

**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

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Law & Order Committee

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Naa'biik'íyáti' Committee

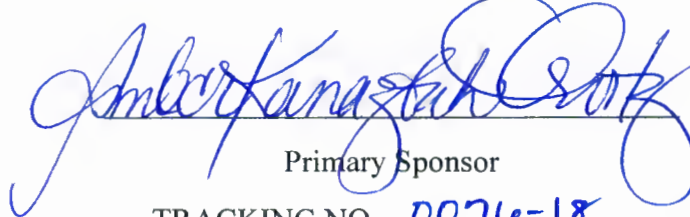
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Navajo Nation Council

1 PROPOSED NAVAJO NATION COUNCIL RESOLUTION

2 23<sup>rd</sup> NAVAJO NATION COUNCIL—Fourth Year, 2018

3 INTRODUCED BY

4 

5 Primary Sponsor

6 TRACKING NO. 0076-18

7 AN ACT

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

13 BE IT ENACTED:

14 SECTION ONE. AUTHORITY

- 15 A. The Resources and Development Committee is a standing committee of the Navajo  
16 Nation Council with oversight authority over chapters. 2 N.N.C. §§ 500(A) and  
17 501(C)(1).  
18 B. The Law and Order Committee is a standing committee of the Navajo Nation Council  
19 and as such empowered LOC to review and make recommendations to the Navajo  
20 Nation Council on proposed Navajo Nation Code amendments and enactments. 2  
21 N.N.C. §§ 600 (A) and 601 (B) (14).  
22 C. The Navajo Nation Council established the Naabik'íyáti' Committee as a Navajo  
23 Nation standing committee and as such proposed legislation that requires final action  
24 by the Navajo Nation Council shall be assigned to the Naabik'íyáti' Committee. 2  
25 N.N.C. §§ 164 (A) (9), 700 (A).  
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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:  
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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**

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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  
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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 505-789-3100  
"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:

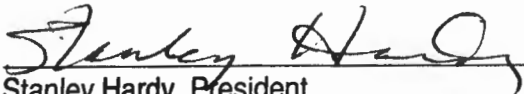
1. The Toadlena/Two Grey Hills Chapter requests the Navajo Nation Council, the Resource and Development Committee and the Division of Community Development to review the Local Governance Act – Title 26; Section 2004.Zoning; Community Based Land Use Plan; Land Use Variations; Part D, Subsection 2 and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

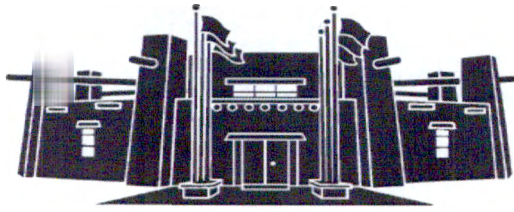
  
Lolita Spencer, Secretary/Treasurer

  
Derry Lewis, Grazing Official

UNAVAILABLE FOR SIGNATURE

Amber K. Crotty, Council Delegate





## MEMORANDUM

TO: Honorable Amber Crotty  
Sheep Springs, Toadlena/Two Grey Hills, Tsé Alnáozt'í'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 his 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.*