legislative
26 Counsel shall incorporate such amended provisions into the next codification or
27 supplement of the Navajo Nation Code.
28

29 **SECTION FIVE. SAVINGS CLAUSE**
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1 Should any provision of this Act be determined invalid by the Navajo Nation Supreme
2 Court or the District Courts of the Navajo Nation, without appeal to the Navajo Supreme
3 Court, the remainder of the Act shall remain in the law of the Navajo Nation.
4

5 **SECTION SIX. EFFECTIVE DATE**

6 This provisions of this Act shall become effective in accordance with 2 N.N.C. § 221 (B)
7 and 26 N.N.C. § 1 (E), which subjects amendments to approval by a majority of all
8 Navajo Nation chapters.
9

10 **SECTION SEVEN. CHAPTER RESOLUTIONS**

11 The Office of Legislative Services shall, by USPS certified mail and Return Receipt, mail
12 a copy of the signed Navajo Nation Council resolution to the 110 Navajo Nation
13 chapters. The Office of Legislative Services shall receive all Navajo Nation chapter
14 resolutions regarding the chapters' approval or disapproval of this amendment of 26
15 N.N.C. § 2004 (D) (2). If the majority of Navajo Nation chapters provide approving
16 resolutions, the Office of Legislative Services shall inform the Speaker of the Navajo
17 Nation Council, the Navajo Nation President, the Chief Legislative Counsel, and the
18 Department of Justice. If the majority of the Navajo Nation chapters provide approving
19 resolutions, the Office of Legislative Services shall provide Navajo Nation Records
20 Management Department with the signed Navajo Nation Council resolution, the Navajo
21 Nation chapter resolutions, and a memorandum stating that a majority of the 110 Navajo
22 Nation chapters have approved this amendment of Title 26.
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TOADLENA/TWO GREY HILLS CHAPTER

P. O. Box 7894, Newcomb, New Mexico 87455 * Phone 505-789-3100 * Fax 505-789-3101
"HOME OF THE FAMOUS TWO GREY HILLS RUGS"

EXHIBIT

A

Stanley Hardy
President

Andrew Deschenie
Vice-President

Lolita Spencer
Secretary-Treasurer

Derry Lewis
Grazing Official

Amber K. Crotty
Council Delegate

RESOLUTION TDLA/TGH-15-02-03-07

REQUESTING THE NAVAJO NATION COUNCIL, THE RESOURCE AND DEVELOPMENT COMMITTEE, AND THE DIVISION OF COMMUNITY DEVELOPMENT TO REVIEW THE LOCAL GOVERNANCE ACT – TITLE 26; SECTION 2004.ZONING; COMMUNITY BASED LAND USE PLAN; LAND USE VARIATIONS; PART D, SUBSECTION 2 AND INCREASE THE COMMUNITY LAND USE PLAN FROM FIVE YEARS TO TEN YEARS.

WHEREAS:

1. Pursuant to Title 26 N.N.C. Section 3 (A) of the Navajo Nation Local Governance Act, ("LGA") the Toadlena/Two Grey Hills ("Chapter") is a duly certified Chapter of the Navajo Nation Government, Navajo Nation Council Resolution CAP-34-98, as listed at 11 N.N.C., Part 1 Section 10, and governance certified as of January 10, 2011 per TCDCJA-08-11 and has the authority to enact upon the LGA, 26 N.N.C. subsection 103 et. Seq.; and
2. Pursuant to the LGA, 26 N.N.C. Section 1 (B)(1) and (2), and Section 103(B), the Chapter is recognized as a local government entity and delegated certain authorities and responsibilities with respect to making decisions over local matters consistent with Navajo Nation law, and
3. Pursuant to 2 N.T.C., Section 4028 (a), the Chapter has the authority to review all matters affecting the community and make appropriate recommendations to the Navajo Nation, County, and State Government agencies; and
4. As a Governance-Certified Chapter, the Toadlena/Two Grey Hills Chapter strongly feels that the Five Year Plan Recertification is not sufficiently funded to allow the local government the time needed to develop projects that would require five years to develop and implement; and
5. Toadlena/Two Grey Hills Chapter in its review of our Community Land Use Plan developed and Certified in May 2006 that there has not been substantial changes in the proposed plan in the areas of Business and Economic Development; and
6. Toadlena/Two Grey Hills Chapter developed Zoning and Ordinances which were then reviewed by the Department of Justice, the Business Regulatory, the Capital Improvement Office, the NN Land Administration in which we were informed that the chapter either did not have the funds to take over Business Site Leasing or the Capital/Assets to sustain upfront funds for Projects, etc. which have in the end resulted in the Five Year Plan having remained virtually at a standstill; and
7. Developing a Five Year Land Use Plan every five years that has changed very little is not cost effective and cannot be sustained by the Chapter's Fiscal Year Budget Allocations.

NOW, THEREFORE, BE IT RESOLVED THAT:


1. The Toadlena/Two Grey Hills Chapter requests the Navajo Nation Council, the Resource and Development Committee and the Division of Community Development to review the Local Governance Act – Title 26; Section 2004.Zoning; Community Based Land Use Plan; Land Use Variations; Part D, Subsection 2 and increase the Community Land Use Plan Recertification from Five Years to Ten Years.

CERTIFICATION

We, hereby, certify that the forgoing Resolution was duly considered by the Toadlena/Two Grey Hills Chapter at a duly called Chapter Meeting in Two Grey Hills (Navajo Nation), New Mexico at which a quorum of Chapter members were present and that the same was passed by a vote of 20 in favor, 00 opposed and 01 abstained on this 3rd day of February, 2015.

Motioned by: Anderson Brown

Seconded by: LaVera J. Curley


Stanley Hardy, President

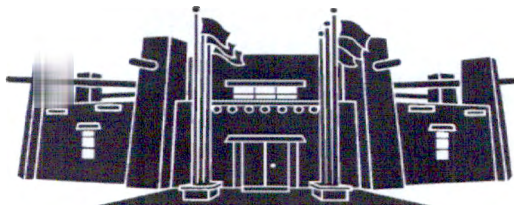

Andrew Deschenie, Vice-President


Lolita Spencer, Secretary/Treasurer


Derry Lewis, Grazing Official

UNAVAILABLE FOR SIGNATURE

Amber K. Crotty, Council Delegate



MEMORANDUM

TO: Honorable Amber Crotty
Sheep Springs, Toadlena/Two Grey Hills, Tsé Ałnáózt'i'í, Red Valley, Cove,
Beclabito, Gadii'áhi/Tokoi Chapters

FROM:

Mariana Kahn

Mariana Kahn, Attorney
Office of Legislative Counsel

DATE: February 27, 2018

SUBJECT: PROPOSED NAVAJO NATION COUNCIL RESOLUTION; AN ACT RELATING TO RESOURCES AND DEVELOPMENT, LAW AND ORDER AND NAABIK'ÍYÁTI' COMMITTEES; AND THE NAVAJO NATION COUNCIL; AMENDING 26 N.N.C. § 2004 (D) (2) OF THE NAVAJO NATION CODE SUCH THAT THE COMMUNITY BASED LAND USE PLANS BE REEVALUATED AND READJUSTED EVERY TEN YEARS INSTEAD OF EVERY FIVE YEARS

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. Based on existing law and review of documents submitted, the resolution as drafted is legally sufficient. As with any action of government however, it can be subject to review by the courts in the event of proper challenge. Please ensure that this particular resolution request is precisely what you want. You are encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction.

The Office of Legislative Counsel confirms the appropriate standing committee(s) based on the standing committees powers outlined in 2 N.N.C. §§301, 401, 501, 601 and 701. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration." 2 N.N.C. §164(A)(5).

If the proposed resolution is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like made to the proposed resolution.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0076-18_____

SPONSOR: Amber Crotty

TITLE: An Action Relating to Resources and Development, Law and Order and Naabik'iyati' Committees; and the Navajo Nation Council; Amending 26 N.N.C. § 2004 (D) (2) of the Navajo Nation Code such that the Community Based Land Use Plans be reevaluated and readjusted every ten years instead of every five years

Date posted: February 27, 2018 at 3:21pm

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

**Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515
(928) 871-7590**

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

Please note: This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 *et. seq.*

**THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY**

LEGISLATION NO.: 0076-18

SPONSOR: Honorable Amber Crotty

TITLE: An Action Relating To Resources and Development, Law and Order and Naabik'iyati' Committees; and the Navajo Nation Council; Amending 26 N.N.C. § 2004 (D) (2) of the Navajo Nation Code such that the Community Based Land Use Plans be reevaluated and readjusted every ten years instead of every five years

Posted: February 27, 2018 at 3:21pm

5 DAY Comment Period Ended: March 4, 2018

Digital Comments received:

Comments Supporting (1)	1. Jay Chee, CLUP Committee President; Iyanbito Chapter
Comments Opposing	<i>None</i>
Inclusive Comments	<i>None</i>



Legislative Secretary II
Office of Legislative Services

3/5/2018 8:20am

Date/Time

0076-18

Jay Chee <ceejaye82@yahoo.com>

Sun 3/4/2018 5:12 PM

to comments <comments@navajo-nsn.gov>;

Greetings!

On behalf of the Community of Iyanbito, we support Legislation 0076-18, as we agree with the Toadlena/Two Grey Hill Chapter, that the five year time period is too short of a time. However, we would like to suggest that the Land Use Plan be reevaluated at the chapter level yearly, as the chapters may forget the Land Use Plan until re-certifications are due, every ten (10) years.

Thank you for allowing me to submit a comment on behalf of the community I represent pertaining to Legislation 0076-18.

Respectfully,
Jay Chee
CLUP Committee President
Iyanbito Chapter, ENA