

# LOCAL GOVERNANCE ACT

NAVAJO NATION CODE: TITLE 26  
Navajo Nation Local Governance Act

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# Chapter 1 NAVAJO NATION CHAPTERS

## Subchapter 1. Generally

Section 1. Title; Purpose; Authorization; Prior Inconsistent Law Superseded; Amendment

### A. Title

This Act shall be cited as the "Navajo Nation Local Governance Act" and herein codified in Title Twenty Six (26) of the Navajo Nation Code.

### B. Purpose

1. The purpose of the Local Governance Act is to recognize governance at the local level. Through adoption of this Act, the Navajo Nation Council delegates to Chapters governmental authority with respect to local matters consistent with Navajo law, including custom and tradition. This Act clearly defines the executive and legislative functions of the Chapter as well as the duties and responsibilities of Chapter officials and administrators consistent with the Navajo Nation's policy of "separation of powers" and "checks and balances."

2. Enactment of the Local Governance Act allows Chapters to make decisions over local matters. This authority, in the long run, will improve community decision making, allow communities to excel and flourish, enable Navajo leaders to lead towards a prosperous future, and improve the strength and sovereignty of the Navajo Nation. Through adoption of this Act, Chapters are compelled to govern with responsibility and accountability to the local citizens.

### C. Authorization

The Navajo Nation Council, by Resolution CAP-34-98, hereby approves the Navajo Nation Local Governance Act.

### D. Prior Inconsistent Law Superseded

Upon the effective date of the Navajo Nation Local Governance Act, all inconsistent enactments, laws, rules, policies, ordinances and regulations of the Navajo Nation and all branches, divisions, departments, offices and political subdivisions thereof are superseded hereby and/or amended to comply herewith.

### E. Amendment

This Act may be amended by the Navajo Nation Council subject to approval of a majority of all Chapters of the Navajo Nation; or this Act may be amended by referendum vote of a majority of all Chapters as set forth in 11 N.N.C., Navajo Nation Election Code.

## Section 2. Definitions

The language contained in this Section applies generally to all Chapters except as otherwise provided in this Act.

1. "Accounting system" means the methods and records established and maintained to identify, assemble, analyze, classify, record and report a Chapter's financial transactions and to maintain accountability, in accordance with generally accepted governmental accounting principles (GAGAP), of such transactions and for the related assets and liabilities.
2. "Administrative functions" are those activities of the Chapter government which are non-legislative, and involve the conduct of programs.
3. "Allotment" means a parcel of land either owned by the United States in trust for an Indian (trust allotment) or owned by an Indian subject to restriction imposed by the United States against alienation (restricted fee allotment).
4. "Alternative form of Chapter governance" means to give a new design, function or organization to the existing Chapter government.
5. "Attendance" means to be present.
6. "Chapters" are units of local government which are political subdivisions of the Navajo Nation.
7. "Chapter Certification" means the process required of a community group, pursuant to Section 3, seeking to establish a certified Chapter of the Navajo Nation Government.
8. "Chapter employee" means any person or entity working for, or rendering or exchanging any services or performing any act for or on behalf of the Chapter in return for any form of payment or other compensation or thing of value received or to be received at any time temporarily, permanently or indefinitely, in any capacity; whether as agent, servant, representative, consultant, advisor, independent contractor or otherwise.
9. "Chapter meeting minutes" means the record of all action taken at a duly called meeting of the Chapter.
10. "Chapter membership" means:
  - a. for voting purposes and participation in the Chapter government, all registered voters of the Chapter.
  - b. for purposes of services and benefits, all tribal members, young and old, who either reside within or are registered in the Chapter. An individual may not be a member of more than one Chapter.
11. "Chapter official" means the following public officials elected by the Chapter membership: Chapter President, Chapter Vice President, and Chapter Secretary/Treasurer.

12. "Chapter ordinance referendum" means the official vote of a Chapter's registered voters on a proposed ordinance pursuant to Section 2001(H) et seq. of this Act.

13. "Chapter resident" means one who dwells permanently or continuously within the boundaries of a Chapter.

14. "Chapter resolution" means the document recording the official action taken by the Chapter membership at a duly call Chapter meeting.

15. "Community Based Land Use Plan" means a document adopted by Chapter resolution setting forth current and proposed uses of land within Chapter boundaries, illustrating such uses by map or plat.

16. "Contracting" means the act of entering into written agreements which impose legal obligations on the parties who are signatories to the agreement.

17. "Custodian" means having day to day charge of official books, records, documents, equipment, property and funds of the Chapter.

18. "Eminent domain" means the taking of land used by an individual, or legal person or entity, in which an individual, or legal person or entity, has an interest for a governmental purpose. "Just compensation" must be paid to the user for taking of such as prescribed by Navajo law.

19. "Filing System" means the system by which all Chapter documents are maintained.

20. "Five Management System" means a management system which includes: accounting, procurement, filing, personnel and property management.

21. "Governance Procedure Requirements" means the process Chapters must complete pursuant to Section 102 to begin exercising authorities pursuant to this Act.

22 "Governmental purposes" means activities carried out by the Chapter for the general health, safety and welfare of the Chapter membership.

23. "Local governance" means governance by and through Chapter governmental bodies as set forth by this Act.

24. "Manager" means the individual who is responsible for administering the Five Management System and the administration of the Chapter

25. "Navajo Nation law" means Navajo statutes, administrative regulations and Navajo common law.

26. "Ordinance" means a local law, rule or regulation enacted by a Chapter pursuant to this Act.

27. "Oversight" means the general supervision of administrative functions by the Chapter officials and/or the manager to ensure accountability.

28. "Personal property" is all supplies, materials, equipment and other property, including expendable and nonexpendable property, capitalized and non-capitalized, but does not include real property or fixtures. Capitalized property is nonexpendable property having acquisition value of \$1,000.00 or more.

29. "Personnel management" means the system by which recruitment, retention and termination of employees is administered at the Chapter.

30. "Property management" means the system by which the Chapter administers accounts for real and personal property obtained or controlled as a result of past transactions, events or circumstances.

31. "Real property" is any interest in land, together with the improvements, structures and fixtures located thereon.

32. "Registered voter" means having one's name officially placed on a list of eligible voters.

33. "Sub-contract" means the act of entering into a written agreement between a Navajo Nation Chapter and a Navajo Nation division, program or entity.

34. "Technical assistance" means services rendered by the central Navajo Nation government with respect to the authority to be exercised by Chapters as described herein.

### **Section 3. Chapter Certification**

A. There shall be certified at least one Chapter organization in each Chapter precinct which elects delegates to the Navajo Nation Council. The list of certified Chapters is at 11 N.N.C. Part 1 Section 10.

B. Until increased by certification by the Navajo Nation Council, the number of certified Chapters shall not exceed one hundred and ten (110).

C. Additional Chapters may be certified only if all of the following are met:

1. Upon presentation of evidence to the Navajo Nation Council that the proposed Chapter represents a community group which has existed and functioned as a community for four (4) continuous years.

2. Upon presentation of evidence that the population of the area exceeds 1,000 persons for each of the existing Chapters and that there is a need to establish others.

3. Upon presentation of evidence that the topography or the unique demography of the Chapter area makes it necessary to have more than one Chapter to allow residents access to Chapter meetings.

### **Subchapter 3. Navajo Nation Chapter Governance**

#### **Section 101. Chapter Government Requirements**

A. To ensure accountability, all Chapters are required to adopt and operate under a Five Management System. Chapters shall develop policies and procedures for the Five Management System consistent with applicable Navajo Nation law.

B. Chapters wanting to administer land, pursuant to this Act, are required to develop a community based land use plan based upon results of a community assessment.

#### **Section 102. Governance Procedure Requirements**

A. The Navajo Nation Auditor General's office shall review the Chapter's Five Management System policies and procedures and recommend governance certification of the policies and procedures to the Transportation and Community Development Committee.

B. Upon review and recommendation by the Auditor General's office, the Transportation and Community Development Committee of the Navajo Nation Council shall certify the Five Management System policies and procedures. Also, the committee shall review, if applicable, the Chapter's community based land use plan. Upon governance certification by the Transportation and Community Development Committee, the Chapter may exercise authorities pursuant to Section 103 of this Act.

C. Chapters subsequently approving a community based land use plan must receive certification from the Transportation and Community Development Committee. Certification by the Transportation and Community Development Committee authorizes Chapters to administer land pursuant to Section 103(D)(1).

#### **Section 103. Chapter Authority**

A. The members of each Chapter, at a duly called meeting, are authorized to oversee the authority delegated to the Chapter pursuant to this Act.

B. All authority exercised by a Chapter shall be consistent with Navajo Nation law.

C. All authority exercised by a Chapter, pursuant to this Act, may be preempted by Navajo Nation Council statutes and/or resolutions.

D. All Chapters, by Chapter resolution, may exercise the following authorities, including, but not limited to:

1. Issue home and business site leases or permits. The issuance of leases and permits shall be done in accordance with uniform rules and regulations

promulgated by the Resources Committee and the Economic Development Committee of the Navajo Nation Council. This provision shall not apply to allotments.

2. Acquire, sell or lease property of the Chapter.
3. Enter into agreements for the provision of goods and services.
4. Enter into agreements with other Chapters to undertake a common goal or interest which will benefit the Chapters.
5. Enter into intergovernmental agreements with federal, state, tribal entities and/or their agencies, subject to the approval of the Intergovernmental Relations Committee of the Navajo Nation Council.
6. Enter into contracts or sub-contracts with the Navajo Nation for federal, state, county and other funds, subject to the approval of the Intergovernmental Relations Committee. This provision is not intended to alter federal contracts between Chapters and the United States which pre-date the enactment of this Act.
7. Enter into contracts or sub-contracts for Navajo Nation general funds, with appropriate Navajo Nation divisions, programs or agencies for service delivery programs.
8. Appropriate funds, according to conditions set forth by the Navajo Nation Council, divisions, departments or other funding sources, including Chapter claims funds and Chapter scholarship funds.
9. Reallocate funds, subject to existing funding or contract requirements, provided that 30% percent of the registered members of the Chapter approve the reallocation.
10. Retain legal counsel.
11. Establish a peacemaking system or administrative procedure for resolving disputes arising from Chapter resolutions, ordinances, or administrative action; including matters arising from personal disputes. The peacemaking system should emphasize Navajo custom for resolving disputes not otherwise contrary to Navajo law and/or custom.
12. Generate revenue through means established by the Chapter consistent with this Act.

E. Chapters may adopt the following ordinances pursuant to Section 2001 of this Act.

1. Amend the land use plan to meet the changing needs of the community.



2. Acquire property by eminent domain, pursuant to Section 2005 of this Act. This provision shall not apply to allotments.
3. Acquire and administer capital improvement project funds.
4. Zoning ordinances consistent with the Chapter's community based land use plan.
5. Regulatory ordinances for governmental purposes, enforcement of which shall be by the Chapter, for the general health, safety and welfare of the Chapter membership, consistent with Navajo Nation law.
6. An alternative form of Chapter governance based upon models provided by the Transportation and Community Development Committee of the Navajo Nation Council.
7. A municipal form of government or Chapter sub-units based upon models provided by the Transportation and Community Development Committee of the Navajo Nation Council.
8. Local taxes pursuant to a local tax code developed by the Navajo Tax Commission and approved by the Navajo Nation Council.
9. Local fees based upon guidelines established by the Navajo Nation Council.
10. Issue community bonds.
11. Compensate the Chapter President, the Vice President, and the Secretary/Treasurer.
12. Others, subject to the approval of the Transportation and Community Development Committee of the Navajo Nation Council.

F. Chapter members may delegate the resolution authority to the Chapter administration through the Chapter ordinance process. The delegation of authority specifically applies to: the issuance of home, business and other site leases, contracting, the authority to acquire, sell or lease personal property of the Chapter, and to appropriate funds.

G. The Chapter Officials and/or the Chapter membership are prohibited from granting monetary loans and approving per capita distribution of Chapter funds to the Chapter membership.

H. All residents of the Chapter, whether registered voters or not, are subject to the jurisdiction of the Chapter pursuant to this Section.

## **Chapter 2**

# **CHAPTER GOVERNMENT**

### **Subchapter 5. Navajo Nation Chapters, Officials and Administration - Generally**

#### **Section 1001. Duties and Responsibilities of Chapter Officials**

A. Chapter officials are elected by the Chapter membership to facilitate the conduct of Chapter meetings and guide policy making within the Chapter. The administrative functions of the Chapter government are to be left to the Chapter employees. An individual may not serve as both a Chapter official and Chapter employee at the same time.

B. The duties and responsibilities of the Chapter officials are as follows:

1. The Chapter President shall:

a. Consult with the Chapter Vice President, Secretary/Treasurer, Council Delegate(s), and Chapter staff in preparation of the agenda for each Chapter meeting. If applicable, the President shall also consider proposed agenda items from the planning meeting.

b. Preside and maintain order over Chapter meetings. All Chapter meetings shall be conducted according to the standard order of business pursuant to Section 1003 of this Act.

c. Provide all residents of the community with equal opportunity to speak on issues before the Chapter.

d. Recommend the establishment of and appointment to the standing and special committees of the Chapter to the membership for approval.

e. Adjourn or postpone a Chapter meeting in the event of:

1. A lack of quorum;

2. Disorder at the meeting;

3. Unforeseen emergency;

4. When a Chapter meeting is adjourned or postponed, the Chapter President shall provide notice to the Chapter members as to the time and place of the next or continued Chapter meeting.

f. Vote in case of a tie.

g. Call emergency or special Chapter meetings.

h. Coordinate, plan and organize to improve Chapter functions and activities.

i. Ensure that the duties and responsibilities of the Vice President and the Secretary/Treasurer are carried out in the best interest of the Chapter community.

j. Work closely with the Vice President, and Secretary/Treasurer, to ensure that the Chapter administration is adequately meeting the Chapter's directives and expending funds according to conditions of the Navajo Nation Council and/or the Chapter's annual budgetary objectives; and shall report to the Chapter membership.

k. Follow-up with Tribal, Federal and State governments or their agencies on resolutions, ordinances, recommendations, proposals and projects of the Chapter.

l. Take action to protect the life and property of the members of the Chapter in case of an emergency or other crisis.

m. Carry out the decisions of the Chapter and not frustrate those decisions in any way.

n. Work closely with Council members, Chapter elected officials, committees and other concerned groups or agencies.

o. Encourage and promote community participation in planning and development.

p. Mediate disputes, if appropriate, of families residing within the Chapter and/or refer such family disputes to appropriate social service or law enforcement authorities, as the circumstances may require.

q. Represent the Chapter at meetings which the Chapter has interest.

r. Keep informed of all Chapter related activities and acts to advance the interests of the community in all matters.

s. Have authority to sign all contracts, leases and all other official documents of the Chapter, unless otherwise stated.

t. Delegate to the Vice President certain duties and responsibilities of the presidency, when the President is otherwise incapacitated or is unavailable to perform his duties.

2. The Chapter Vice President shall:

- a. Automatically assume the duties and responsibilities of the Chapter President, in the absence of the President during Chapter meetings.
- b. In the event of an unforeseen situation, assume delegated duties and responsibilities of the Chapter President for a reasonable time period.
- c. Assist the President and Secretary/Treasurer with their duties and responsibilities.
- d. Work closely with Chapter elected officials, committees and other concerned groups or agencies.
- e. Monitor community projects.
- f. Represent the Chapter at meetings of which the Chapter has interest.
- g. Support and assist the President and Secretary/Treasurer in carrying out the decisions of the Chapter and not act to frustrate those decisions.

3. The Chapter Secretary/Treasurer shall:

- a. Maintain complete and accurate records of all Chapter activities and provide written information when called upon.
- b. Assist the President and Vice President in preparing the agenda.
- c. Prepare and finalize all resolutions, proposals, letters and other important documents for distribution to appropriate agencies.
- d. Take the minutes of Chapter meetings and record in detail all resolutions, votes and other official actions of the Chapter. Discussion of all action items shall be recorded with a tape recording machine.
- e. Follow up with the Chapter President and Vice President on all referrals of resolutions, proposals, correspondence and other related matters.
- f. Represent the Chapter at meetings of which the Chapter has an interest.
- g. Work closely with the Chapter President, Vice President, and other Chapter committees.
- h. Monitor the maintenance of an adequate accounting system to ensure accountability of all funds and expenditures; and shall report to the Chapter President and membership.
- i. Shall, in consultation with the Chapter President and Vice President, ensure that the administration prepares monthly financial reports of all

transactions and expenditures of the Chapter by categories. The Secretary/Treasurer is responsible for providing all financial reports to the Chapter membership at duly called Chapter meetings.

j. Keep records of meeting claims, attendance and payment of Chapter officials.

k. Turn over, to the Chapter manager, within 10 working days of the official action, all resolutions, minutes and other official documents finalized by the Secretary/Treasurer.

l. Co-sign all Chapter checks along with the Chapter manager. In the event that the Secretary/Treasurer is unavailable, the Chapter President or the Vice President may co-sign Chapter checks.

C. Elected officials of the Navajo Nation Chapters shall serve for a term of four (4) years and shall not be limited to the number of terms he or she may serve.

D. Elected officials of the Navajo Nation Chapters shall take the oath of office before assuming official duties.

E. Elected officials are prohibited from direct involvement in the management and operations of the Chapter administration.

F. Elected officials, immediately upon resignation, removal or expiration of the term of office, shall turn over to the duly certified successor, all books, records, and property in his/her possession belonging to the Chapter.

G. Elected officials are prohibited from conducting financial transactions three (3) months prior to the general election for Chapter officials, except for general operating costs.

H. Elected officials shall comply with all Navajo Nation laws, Chapter ordinances and resolutions. These officials shall perform the duties enumerated above, and such other duties as may be consistent with Navajo law, including this Act and applicable plans of operation enacted by the Chapter membership.

I. Elected officials of the Navajo Nation Chapters shall attend, upon taking the oath of office, a training session on Ethics in Government sponsored by the Ethics and Rules Office of the Navajo Nation. Chapter officials shall maintain a high standard of conduct in all Chapter business consistent with Navajo law, including this law, and the Navajo Nation Ethics and Governmentlaw. Chapter officials are prohibited from rendering opinions, directions or decisions contrary to the sound practice of leadership or contrary to the best interest of the Chapter.

## **Section 1002. Meetings; Meeting Notice Requirement; Compensation of Chapter Officials**

A. Number of meetings. Each Chapter shall determine the number of meetings to be held each month and the time and place for such meetings (subject to the right of the Chapter President to call special or emergency meetings when necessary).

B. Meeting Notice. The Chapter officials shall post all Chapter meeting agendas within the Chapter boundaries at least 48 hours prior to the meeting.

### **C. Compensation of Chapter Officials**

1. Chapter officials shall be compensated for only the number of meetings provided for in the Navajo Nation approved budget. It is nonetheless the obligation of Chapter officials to be present at all Chapter meetings.

2. A Chapter meeting claim form signed only by the claimant shall be attached to each of the regularly scheduled Chapter meeting reports filed by the Chapter Secretary/Treasurer with the Chapter Government Development Department, Division of Community Development, or if applicable, by the Chapter administration.

a. Each regularly scheduled Chapter meeting report and claim form shall be correctly filled out before it will be accepted and processed for payment by the Chapter Government Development Department, Division of Community Development, or if applicable, by the Chapter administration;

b. Each Chapter President, Vice President, Secretary/Treasurer (the appointed acting Secretary and/or the Chapter President Pro-Tempore) shall be paid in accordance with the approved fiscal year budget;

c. No Chapter official shall be compensated for a Chapter meeting unless he or she was in official attendance at that meeting; and

d. Reports will be furnished for all Chapter meetings, regular or special, and state whether or not Chapter officials are to be compensated for attendance at such meetings.

## **Section 1003. Order of Business**

A. The Chapter President or in the absence of the President, the Vice President shall chair all regular or special Chapter meetings. In the absence of the President and Vice President, the Chapter members present may select a Chairperson Pro Tempore for that meeting only.

B. All Chapter meetings require a quorum of 25 registered Chapter members to conduct official Chapter business. Chapters may amend the quorum requirement, based upon

models adopted by the Transportation and Community Development Committee of the Navajo Nation Council, pursuant to a Chapter ordinance referendum.

C. Chapters may adopt standard rules for conducting Chapter meetings.

D. Procedural Rules for Motions.

1. The approval or amendments to the agenda, minutes, report(s) and resolution(s) under old and new business of the agenda shall be done in the following manner:

a. Upon presenting the agenda, minutes, report(s), resolution(s) and/or issue(s) of the agenda, the Chapter President shall request a motion to accept the matter before the Chapter membership and recognize a second to the main motion.

b. Upon receiving a motion and a second to the main motion, the Chapter President shall provide an opportunity to members of the Chapter to address the matter before the Chapter membership.

c. Any member of the Chapter may propose an amendment to the main motion which would require a second. The Chapter membership shall vote on the proposed amendment motion. If the amendment motion passes, it shall take precedence over the part of the main motion subject to a proposed amendment. Only one motion to amend the main motion shall be on the floor.

d. Any member of the Chapter may propose a substitute motion and if it passes, it shall take the place of the main motion. The substitute motion shall be seconded and voted on.

e. Any member of the Chapter may propose to table the legislation or issue before the Chapter. The motion to table the matter shall be seconded and voted on. If the tabling motion passes, it shall take precedence over other motions.

2. The Chapter President, Vice President, and Secretary/Treasurer, at a duly called Chapter meeting, are prohibited from making main motions and second motions on substantive and administrative matters. They may make motions and second motions during planning meetings.

#### **Section 1004. Chapter Administration**

A. The Chapter shall enact, by resolution, plans of operation for all executive functions and administrative policies of the Chapter, including but not limited to: record-keeping, accounting, personnel, payroll, property management, contracting procurement and program management. The Five Management system shall be the basis of enacting the plans of operation and administrative policies. The Chapter administration shall follow

the duties and responsibilities prescribed in the plans of operation and shall comply with all administrative policies and procedures enacted by the Chapter.

B. The Chapter manager shall co-sign all Chapter checks.

C. The Chapter manager shall be the custodian of all official books, records, documents, and funds of the Chapter. Failure of the manager to safeguard these items is cause for removal and assessment of applicable penalties pursuant to Navajo Nation law.

D. Members of the Chapter, individually, are prohibited from direct involvement in the management and operations of the government or administration.

## Subchapter 7. Navajo Nation Chapter Regulations and Procedure

### **Section 2001. Chapter Ordinance Procedure**

A. All proposed ordinance(s) shall contain the following:

1. an ordinance number;
2. a title which indicates the nature of the subject matter of the ordinance;
3. a preamble which states the intent, need or reason for the ordinance;
4. the subject of the ordinance;
5. rules and regulations governing the enforcement of the ordinance, budgetary information, and where applicable, a statement indicating the penalty for violation of the ordinance;
6. a statement indicating the date when the ordinance shall become effective;
7. the signature of the Chapter President to make an official recording of the transaction or writing.

B. The proposed ordinance shall be read into the record at two consecutive Chapter meetings, of which one may be designated a special meeting, to provide information and an opportunity to discuss and comment on the proposed ordinance(s).

C. All proposed ordinances shall be read in both English and Navajo.

D. After the final reading, the proposed ordinance shall be posted at public places within the Chapter boundaries a minimum of fourteen (14) days prior to the vote. The date of the vote shall be decided upon at this time.

E. Passage of ordinance(s) by the Chapter requires a majority of the registered votes cast, by the Chapter membership during a special election.



F. All ordinances shall be compiled and maintained at the Chapter for public information. Copies of ordinances shall be filed with the central Records Management Department of the Navajo Nation.

G. Ordinances shall be amended or rescinded by the process provided in this Section. All ordinances proposing amendments shall clearly indicate new language by underscoring and deletions by overstriking.

H. The Chapter ordinance referendum shall be used for the adoption of an alternative form of Chapter governance, a municipal form of government, Chapter sub-units, local taxes and fees, issuance of community bonds and compensation of Chapter officials and shall require approval subject to the procedural requirements set forth in this Section including the following:

1. The Chapter shall be responsible for the funding and administration of referendum elections concerning such ordinances. The Navajo Nation Election Administration shall provide the necessary assistance.
2. The votes cast shall be by secret ballot prepared by the Chapter administration.
3. Ordinances by referendum require passage by majority of the registered voters.

I. Challenges to ordinances shall be pursuant to 1 N.N.C., Chapter 5, Subchapter 1, section 501 et. seq.

### **Section 2002. Chapter Contract Requirements**

A. Except as otherwise provided in this Act, all contracts authorized to be executed on behalf of a Chapter, and utilizing Navajo Nation funds shall:

1. expressly state the liability of the Chapter under the contract;
2. be approved by the Chapter membership, before being executed on behalf of the Chapter;
3. have sufficient funds appropriated and available;
4. comply with the Business Procurement Act, 12 N.N.C. Section 1501 et seq., the Employment Preference Act, 15 N.N.C. Section 601 et seq., the Business Preference Act, 5 N.N.C. Section 201 et seq., and rules and regulations promulgated thereto;
5. be awarded only after public advertisement and bidding;
6. not waive the sovereign immunity of the Navajo Nation;
7. provide access to all contracts or papers to the public; and, if applicable

8. not exceed 10% of the accepted bid. If the 10% cap is exceeded by change orders, modifications or amendments, such change orders, modifications or amendments shall be subject to the provisions of Section 2002(A)(5) above.

B. All executed contracts and papers, and any modifications thereof, shall be filed at the Chapter.

### **Section 2003. Chapter Finance; Budget Process; Chapter Insurance**

A. The Chapter shall adopt an accounting system deemed acceptable by the Auditor General.

B. Budget Process

1. At least one month before the end of the Navajo Nation fiscal year, the manager, in consultation with the Chapter officials, shall prepare, schedule and explain the annual Chapter budget to the membership. Chapters are required to follow the annual budget instruction of the Navajo Nation Office of Management and Budget when formulating the annual Chapter budget and when the budget concerns Navajo general funds. At a duly called planning meeting, the manager shall present a proposed annual budget for the ensuing fiscal year. The manager shall, to the extent allowed by law, include the objectives of the membership in the proposed budget.

2. The budget shall consist of financial information, including but not limited to: a statement on prior financial expenditures; capital improvement funds; debts; encumbrances, lapses of appropriation; and budget objectives from the current year and the status of those objectives.

3. The manager, in consultation with the Chapter officials, shall finalize the budget for approval by the Chapter membership. The Chapter membership shall vote upon the budget at a duly called Chapter meeting in which reasonable notice has been given to the Chapter membership that said meeting will include approval of the annual budget. The budget expenditures shall not exceed the total of the estimated income for the fiscal year. No payments shall be made or obligated except in accordance with the appropriation duly enacted by the Chapter or adopted by the Navajo Nation Council.

C. To protect the interests of the Chapter, the Chapter shall participate in the Navajo Nation's insurance and employee benefit programs, subject to the terms and conditions of such programs. In the event that a Chapter elects not to participate in the Navajo Nation's programs, the Chapter shall establish adequate coverage through the creation of a self-insurance program or the procurement of appropriate policies.

D. Chapter funds shall not be used for personal, business or other forms of loans. Per capita distribution of funds by the Chapter is prohibited. No financial transaction or expenditures of funds shall be made three months before or after the general election of Chapter officials, except for general operating costs.

E. Any person, agent, or Chapter official misappropriating or misusing Chapter funds or property shall be subject to prosecution under the applicable laws of the Navajo Nation, and, if appropriate, under the laws of the United States federal government.

## **Section 2004. Zoning; Comprehensive Plan; Land Use Variations**

### **A. Zoning**

1. Chapters may enact zoning ordinances provided that the membership adopt and implement a comprehensive community based land use plan pursuant to Section 2004(B).
2. Adoption of all local zoning ordinances shall be done pursuant to Section 103(E)(4) of this Act.
3. The Chapter shall be responsible for the enforcement of all zoning ordinances adopted by the membership. The Chapter shall provide and maintain information relative to all matters arising from adopted zoning ordinances.
4. All proposed amendments to zoning ordinances shall first be reviewed by the Local Planning Board, and shall require approval by the Chapter membership before becoming effective.

### **B. Comprehensive Plan**

1. The Chapter, at a meeting called for that purpose, shall by resolution, vote to implement a comprehensive community based land use plan, after the Chapter Planning Board has educated the community on the concepts, needs, and process for planning and implementing a land use plan. The comprehensive community plan shall designate future land use based on the guiding principles and vision as articulated by the community; along with information revealed in inventories and assessments of the natural, cultural, human resources, and community infrastructure; and, finally with the consideration for the land-carrying capacity. Such a plan shall include, but not be limited to the following:
2. An open space plan which preserves for the people certain areas to be retained in their natural state or developed for recreational purposes.
3. A land use plan which projects future community land needs, shown by location and extent, areas to be used for residential, commercial, industrial, and public purposes.
4. A thoroughfare plan which provides a system of and design for major streets, existing and proposed, distinguishing between limited access, primary, and secondary thoroughfares, and relating major thoroughfares to the road network and land use of the surrounding area.

5. A community facilities plan which shows the location, type, capacity, and area served, of present and projected or required community facilities including, but not limited to, recreation areas, schools, libraries, and other public buildings. It will also show related public utilities and services and indicate how these services are associated with future land use.

### C. Presentation of Comprehensive Plan

1. Upon approval and passage of a Chapter resolution stating the Chapter's desire to develop and implement a comprehensive community based land use plan, the Chapter shall establish a Community Land Use Planning Committee (CLUP) to approve the processes for planning and to oversee planning activities. The committee shall work closely with the designated planner and the community residents as planning progresses. The CLUP committee shall be comprised of voting members of the Chapter that have expertise to provide valuable contributions to the overall land planning process. Subcommittees such as technical, and public advisory committees, comprising of voting and non-voting members may be established to assist the CLUP committee.

2. The CLUP committee may hire a planner to be responsible for preparing the CLUP. At a minimum, the planner shall exhibit leadership qualities and organization abilities along with experience or education in the discipline of land planning.

3. The planner shall work under the supervision of the CLUP committee and with the community residents. The duties and responsibilities of the planner shall include, but are not limited to the following:

a) Coordinating all land planning activities.

b) Developing a community education and participation plan describing methods that will foster public education participation through public hearing, newspaper and radio. Chapter members will be periodically informed on the progress of the land planning activities. All information pertaining to the plan shall be available to the public. The committee shall approve the community participation plan.

c) Developing and implementing a community assessment ascertaining the goals, priorities, and vision for the future of the community.

d) Inventorying and assessing pertinent data. The planner shall request data and seek technical assistance when necessary for compilation of all available data from tribal, federal, and state agencies for inventorying and assessing natural, cultural, and human resources, as well as community infrastructure. In addition, Chapters may hire consultants to assist with the inventory and assessments.

#### D. Presentation and Approval of Comprehensive Plan

Upon completion of resource inventories and assessments, community assessment, the planning board shall prepare a land use plan as described in Section 101. Local planning and zoning ordinances may also be presented at this time. The plan shall be presented to the local residents in one or more public meetings and through the various multimedia. The community members shall have 60 days to comment in writing or in testimony at a final public hearing. The CLUP committee, after consideration for public input shall make necessary adjustments, finalize the plan, and submit the plan to the Transportation and Community Development Committee of the Navajo Nation Council. The committee by committee resolution shall approve the land use plan. Every five years the plan shall be reevaluated and readjusted to meet the needs of the changing community.

#### E. Land Use Variations

The utilization of all withdrawn lands of the community as defined by the adopted Comprehensive Community Plan shall be in accordance with the provisions of said plan; variations to said plan must be consistent with Section 103(E)(4).

### **Section 2005. Eminent Domain Requirements**

#### A. Damages to Improvements of Individual Navajo Indians

1. Whenever a Navajo Nation Chapter disposes of land containing anyimprovement belonging to a Navajo Indian who will not donate the same, whether the disposition is made by surface lease, permit, consent to grant of right-of-way or consent to commencement of construction on a proposed right-of-way, or in any other manner that gives the grantee or proposed grantee exclusive use of the surface of the land containing such improvement, or authorizes the grantee or proposed grantee to use the surface of the land in such manner that said improvement or improvements must be removed, damaged, or destroyed, the Chapter will pay damages to the rightful claimant of such improvement or improvements.

2. As used in this Section "improvement" means house, hogans, sunshade, stables, storage sheds, dugouts, and sweathouses; sheep and horse corrals, and pens, and fences lawfully maintained; irrigation ditches, dams, development work on springs, and other water supply developments; any and all structures used for lawful purposes and other things having economic value. Where any improvement of a Navajo Indian is readily removable and such person has an opportunity to remove the same, damages payable on account of said improvement shall be limited to the reasonable cost of removal, if any, even though the claimant thereof may have failed to remove such improvement and it may have been destroyed or damaged in the authorized course of use of the land on which it is located.

3. No damages shall be paid to any person for any improvement, when such person at the time of building or acquiring said improvement knew or with reasonable diligence ought to have known that the area in which it was located was proposed to be disposed of by the Chapter adversely to such person's interest.

4. Damages to be paid to individual Navajo Indians under this Section shall be fixed by negotiation and consent between the Chapter President of the Chapter or his or her authorized representative and the individual involved. If no agreement satisfactory to the Chapter President or his or her representative can be reached within a reasonable time, the Chapter President shall appoint one appraiser, the individual shall appoint one appraiser, and the two appraisers so appointed shall appoint a third appraiser; but if they cannot agree upon the third appraiser within 10 days, the Chapter President may appoint him or her. The three appraisers shall examine the improvement alleged to be damaged and shall appraise and determine the damages. Their determination shall be submitted to the Natural Resources Committee of the Navajo Nation Council and when, if, and as approved by said Committee the amount thereof shall be final. The Chapter shall pay the fees of said appraisers, except where they are regular Navajo Nation employees, in which case they shall not be entitled to any fees. In addition the Chapter shall pay the reasonable and necessary expenses of said appraisers, whether or not such appraisers are Navajo Nation employees.

#### B. Economic Damage to Intangible Interests of Navajo Indians

1. Whenever as a result of a Navajo Nation Chapter granting any lease or permit embracing Navajo Nation land, or granting permission by the Chapter for the use of Navajo Nation land, or as a result of the use of Navajo Nation land under such lease, permit or permission, the value of any part of such land for its customary use by any Navajo Indian formally lawfully using the same is destroyed or diminished, the Chapter will compensate the former Navajo Indian user in the manner hereinafter specified.

2. When the livelihood of the former Navajo Indian user is gravely affected by the new use, such user shall have first priority in resettling on other lands acquired by the Navajo Nation, except the area acquired pursuant to the Act of September 2, 1958 (72 Stat. 1686); and the Chapter shall pay the expense of removing said person, his or her family, and property to any newland made available for his or her use, and such shall constitute full compensation to such Navajo.

3. In all other cases involving damages under this paragraph, the amount thereof shall be fixed and determined in the manner specified in 26 N.N.C. Section 2005(A)(4) above.

4. Whereby reseeding, irrigation, or otherwise, the remaining land in the customary use area of any individual damaged by the governmental exercise of eminent domain is within a reasonable time made able to provide the same economic return as his or her former entire customary use area, no damages shall be payable to such person, except for the period, if any, between adverse

disposition of the land in the customary use area and the time when the productivity of the remaining land achieves equality with the entire former customary use area.

5. Only lawful and authorized use shall be compensated under this Section. Thus, no person shall be compensated for loss of use of land for grazing animals in excess of his or her permitted number, or without a permit.

6. Every person otherwise entitled to damages under subsection (3) of this Section shall not be entitled to receive any payment thereof until that person has surrendered for cancellation that person's grazing permit as to all animal units in excess of the carrying capacity of the land remaining in that person's customary use area. Persons so surrendering their grazing permits shall be entitled to an immediate lump sum payment based on the current market value for each sheep unit canceled.

#### C. Adverse Disposition of Navajo Nation Land Not to be Made Until Individual Damages are Estimated

Neither lessee, permittee, or the grantee of a right-of-way or other interest in or right to use Navajo Nation lands shall commence any construction thereon, nor make any change in the grade or contour thereof or remove any surface vegetation thereon until the damages to the improvements thereon or the customary use rights of all the individuals affected thereby have been estimated by the Office of Navajo Land Administration of the Navajo Nation. Unless the Chapter membership has previously authorized the payment of such damages from nonreimbursable funds of the Chapter, the Chapter President shall require the applicant for such lease, permit or grant of a right-of-way or other interest in or right to use Navajo Nation lands to deposit with the Chapter Secretary/Treasurer an amount equal to at least double the estimate of damage made by the Office of Navajo Land Administration. After the lease, permit, or grant of right-of-way or user has become final and the damages have been determined, either by appraisal, estimate or by consent as hereinbefore provided, the Chapter President shall cause the Secretary/Treasurer to pay, from and out of this deposit, to the person or persons damaged thereby such sum as he, she or they may be entitled to under the terms of this Section, and to return to the applicant the excess thereof, except that where the individual damaged has not consented to the determination of the amount thereof, it shall be withheld in order to satisfy the excess amount, if any, determined under 26 N.N.C. Section 2005(A)(4). Such disbursements shall be made without further appropriation of the Navajo Nation Chapter membership. All sums held by the Secretary/Treasurer of the Navajo Nation Chapter, pursuant to the terms of this Section, for a period of more than 30 days shall be deposited in a Federal Savings and Loan Association or invested in the bonds of the United States until needed for disbursement.

Section 2006. [Reserved]

Section 2007. [Reserved]

Section 2008. [Reserved]

Subchapter 9. [Reserved]

Subchapter 11. [Reserved]

Subchapter 13. [Reserved]

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