

Special Plain Language Comment

This section describes the penalties for bad faith or commercially unreasonable acts by the secured party and procedures for protection of the debtor and other interested creditors from such wrongful conduct. The section also provides some clarification guiding the secured creditor in the proper method of exercising his remedies.

Title 6

Community Development

Chapter 1. Community Activities and Development

Subchapter 1. Generally

§ 1. Statement of policy

Political, social, educational, and recreational activities of the local community shall be centered in the chapter houses and community centers. A more direct relationship of the local community to the Navajo Nation Council shall be fostered as recommended in Resolution CJ-20-55. In order to achieve community development, chapter houses and community centers shall be used for a variety of purposes such as adult education, health clinics, recreation, social activities, laundry, bathing, sewing, and meetings.

History

ACJ-40-57, June 21, 1957.

CF-35-57, February 15, 1957.

§ 2. Community participation

In order to develop a feeling of self-reliance, responsibility, and pride in each local community, a program of community organization and planning shall be conducted in each community to achieve the following objectives:

A. To explain the plan and aims for the Navajo Nation construction of community buildings and the role of the local community in relationship to the over-all program.

B. To allow each community to participate in developing a planned program for using the new facilities and to select the type of building and its location.

C. To develop a custodial responsibility in the community so that the building and its equipment will be properly maintained.

D. To encourage the community to contribute labor, materials, equipment or ideas in the construction of the building, and thereby to maximize the feeling of community ownership and responsibility for the chapter house or community center.

E. To develop an attitude of readiness in the community to utilize the facilities to achieve a more wholesome community life and to encourage continuing participation in programs of community development.

History

ACJ-40-57, June 21, 1957.

Cross References

Transportation and Community Development Committee, see 2 N.N.C. § 420 *et seq.*

§ 3. Community development program and activities; conferences; assistance

A. The Division of Community Development is authorized to hold conferences in which chapter officers of different chapters get together to discuss community development program and chapter activities.

B. The President of the Navajo Nation and the Division of Community Development are authorized and directed to develop programs to assist chapters and community centers to operate, utilize, and maintain the facilities authorized herein.

History

ACJ-78-58, July 10, 1958.

CM-46-57, May 14, 1957.

Revision note (1995). The words "Division of Community Development" replace previous references to the "Community Development Department".

§ 4. Community planning

A. The Transportation and Community Development Committee of the Navajo Nation Council is declared to be the body responsible for developing, coordinating and approving comprehensive community improvement plans for the communities under the jurisdiction of the Navajo Nation.

B. Comprehensive community improvement plans shall include a land use plan, a major thoroughfare plan, a community facilities plan, zoning plans, subdivision regulations and public improvement programs.

C. The Transportation and Community Development Committee shall call upon all necessary and available technical assistance from Navajo Nation staff, the Bureau of Indian Affairs, the Public Health Service and other agencies to assist in the development of comprehensive community plans. The Navajo Nation President is authorized to appoint an employee of the Navajo Nation to coordinate the technical assistance.

D. No community plan shall be adopted unless it has been approved by a duly called meeting of the Chapter organization in which the community is located. Every effort will be made to involve persons living in the

communities concerned to participate in the planning process.

E. The Navajo Nation President is authorized to sign on behalf of the Navajo Nation a workable program for community improvement, for submission to the Housing and Home Finance Agency.

History

ACMY 72-63, May 2, 1963.

Revision note. Previous references to the "Advisory Committee" have been replaced by the "Transportation and Community Development Committee". See 2 N.N.C. § 420 *et seq.*

§ 5. Code review

A. The Transportation and Community Development Committee of the Navajo Nation Council is declared to be the body responsible for reviewing codes and recommending the same for adoption or amendment to the Navajo Nation Council.

B. Codes subject to review by the Transportation and Community Development Committee shall include building code, electrical code, plumbing code, housing code, sanitation code, zoning code.

History

CN-93-68, November 18, 1968.

CS-75-65, September 1, 1965.

ACMY-72-63, May 2, 1963.

Revision note (1995). Previous references to the "Advisory Committee" have been replaced by the "Transportation and Community Development Committee". See 2 N.N.C. § 420 *et seq.*

Note. Regarding the compilation and codification of Navajo Nation laws, see the authority of the Office of Legislative Counsel (2 N.N.C. § 964(B)) and the Ethics and Rules Committee of the Navajo Nation Council (2 N.N.C. § 834(B)(4)).

§ 6. Code Advisory Committee

To assist the Transportation and Community Development Committee of the Navajo Nation Council in discharging its responsibility for code review, there is created a Code Advisory Committee consisting of a representative of the Navajo Nation appointed by the President of the Navajo Nation; the General Manager of the Navajo Tribal Utility Authority; the Head of the Design and Engineering Services Department, Navajo Nation; Chief Sanitary Engineer, Public Health Service; Maintenance Engineer, Bureau of Indian Affairs, and such other persons as the President of the Navajo Nation may from time to time designate.

History

ACMY-72-63, May 2, 1963.

Revision note (1995). Slightly reworded for purposes of statutory form.

Note. For the authority of the Transportation and Community Development Committee, see 2 N.N.C. § 420 *et seq.* Regarding the compilation and codification of Navajo Nation laws, see the authority of the Office of Legislative Counsel (2 N.N.C. § 964(B)) and the Ethics and Rules Committee of the Navajo Nation Council (2 N.N.C. § 834(B)(4)).

§ 7. Participation under Economic Opportunity Act of 1964

A. The President of the Navajo Nation, the Navajo Nation, Council and the Executive Staff are authorized and directed to assist in implementing programs under Titles I-VI of the Economic Opportunity Act of 1964,¹ which are beneficial to the Navajo Nation and the Navajo People. The President of the Navajo Nation and the Navajo Nation Council are further authorized to execute on behalf of the Navajo Nation all necessary documents to accomplish the purposes of this Section.

B. The appropriate committees of the Navajo Nation Council are authorized to approve general policies, plans of operation, and programs which are beneficial to the Navajo Nation and Navajo People under Titles I-VI of the Economic Opportunity Act of 1964.¹

C. The appropriate committees of the Navajo Nation Council, in conjunction with the Budget and Finance Committee of the Navajo Nation Council, shall make recommendations to the Navajo Nation Council for any appropriations of Navajo Nation funds which may be necessary to accomplish the purposes of this Section.

History

CJA-6-65, January 11, 1965.

CS-53-64, September 8, 1964.

Note. Pursuant to 2 N.N.C. Subchapter 9, *et seq.*, various standing committees of the Navajo Nation Council have policy, oversight, and certain delegated authorities and duties related to plans of operation and programs of the Navajo Nation government. See generally, CD-68-89, December 15, 1989.

Subchapter 3. Chapter Houses

§ 41. Eligibility

Each Chapter organization officially recognized under the provisions of 26 N.N.C. § 1 *et seq.* shall be eligible for the construction or improvement of a community chapter house to meet its requirements in accordance with the standards hereinafter set forth in this Subchapter.

History

ACJN-90-65, June 21, 1965.

CD-70-62, December 4, 1962.

ACMY-76-61, May 12, 1961.

ACAP-61-60, April 29, 1960.

CM-28-58, May 5, 1958.

CM-46-57, May 14, 1957.

ACJ-40-57, June 21, 1957.

Revision Note. Reference to 2 N.N.C. §§ 4001 and 4006 has been replaced by Navajo Local Governance Act, 26 N.N.C. § 1 *et seq.*

§ 42. Location; final approval; standards for selection

A. Final approval for the location of each chapter house shall be granted in its discretion by the Transportation and Community Development Committee of the Navajo Nation Council.

B. Each Chapter shall be guided by the following criteria in the selecting of the location of a new chapter house:

1. The site shall be located so that it will conveniently serve the entire community.

2. The site shall be chosen giving consideration to the road network of the community.

3. The chapter building shall be located near a developed source of water. The development of an adequate source of water must in all instances precede location of the building. In no instance shall water be piped in excess of 2,000 feet.

4. The chapter building shall be near power, if available.

5. Wherever possible, the site shall be adjacent to a school, clinic, police substation or other service facility, in order that custodial attention may be provided by someone living nearby.

History

ACAP-61-60, April 29, 1960.

ACJ-4-57, January 8, 1957.

Revision note (1995). Previous reference to the "Advisory Committee" has been replaced by the "Transportation and Community Development Committee". See 2 N.N.C. § 420 *et seq.*

§ 43. Plans

A. Each new chapter house shall be built from architectural plans. The chapter membership shall choose one of several basic plans previously approved by the Transportation and Community Development Committee of the Navajo Nation Council and such plan may be varied by the community only as to materials, appearance and utility equipment.

B. Renovation or improvement of existing chapter houses shall be done from architectural plans, or in relatively uncomplicated situations, from plans prepared by the Design and Engineering Services Department, as may be administratively determined feasible and economical.

History

ACJA-14-67, January 31, 1967.

ACO-206-66, October 19, 1966.

ACAU-166-62, August 22, 1962.

ACO-193-60, October 27, 1960.

ACAP-61-60, April 29, 1960.

ACJ-40-57, June 21, 1957.

Revision note. Previous reference to the "Advisory Committee" has been replaced by the "Transportation and Community Development Committee". See 2 N.N.C. § 420 *et seq.*

Note. By GSCO-60-91, the Government Services Committee adopted a Plan of Operation for the Division of Community Development which includes a Design and Engineering Services department whose director provides architectural and engineering services to chapters.

§ 44. Applications-Generally

Applications for the construction or improvement of chapter facilities shall be presented to the President of the Navajo Nation for review by the Executive Staff. The Executive Director, Division of Community Development or his or her representative shall present the applications to the Transportation and Community Development Committee of the Navajo Nation Council with comments and recommendations.

History

ACAP-61-60, April 29, 1960.

Revision note (1995). Slightly reworded for purposes of statutory form. Previous reference to the "Public Services Division" has been replaced by the "Division of Community Development" and previous reference to the "Advisory Committee" has been replaced by the "Transportation and Community Development Committee". See 2 N.N.C. § 420 *et seq.*

§ 45. Form

Applications for community Chapter House construction or improvement shall be submitted on form "Application for Construction or Improvement of Chapter House". The applications shall be signed by the Navajo Nation Council delegate serving the Chapter area, the President, Vice-President and Secretary of the chapter organization and shall be further supported by individual signatures of not less than 100 adult members of the community to be served.

History

ACAP-61-60, April 29, 1960.

§ 46. Review by Transportation and Community Development Committee; decision

A. The Transportation and Community Development Committee shall consider all applications for new chapter houses on the following basis:

1. Population and area to be served.
2. Average meeting attendance records.
3. Operating management and maintenance skills within the community.
4. General acculturation and educational level of the community.
5. Actual need of the community for the facilities requested.
6. Comparison of requested facilities with facilities granted other communities similarly situated.
7. Kind, type and probable difficulty of operating and maintaining utility equipment.
8. Reasonableness of request.
9. Comparative costs as related to budgeted funds.
10. Ability and plans of community to provide operating costs in full.
11. Ability and plans of community to provide total maintenance or to pay one-half maintenance costs of a Navajo Nation mobile unit.
12. Current financial status of requesting chapter.
13. Acceptance of agreement to operate and maintain building.
14. Type of chapter house selected and suitability to the community.

B. After review of each request for construction of a Chapter House, the Transportation and Community Development Committee shall render its decision.

If the decision is affirmative, the construction shall be authorized by appropriate resolution. If the decision is adverse, the Director, Division of Community Development, shall immediately so inform the requesting chapter organization with a full statement of the reasons for denial of the request and suggestions for remedial action.

C. The Transportation and Community Development Committee shall consider all requests for renovation, remodeling and major repair of existing chapter houses on the basis of applicable items listed under Subsection (A) of this Section and shall render its decision under the terms of Subsection (B) of this Section.

History

ACAP-61-60, April 29, 1960.

Revision note (1995). By GSCO-60-91 the Government Services Committee of the Navajo Nation Council adopted a Plan of Operation for the Division of Community Development which plan states in pertinent part the Division has as a purpose "to administer, plan, manage and monitor resources for communities and their members which will foster and support housing infrastructure, public facilities...." Previous references to the "Advisory Committee" have been replaced by the "Transportation and Community Development Committee". See 2 N.N.C. § 420 *et seq.*

§ 47. Force account; employment of workers

A. The construction, renovation, and improvement of chapter houses shall be done on force account by the Design and Engineering Services Department.

B. Preferential employment of local qualified workers shall be provided for in the construction, renovation and improvement of chapter houses, however, in the absence thereof, the Design and Engineering Services Department in cooperation with the Employment and Personnel Department shall employ non-local qualified workers to the extent required to meet budgetary and time schedules.

C. To achieve economical results, the Design and Engineering Services Department is instructed to disregard external and community interference or pressure to hire unqualified or unnecessary members or workers.

D. Each Chapter House project shall be under the supervision of a foreman and one leadman.

E. Local available labor shall be rotated on 10 work-day shifts.

History

ACAP-61-60, April 29, 1960.

Revision note (1995). Previous references to the "Design and Construction Department" have been replaced by the "Design and Engineering Services Department". Also, the wording of Subsection (B) was slightly reworded and reorganized for form and clarity.

§ 48. Operation

A. Responsibility for the operation of all chapter houses rests solely with the chapter organization. This includes all operating costs, if any, for fuel, water, sewage disposal, power and caretaker service.

B. The community is required to contribute or to earn through its program plan sufficient income to provide for operating costs of conducting its meetings, programs and chapter building operation. This is a condition of the Navajo Nation grant for construction.

C. The community is expected to fully provide for the cleanliness and orderliness of the building and adjacent premises.

History

ACAP-61-60, April 29, 1960.

§ 49. Maintenance

A. The policy of the Navajo Nation Council in providing communities with chapter house facilities requires the chapters to maintain these buildings in operable condition and in good repair.

B. Because many chapters are experiencing maintenance problems due to lack of trained local manpower and shortage of available funds, a skilled chapter house maintenance crew of two men and a mobile equipment and supply truck shall be made available to serve the chapter organizations.

C. Service of this mobile unit may be had by chapters on request. The Navajo Nation shall pay one-half of the actual cost of personnel time, materials and travel and chapters will be billed for one-half the cost. Such maintenance bill shall be settled in full in each instance before the next request for service is honored.

D. Any required additional common labor shall be hired locally and the chapter shall be billed one-half the cost as provided in Subsection (C) of this Section.

History

ACAP-61-60, April 29, 1960.

§ 50. Program development

The President of the Navajo Nation and the Division of Community Development together with the several related standing committees of the Navajo Nation Council shall assist the chapters to develop programs to utilize, operate and maintain their chapter facilities.

History

ACAP-61-60, April 29, 1960.

Revision note (1995). Slightly reworded for purposes of statutory form.

Chapter 3. Chapter Recreation Program

§ 251. Objective

The objective of the Navajo Nation's Chapter Recreation Program is to provide wholesome recreational activities for youth and adults in the chapter communities. The program is especially intended to fill the need for summer activities for the thousands of young people who return to their homes from off-Reservation schools, bordertown dormitories and Reservation schools.

History

ACS-177-60, September 21, 1960.

Cross References

Navajo Youth Camp, see 19 N.N.C. § 801.

§ 252. Scope

The type or types of recreational or educational activities to be included in the chapter program must be clearly determined by the chapter. These activities may relate to entertainment, education, sports, games, development of skills, and/or others activities desired by the local communities. A chapter might desire to promote an athletic team and purchase the necessary equipment. A chapter may wish to purchase movie projector equipment, sewing machines or shop tools. All suggested programs are subject to review and concurrence.

History

ACS-177-60, September 21, 1960.

§ 253. Funds

A. Funds for the Chapter Recreation Program shall be made available to chapter organizations in accordance with a Plan of Operation in amounts not to exceed seven hundred fifty dollars (\$750.00) for approved expenditures for the purchase of supplies and equipment needed for recreational programs outlined by each chapter in its presentation, if acceptable.

B. Funds available for the Program shall be used for equipment and supplies associated closely with its objectives.

C. Salaries, wages or per diem shall not be paid from these funds.

History

ACS-177-60, September 21, 1960.

§ 254. Applications for assistance forms

Application forms for Chapter Recreation Program assistance shall be available from community workers, or the Division of Community Development. Application forms shall initially be mailed by the Division of Community Development to all chapter presidents, together with a copy of the Plan of Operation. Community workers shall give assistance to chapters in preparing these application forms.

History

ACS-177-60, September 21, 1960.

Revision note (1995). Reference to the "Department of Community Development" has been changed to the "Division of Community Development". Reference to the "Public Services Division" has been deleted.

§ 255. Review, approval and processing

Applications for Chapter Recreation Program assistance shall be submitted to the Director, Division of Community Development, for review, approval and processing. Any application which fails to secure the approval of the Director, Division of Community Development, shall be presented to the Transportation and Community Development Committee for advice, assistance and guidance in making a decision. If the application is rejected, the Director, Division of Community Development, shall so notify the chapter stating the reasons for rejection and making suggestions for modification. Rejected applications may be appealed by the chapter directly to the Transportation and Community Development Committee which shall review the request and render the final decision. When the application is approved, the Division of Community Development shall take the necessary action to request the purchase of the enumerated equipment or supplies.

History

ACS-177-60, September 21, 1960.

Revision note (1995). References to the "Head, Department of Community Development", "Education Committee", and "Advisory Committee" changed to "Director, Division of Community Development", and "Transportation and Community Development Committee" respectively. See 2 N.N.C. § 423(B) (3).

§ 256. Management and operations

Management and operation of the chapter program shall be determined by the people of the chapter community in a regularly called meeting of the chapter.

History

ACS-177-60, September 21, 1960.

Cross Reference

See also, Navajo Nation Local Governance Act, 26 N.N.C. § 1 *et seq.*

§ 257. Purchase of equipment and supplies

Purchasing of equipment and supplies for the Chapter Recreational Program shall be by Navajo Nation Purchase Order, through the Purchasing Section of the Navajo Nation.

History

ACS-177-60, September 21, 1960.

Cross Reference

See generally, Navajo Nation Procurement Act, 12 N.N.C. § 301 *et seq.*

Chapter 5. Housing Projects

Subchapter 1. Shiprock Low-Cost Housing Area

§ 451. Establishment; authority

The President of the Navajo Nation is authorized by and with the approval of the Transportation and Community Development Committee and the Resources Committee of the Navajo Nation Council and upon concurrence of the Shiprock Chapter officers and the Shiprock Land Board, to establish a permanent low-cost housing area at or in the vicinity of Shiprock for occupancy by members of the Navajo Nation and their families. It is contemplated that the area will be surveyed and streets, necessary alleys, and property lines established.

History

CN-58-56, November 1, 1956.

Revision note (1995). The Transportation and Community Development Committee and the Resources Committee of the Navajo Nation Council under 2 N.N.C. §§ 420 *et seq.* and 691 *et seq.*, respectively, now have controlling authority under this Section.

Cross Reference

See also, 6 N.N.C. § 601 *et seq.*

§ 452. Plan of land tenure; authority

The President of the Navajo Nation by and with the approval of the Transportation and Community Development Committee and the Resources Committee of the Navajo Nation Council shall establish a plan of land tenure for low-cost housing area for the benefit of the members of the Navajo Nation and their families, which plan may provide for homesite tenure under assignment, permit or lease.

History

CN-58-56, November 1, 1956.

Revision note (1995). The Transportation and Community Development Committee and the Resources Committee of the Navajo Nation Council under 2 N.N.C. § 420 *et seq.*, and § 691 *et seq.*, respectively, now have controlling authority under this Section. See also, authority of the Navajo Housing Authority at 6 N.N.C. § 601 *et seq.*

§ 453. Availability of homesites without cost

It is the expressed policy of the Navajo Nation Council with respect to the administration of the low-cost housing area at Shiprock that homesites shall be made available in such area to members of the Navajo Nation without cost; provided, that lands acquired thereunder shall be subject to any liens which now are or may become enforceable against the Navajo Nation and its members.

History

CN-58-56, November 1, 1956.

Cross Reference

See also, 6 N.N.C. § 601 *et seq.*

§ 454. Sanitation requirements

Minimum sanitation requirements for the low-cost housing area shall be in accordance with the requirements established by the United States Public Health Service.

History

CN-58-56, November 1, 1956.

§ 455. Plan of administration; establishment

The President of the Navajo Nation, by and with the approval of the Transportation and Community Development Committee and Resources Committee, shall establish a plan of administration for the low-cost housing area with appropriate recognition of the Council's expressed desire to proceed with community development at Shiprock in a manner responsive to the needs and wishes of members of the Navajo Nation residing in the Shiprock community.

History

ACM-42-58, March 21, 1958.

CN-58-56, November 1, 1956.

Revision note (1995). The Transportation and Community Development Committee and the Resources Committee of the Navajo Nation Council under 2 N.N.C. §§ 420 *et seq.*, and 691 *et seq.*, respectively, now have controlling authority under this Section.

§ 456. Advisory Committee as Shiprock Community Board

The Advisory Committee of the Tribal Council shall function as an interim Shiprock Community Board until such time as a Board can be composed of the residents of the Shiprock low-cost housing area.

History

ACM-42-58, March 21, 1958.

CM-40-57, March 21, 1957.

ACJ-50-57, July 11, 1957.

ACA-28-57, April 26, 1957.

CN-58-56, November 1, 1956.

Revision Note (1995). The Transportation and Community Development Committee of the Navajo Nation Council, under 2 N.N.C. § 420 *et seq.*, now has oversight authority over community housing matters.

Note. The Advisory Committee of the Navajo Tribal Council was disestablished by CD-68-89, December 15, 1989.

§ 457. Applications for permits; Authority to receive

The Division of Community Development is authorized and directed to receive applications for permits to occupy lots in the Shiprock low-cost housing area, and to bring such applications before the Transportation and Community Development Committee and the Resources Committee of the Navajo Nation Council for necessary action.

History

ACM-42-58, March 21, 1958.

Revision note (1995). The Transportation and Community Development Committee and the Resources Committee of the Navajo Nation Council under 2 N.N.C. §§ 420 *et seq.*, and § 691 *et seq.*, respectively, now have oversight authority over community housing matters and land use permits. See also, authority of the Navajo Housing Authority, 6 N.N.C. § 601 *et seq.*

§ 458. Persons who may make an application; form

Any adult or person who is an enrolled member of the Navajo Nation or an enrolled Navajo in his or her minority who is the head of a family, may make application in writing to the Transportation and Community Development Committee and the Resources Committee of the Navajo Nation Council for a permit to occupy a lot in the low-cost housing area for residential purposes. Such application shall designate a specific lot. The Navajo Nation Office of Attorney General is authorized and directed to prepare a suitable application form for this purpose.

History

ACM-42-68, March 21, 1958.

Revision note (1995). The Transportation and Community Development Committee (2 N.N.C. § 420 *et seq.*) and the Resources Committee (2 N.N.C. § 691 *et seq.*) have been substituted for the Advisory Committee pursuant to CD-68-89. Also, reference to the "Legal Department of the Navajo Tribe" has been changed to the "Navajo Nation Office of the Attorney General".

§ 459. Conflicting applications

A. In the event the Transportation and Community Development Committee and Resources Committee of the Navajo Nation Council receive conflicting applications to occupy the same parcel of land, the Transportation and Community Development Committee and Resources Committee of the Navajo Nation Council shall conduct an open hearing at which all parties in conflict shall be given an opportunity to be heard and the Transportation and Community Development Committee and Resources Committee of the Navajo Nation Council shall thereupon make a determination as to which applicant shall prevail by such manner as the Committees may determine.

B. Generally, any applicant who at the time of such application is occupying lands within a three mile radius of the middle of the bridge on New Mexico Highway 491 over the San Juan River at Shiprock without valid authority for such occupancy shall be given preference.

History

ACM-42-58, March 21, 1958.

Revision note (1995). The Transportation and Community Development Committee (2 N.N.C. § 420 *et seq.*) and the Resources Committee (2 N.N.C. § 691 *et seq.*) have been substituted for the Advisory Committee pursuant to CD-68-89. Revision note (2003). Reference to "Highway 666" changed to "Highway 491" pursuant to Legislation of the New Mexico State Legislature.

§ 460. Issuance of occupancy permits; assignment

The Transportation and Community Development Committee and the Resources Committee of the Navajo Nation Council, upon consideration of an application for an occupancy permit and favorable action thereon shall issue the occupancy permit to the applicant, which permit shall extend for a term of two years from date of issuance. Such permit shall be in writing on a form to be provided by the Navajo Nation Office of the Attorney General and shall be assignable for residential use only with the approval of said Committees.

History

ACM-42-58, March 21, 1958.

Revision note. The Transportation and Community Development Committee (2 N.N.C. § 420 *et seq.*) and the Resources Committee (2 N.N.C. § 691 *et seq.*) have been substituted for the Advisory Committee pursuant to CD-68-89. Reference to

the "Legal Department of the Navajo Tribe" has been changed to the "Navajo Nation Office of the Attorney General".

§ 461. Assignment of lands; application

A. Upon lapse of the occupancy permit issued to any occupant of the low-cost housing area, such occupant shall be considered, in the absence of evidence to the contrary, as having applied to the Transportation and Community Development Committee and/or the Resources Committee of the Navajo Nation Council for an assignment of the lands occupied by such occupant, such assignment to remain in effect for as long as the land is used for residential purposes in accordance with applicable regulations of the Navajo Nation now or hereafter in force.

B. The Transportation and Community Development Committee and the Resources Committee of the Navajo Nation Council shall consider each application for assignment and either approve or disapprove such application provided that grounds for disapproval shall be limited to a finding that continued occupancy of the land in the low-cost housing area by the applicant will result in continuance of a demonstrated condition of disaffection and dissatisfaction among Shiprock residents or the public generally due to conduct of such applicant or members of his or her immediate family, or to a finding that the occupant is not in fact occupying the premises.

C. Advice of the approval of such application shall be forwarded to the Navajo Nation Office of the Attorney General which shall prepare and cause to be issued to the applicant an assignment, executed by the President of the Navajo Nation on behalf of the Navajo Nation.

History

ACM-42-58, March 21, 1958.

Revision note (1995). The Transportation and Community Development Committee (2 N.N.C. § 420 *et seq.*) and the Resources Committee (2 N.N.C. § 691 *et seq.*) have been substituted for the Advisory Committee pursuant to CD-68-89. Also, reference to the "Legal Department of the Navajo Tribe" has been changed to the "Navajo Nation Office of the Attorney General".

§ 462. Conditions

Any assignment covering lands in the low-cost housing area shall among its conditions include the following:

A. Assignments shall prohibit nonresidential uses.

B. Assignments shall be transferable only to members of the Navajo Nation and only with the prior approval of the Transportation and Community Development Committee and the Resources Committee of the Navajo Nation Council.

History

ACM-42-58, March 21, 1958.

Revision note (1995). The Transportation and Community Development Committee (2 N.N.C. § 420 *et seq.*) and the Resources Committee (2 N.N.C. § 691 *et seq.*) have been substituted for the Advisory Committee pursuant to CD-68-89.

§ 463. Local improvements

The Transportation and Community Development Committee and the Resources Committee of the Navajo Nation Council, upon their own initiative and in conformity with the provisions of this Subchapter may at any time establish a plan of local improvements which shall be of general benefit to the occupants of the lands and such improvements may include extension and expansion of the domestic water supply, improvement of roads and bridges, irrigation water for gardening purposes, street and area-way lighting, sewage and garbage disposal, walkways, playground improvements, and such other public services as the said Committees may, from time to time, authorize.

History

ACM-42-58, March 21, 1958.

Revision note (1995). The Transportation and Community Development Committee (2 N.N.C. § 420 *et seq.*) and the Resources Committee (2 N.N.C. § 691 *et seq.*) have been substituted for the Advisory Committee pursuant to CD-68-89.

§ 464. Use of land; construction requirements

Each lot in the low-cost housing area is to be used exclusively for a single residence and for garden purposes by the occupant and immediate family. Minimum construction requirements shall include a single family dwelling and a privy, the latter being constructed in accordance with standards established by the United States Public Health Service. The privy shall be constructed prior to occupancy of the land by the permittee.

History

ACM-42-58, March 21, 1958.

Subchapter 3. Window Rock Navajo Nation Housing Project

Article 1. General Provisions

§ 521. Definitions; employee

As used in this Subchapter, the term "employee" shall include all persons paid by the Navajo Nation for substantially fulltime services of any nature.

History

ACM-54-56, July 3, 1956.

§ 522. Establishment; housing units designated

The Window Rock Navajo Nation Housing Project is established and the housing units composing such Project are so designated.

History

CJ-15-56, January 27, 1956.

Cross Reference

See also, Plan of Operation for Navajo Nation Employee Housing Program, Division of General Services.

§ 523. Nature

The houses constituting the Window Rock Housing Project are not a business enterprise, but part of the administrative buildings of the Navajo Nation, and repayment of the Navajo Nation's capital investment shall be accomplished primarily from improved performance of duty by higher caliber employees.

History

ACM-54-56, March 19, 1956.

§ 524. Purpose

The houses constituting the Window Rock Navajo Nation Housing Project were authorized to be built by the Navajo Nation Council for the reason that housing was not available in or near Window Rock, making it impossible to recruit and retain competent employees for the organization.

History

ACM-54-56, March 19, 1956.

§ 525. Plan of Operation; adoption; amendment

Authority is delegated to the Government Services Committee to act in place of the Navajo Nation Council in adopting and amending from time to time a Plan of Operation for the Window Rock Navajo Nation Housing Project.

History

ACM-54-56, March 19, 1956.

CJ-15-56, January 27, 1956.

Revision note (1995). Reference to the Advisory Committee has been changed to the Government Services Committee. The Window Rock Navajo Nation Housing Project is currently under the administrative authority of the Division of General Services with standing committee oversight by the Government Services Committee, ACO-375-72. See generally, 2 N.N.C. § 341 *et seq.*

§ 526. Administrator; designation

The Director of the Division of General Services of the Navajo Nation or

such person as s/he shall designate shall be Administrator of the Window Rock Navajo Nation Housing Project.

History

CJ-15-56, January 27, 1956.

Revision note (1995). The Window Rock Navajo Nation Housing Project is currently under the administrative authority of the Division of General Services. ACO-375-72.

§ 527. Apartments of Window Rock Motel Center

The eight efficiency apartments of the Window Rock Motel Center shall be rented to the Window Rock Navajo Nation Housing Project at the rate of forty dollars (\$40.00) per month each, not including utilities payable from the Project revolving fund, and shall be operated as a part of such Project until the Administrator determines that they are no longer needed. Utilities for these efficiency apartments shall be paid by the Project.

History

ACM-54-56, March 21, 1956.

Note. In 1973, these apartments were transferred to the Navajo Housing and Development Enterprise pursuant to ACAP-185-73. As of 2003, various Navajo Nation programs occupy what were once apartments.

§ 528. Housing Reserve

A specifically described area, containing 197.72 acres, more or less, is withdrawn from all other uses and disposition and is reserved for the purposes of the Window Rock Navajo Nation Housing Project.

History

ACM-54-56, March 19, 1956.

§ 529. Revolving Fund

A. There is established a Window Rock Navajo Nation Housing Project Revolving Fund. All rentals and damages received on account of the Window Rock Navajo Nation Housing Project shall be placed in this fund, which shall be administered by the Controller of the Navajo Nation, and shall be available for paying costs of utilities, maintenance, landscaping, remodeling, sidewalks, paving and repaving, fencing, equipment, recreational facilities, and any other costs reasonably connected with the Window Rock Navajo Nation Housing Project.

B. Disbursements may be made by the Controller in accordance with general or special authorizations of the Housing Committee.

C. The Controller shall report to the Navajo Nation Council each year during consideration of the Navajo Nation Council budget on the condition of the fund and shall state whether in view of actual and estimated expenses and

in view of the purpose for which the houses were built, any part of the fund can at that time be transferred to the general fund of the Navajo Nation.

History

ACM-54-56, March 19, 1956.

Revision note (1995). Reference to "Treasurer of the Tribe" has been changed to the "Controller of the Navajo Nation".

§ 530. Employee occupants; agreement

A. Every employee of the Navajo Nation permitted to occupy a unit of the Window Rock Navajo Nation Housing Project shall sign a written agreement to pay rent promptly (unless he or she is an officer of the Navajo Nation or his or her contract provides for rent free quarters); to pay for any damage to any part of the housing project by him or herself or any member of his family or any animal or machine kept by him or her, reasonable wear and tear excepted; to pay damages for excessive use of utilities; to accept the decision of the Housing Committee when approved by the Administrator as to all damages; and authorizing the Controller of the Navajo Nation to deduct from any sum owed by the Navajo Nation all rentals when due and all damages determined by the Housing Committee with the approval of the Administrator to have been caused by occupant, a member of occupant's family, or any animal or machine kept by occupant.

B. The Housing Committee with the approval of the Administrator shall prepare a standard form of agreement, and may include therein additional terms not inconsistent with those above specified.

History

ACM-54-56, March 19, 1956.

Revision note (1995). Reference to the "Treasurer" has been changed to the "Controller of the Navajo Nation".

§ 531. Rentals

A. Rentals to be charged employees occupying houses of the Window Rock Navajo Nation Housing Project shall be due in advance on the first day of each month at the following rates:

Houses built pursuant to Resolution No. CJ-29-54 (unfurnished)

For employees making six thousand dollars (\$6,000)
per year or less.....Sixty-five dollars (\$65.00)

For employees making more than six thousand
dollars (\$6,000) per year.....Seventy-five
dollars (\$75.00)

Apartments in Tribal houses in old residential area
(furnished).....Fifty-five dollars (\$55.00)

Efficiency apartments in motel.....Thirty-five dollars (\$35.00)

B. All rents shall include utility services in reasonable amounts. The Housing Committee with the approval of the Administrator shall decide when the use of any utility service by any householder exceeds a reasonable amount and shall assess actual damages for such excess use. All personal toll telephone calls shall be at the expense of the householder.

C. Rates of rental may be changed at any time by the Administrator with the approval of the Government Services Committee.

D. The houses occupied by the President and Vice-President, and any employees whose contracts so provide shall be rent free.

History

ACM-54-56, March 19, 1956.

Cross Reference

Government Services Committee oversight authority for this Section, see 2 N.N.C. § 341 *et seq.*

Housing for the Speaker of the Navajo Nation Council, see 2 N.N.C. § 283.

Plans of operation for the Navajo Nation Employee Housing Program and the Division of General Services.

§ 532. Non-employee occupants; rental; rate

A. Any units of the Window Rock Navajo Nation Housing Project not needed for employee housing may be rented to non-employees by the Administrator upon such terms and conditions as the Administrator, with the advice of the Housing Committee, may deem proper. It shall be conditionally agreed that occupants must vacate the premises upon 30 days' notice from the Administrator. The Administrator may prescribe the form of agreement to be signed by non-employed occupants and their employing agency.

B. The rentals in such cases shall be at a fixed figure which, in the opinion of the Administrator, will amortize the cost of the house rented over a reasonable period and will provide the Navajo Nation a reasonable interest rate.

History

ACM-54-56, March 19, 1956.

Cross Reference

See also, Plan of Operation for the Navajo Nation Employee Housing Program and the Division of General Services.

Article 2. Housing Committee

§ 551. Establishment; purpose

A. There is established a Window Rock Navajo Nation Housing Committee.

B. The purpose of the Window Rock Navajo Nation Housing Committee is to plan, implement, supervise and control all activities relative to the administration of the Window Rock and Fort Defiance Navajo Nation housing areas.

History

ACO-375-72, October 25, 1972.

§ 552. Composition

The Window Rock Navajo Nation Housing Committee shall be composed of the following Navajo Nation representatives:

A. Director, Division of Community Development;

B. Director, Division of Economic Development;

C. Attorney General, Department of Justice;

D. Auditor General, Office of Auditor General;

E. Director, Division of Finance (shall serve as Chairperson, Window Rock Navajo Nation Housing Committee).

History

ACO-109-78, October 19, 1978.

ACO-375-72, October 25, 1972.

Revision Note (1995). The Navajo Tribal Legal Office was redesignated the Tribal Legal Department by the 1978 Budget pages IX-I and IX-12 and was moved from 2 N.N.C. § 1101-1104 to 2 N.N.C. §§ 1991-1994. By CF-8-82, the Navajo Legal office was abolished and the Department of justice was established, with the Attorney General given authority over administrative and operating policies and supervisory control over the Department. See 2 N.N.C. § 1961 *et seq.*

§ 553. Authority and duties

The Window Rock Navajo Nation Housing Committee shall:

A. Adopt and change from time to time rules and regulations governing admission and expulsion of tenants as it may deem necessary;

B. Adopt and change from time to time rules and regulations governing sanitation, control of livestock, and fire hazards in accordance with

applicable regulations governing such;

C. Adopt and change from time to time rules and regulations governing remodeling, repainting and any other improvements reasonably connected with housing;

D. Adopt and change from time to time rules and regulations governing rental fees, utility fees and any other fees reasonably connected with housing to insure an adequate income by which houses can be maintained and the number of houses can be increased to meet the ever increasing need for housing by employees of the Navajo Nation;

E. Design and implement such forms and agreements as may be necessary to fulfill its purposes;

F. Adopt and maintain procedures to effect periodic inspections of the premises, cause repairs to be made as may be deemed necessary, and assess costs for damages where damage to tribal property is due to more than normal wear;

G. Undertake whatever projects as may be assigned by appropriate authorities;

H. Give prompt and orderly consideration to all applications for housing in order that the Navajo Nation can recruit and retain competent employees;

I. Institute and maintain principles of sound management in order that the Window Rock and Fort Defiance Navajo Nation housing areas are maintained in a manner to meet sanitation requirements of assigned houses and surrounding grounds; and to insure a sound maintenance program; and do any and all things necessary to provide additional housing as funds become available;

J. Give notices of changes in occupancy status or rental rates to the Navajo Nation Controller promptly, and to involved renters.

History

ACO-375-72, October 25, 1972.

Revision Note (1995). At Subsection (J), reference to "Tribal Controller" changed to "Navajo Nation Controller".

§ 554. Meetings

A. The Window Rock Navajo Nation Housing Committee shall meet monthly at a time and place to be determined by the Chairperson, Window Rock Navajo Nation Housing Committee.

B. The Chairperson, Window Rock Navajo Nation Housing Committee, shall preside at all meetings and shall be responsible for maintaining an orderly and dignified meeting.

C. Each representative shall appoint an alternate to serve when unable to attend a meeting.

D. A quorum of the Committee must be present to conduct a valid meeting; a quorum shall consist of at least three members.

E. Majority vote of those representatives voting shall, in all cases, constitute the final opinion of the Window Rock Navajo Nation Housing Committee.

F. A written record of official actions taken at each meeting shall be maintained. A copy of such record shall be provided to each member of the Committee immediately following each meeting.

History

ACO-375-72, October 25, 1972.

§ 555. Fiscal responsibility

A. There is established the Window Rock Navajo Nation Housing Revolving Fund to be maintained by the Controller of the Navajo Nation. All receipts from rentals, damages or other sources relating to Window Rock Navajo Nation Housing operations shall be credited to this fund to be available for payment of costs reasonably connected with the operation and maintenance of the housing areas. Disbursements from the fund shall be made by the Controller of the Navajo Nation pursuant to general or special authorizations of the Housing Committee.

B. Provided the balance in the fund is sufficient to sustain ordinary operations, additional housing units may be procured.

C. The Controller of the Navajo Nation shall provide, at least monthly, reports showing the income, expenditures and balance remaining in the fund.

History

ACO-375-72, October 25, 1972.

Subchapter 5. Navajo Housing Authority

§ 601. Definitions

The following terms, wherever used or referred to in this Subchapter, shall have the following respective meanings, unless a different meaning clearly appears from the context:

A. "Area of Operation" means all areas within the territorial jurisdiction of the Navajo Nation.

B. "Board" means the Board of Commissioners of the Authority.

C. "Council" means the Navajo Nation Council.

D. "Federal Government" includes the United States of America, the Department of Housing and Urban Development, or any other agency or

instrumentality, corporate or otherwise, of the United States of America.

E. "Home-buyer" means a person(s) who has executed a purchase agreement, lease-purchase agreement or other conveyance agreement with the Authority and who has not yet achieved home ownership.

F. "Housing Project" or "Project" means any work or undertaking to provide or assist in providing (by any suitable method, including but not limited to: rental; sale of individual units in single or multi-family structures under conventional condominium, or cooperative sales contracts or conventional purchase agreements or lease purchase agreements; loans, or subsidizing of rentals or charges) decent, safe and sanitary dwellings, apartments, or other living accommodations for persons of low income. Such work or undertaking may include buildings, land, leaseholds, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, for streets, sewers, water service, utilities, parks, site preparation or landscaping, and for administrative, community, health, recreational, welfare, or other purposes. The term "Housing Project" or "Project" also may be applied to the planning of the buildings and improvements, the acquisition of property or any interest therein, the demolition of existing structures, the construction, reconstruction, rehabilitation, alteration or repair of the improvements or other property and all other work in connection therewith, and the term shall include all other real and personal property and all tangible or intangible assets held or used in connection with the housing project.

G. "Obligations" means any notes, bonds, interim certificates, debentures, or other forms of obligation issued by the Authority pursuant to this Subchapter.

H. "Obligee" includes any holder of an obligation, agent or trustee for any holder of an obligation, or lessor demising to the Authority property used in connection with a project, or any assignee or assignees of such lessor's interest or any part thereof, and the Federal Government when it is a party to any contract with the Authority in respect to a housing project.

I. "Persons of Low Income" means persons or families who cannot afford to pay enough to cause private enterprise in their locality to build an adequate supply of decent, safe, and sanitary dwellings for their use or as otherwise defined by the Native American Housing Assistance and Self Determination Act.

History

CJY-51-05, July 22, 2005.

CMY-41-77, May 6, 1977.

ACJN-85-63, June 11, 1963.

§ 602. Establishment

A. Pursuant to the inherent authority vested in the Navajo Nation by its status as a self-governing sovereign and its authority to provide for the health, safety, morals, and welfare of the Navajo people, the Navajo Nation

Council establishes a public body of the Navajo Nation known as the Navajo Housing Authority (hereinafter referred to as the Authority), and enacts this Subchapter which shall establish the purposes, powers and duties of the Authority.

B. In any suit, action or proceeding involving the validity or enforcement of or relating to any of its contracts, the Authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers upon proof of the adoption of this Subchapter as amended by CMY-41-77. A copy of CMY-41-77 duly certified by the then presiding Chairman of the Council shall be admissible in evidence in any suit, action or proceeding.

History

CJY-51-05, July 22, 2005.

CMY-41-77, May 6, 1977.

ACJN-85-63, § 2, June 11, 1963.

CAP-5-63, April 16, 1963.

Cross Reference

Navajo Nation Sovereign Immunity Act, inclusion of NHA, 1 N.N.C. § 552(P).

§ 603. Declaration of need

It is hereby declared:

A. That there exist within the area of the jurisdiction of the Council unsanitary, unsafe and overcrowded dwelling accommodations; that there is a shortage of decent, safe and sanitary dwelling accommodations available at rents or prices which persons of low income can afford; and that such shortage forces such persons to occupy unsanitary, unsafe and overcrowded dwelling accommodations;

B. That these conditions cause an increase in and spread of disease and crime and constitute a menace to health, safety, morals and welfare; and that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety protection, fire and accident prevention, and other public services and facilities;

C. That the shortage of decent, safe and sanitary dwellings for persons of low income cannot be relieved through the operation of private enterprise;

D. That the providing of decent, safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which money may be spent and private property acquired and are governmental functions of concern to the Council;

E. That residential construction activity and a supply of acceptable

housing are important factors to general economic activity, and that the undertakings authorized by this Subchapter to aid the production of better housing and more desirable neighborhood and community development at lower costs will make possible a more stable and larger volume of residential construction and housing supply which will assist materially in achieving full employment;

F. That economic development activities in related housing fields will aid in creating employment opportunities within or near the Navajo Nation, assist in fostering a viable local economy and encourage self-sufficiency and self-reliance for the general benefit of the Navajo Nation; and

G. That the necessity in the public interest for the provisions of this Subchapter is hereby declared as a matter of legislative determination.

History

CJY-51-05, July 22, 2005.

CMY-41-77, May 6, 1977.

ACJN-85-63, June 11, 1963.

§ 604. Purposes

The Authority shall be organized and operated for the purposes of:

A. Remedying unsafe and unsanitary housing conditions that are injurious to the public health, safety and morals;

B. Alleviating the acute shortage of decent, safe and sanitary dwellings for persons of low income;

C. Providing employment opportunities through the construction, reconstruction, improvement, extension, alteration or repair and operation of low income dwellings; and

D. Promoting economic growth and development activities within and near the Navajo Nation.

History

CJY-51-05, July 22, 2005.

CMY-41-77, May 6, 1977.

ACJN-85-63, June 11, 1963.

§ 605. Board of Commissioners

The affairs of the Authority shall be managed by a Board of Commissioners composed of eight persons.

History

ACMA-37-84, March 15, 1984.

CMY-41-77, May 6, 1977.

CO-58-73, October 18, 1973.

ACJN-85-63, June 11, 1963.

Annotations

1. Validity

"NHA approved the articles of incorporation under the power granted by the Navajo Nation Code in 6 N.N.C. §§ 605, 616(B)(14)." *Cabinets Southwest, Inc. v. Navajo Nation Labor Commission*, No. SC-CV-46-03, slip op. at 5 (Nav. Sup. Ct. February 11, 2004).

§ 606. Appointment

A. The Board Members shall be appointed, and may be reappointed, by the Government Services Committee of the Navajo Nation Council. A resolution of the Government Services Committee of the Navajo Nation Council as to the appointment or reappointment of any Commissioner shall be conclusive evidence of the due and proper appointment of the Commissioner. Upon appointment by the Government Services Committee and prior to assumption of duties as a Commissioner, the NHA shall cause to be administered to the appointed Commissioner an oath of office by a duly appointed judge or justice of the courts of the Navajo Nation.

B. A Commissioner shall be a member of the Navajo Nation, and no more than two Commissioners shall be members of the Navajo Nation Council. Three of the Commissioners shall represent the tenants and homebuyers participating in programs administered by the Authority, one shall reside in the State of New Mexico, one shall reside in the State of Arizona, and one shall reside in the State of Utah. There shall be one representative on the Board from each of the five agencies comprising the Navajo Nation. These individuals shall have some formal education, or at least three years of leadership experience in a local unit of government.

C. No person shall be barred from serving on the Board because that person is a tenant or homebuyer in a housing project of the Authority; and such Commissioner shall be entitled to fully participate in all meetings concerning matters that affect all of the tenants or homebuyers, even though such matters affect the Commissioner as well. However, no such Commissioner shall be entitled or permitted to participate in or be present at any meeting (except in his capacity as a tenant or homebuyer), or to be counted or treated as a member of the Board, concerning any matter involving his or her individual rights, responsibilities or status as a tenant or homebuyer.

History

CJY-51-05, July 22, 2005.

CO-78-91, October 25, 1991.

CMY-41-77, May 6, 1977.

CO-58-73, October 18, 1973.

ACJN-85-63, June 11, 1963.

§ 607. Term of office

The term of office shall be four years and staggered. When the Board is first established, one member's term shall be designated to expire in one year, another to expire in two years, a third to expire in three years, and the last two in four years. Thereafter, all appointments shall be for four years, except that in the case of a prior vacancy, an appointment shall be only for the length of the unexpired term. Each member of the Board shall hold office until his successor has been duly appointed.

History

CJY-51-05, July 22, 2005.

CMY-41-77, May 6, 1977.

CO-58-73, October 18, 1973

ACJN-85-63, June 11, 1963.

Cross Reference

Regarding Subsection (C), see also, 6 N.N.C. § 619(A).

§ 608. Compensation

The Commissioners shall be reimbursed for actual travel expenses, meals and other costs and expenses incurred which are directly attributed to attendance at duly called Board meetings unless otherwise authorized by applicable Navajo Nation laws. At its discretion, the Board of Commissioners may propose a stipend be paid to its members for attendance at Board meetings subject to 5 N.N.C. § 1991(A). All Board expenses and stipends shall be paid from NHA funds budgeted for that purpose. Commissioners shall be entitled to reimbursement, as above, for attendance at duly called Board meetings, where due to absences of other Board members, a quorum is not present.

History

CJY-51-05, July 22, 2005.

CAP-47-99, April 23, 1999.

ACAU-134-86 August 13, 1986.

CMY-41-77, May 6, 1977.

ACJN-85-63, June 11, 1963.

§ 609. Officers; election; presiding officer

The Board shall elect from among its members a Chairperson, a Vice Chairperson, a Secretary, and a Treasurer; and a member may hold the position of Secretary/Treasurer. In the absence of the Chairperson, the Vice Chairperson shall preside; and in the absence of both the Chairperson and Vice Chairperson, the Secretary shall preside.

History

CJY-57-95, July 20, 1995.

CMY-41-77, May 6, 1977.

ACJN-85-63, June 11, 1963.

Note (2005). References to "Chairman" changed to "Chairperson."

§ 610. Secretary

The Secretary shall keep complete and accurate records of an meetings and action taken by the Board.

History

ACJN-85-63, June 11, 1963.

Cross References

Duty of Secretary to preside in absence of other officers, see § 609 of this Title.

§ 611. Treasurer; duties; bond

The Treasurer shall keep full and accurate financial records, make periodic reports to the Board, and submit a complete annual report, in written form, to the Navajo Nation Council as required by 6 N.N.C. § 618.

History

CMY-41-77, May 6, 1977.

ACJN-85-63, June 11, 1963.

Revision note. "Annual" report changed to "quarterly" report pursuant to amendments made to 6 N.N.C. § 618 by CO-78-91, October 25, 1991.

§ 612. Meetings

Meetings of the Board shall be held at regular intervals as provided in the bylaws. Special meetings may be held upon 24 hours actual notice and business transacted, provided that not less than a majority of a quorum of the

Board concurs in the proposed action.

History

CJY-51-05, July 22, 2005.

CMY-41-77, May 6, 1977.

ACJN-85-63, June 11, 1963.

§ 613. Quorum

A majority of the full Board, notwithstanding the existence of any vacancies, shall constitute a quorum for the transaction of business.

History

CJY-51-05, July 22, 2005.

CMY-41-77, May 6, 1977.

ACJN-85-63, June 11, 1963.

§ 614. Exercise of powers

The Board shall have authority to exercise, by majority vote of those present and voting, any and all powers delegated to the Authority by this Subchapter or any amendments thereto, except as provided in 6 N.N.C. § 617, for the adoption of Board resolutions.

History

ACJN-85-63, June 11, 1963.

§ 615. Removal of members

A member of the Board may be removed by the appointing power for serious inefficiency or neglect of duty or for misconduct in office, but only after a hearing before the appointing power and only after the member has been given a written notice of the specific charges against him or her at least 10 days prior to the hearing. At any such hearing, the member shall have the opportunity to be heard in person or by counsel and to present witnesses on his or her behalf. In the event of removal of any Board member, a record of the proceedings, together with the charges and findings thereon, shall be filed with the appointing power.

History

CJY-51-05, July 22, 2005.

CMY-41-77, May 6, 1977.

ACJN-85-63, June 11, 1963.

§ 616. Powers

A. The Authority shall have perpetual succession in its corporate name.

B. The Authority shall have the following powers which it may exercise consistent with the purposes for which it is established:

1. Subject to the Navajo Sovereign Immunity Act, the Navajo Nation gives its irrevocable consent to allowing the Authority to sue and be sued in its corporate name, upon any contract, claim or obligation arising out of its activities, and the Authority may expressly agree by contract, on a case by case basis, to waive any immunity from suit which the Navajo Housing Authority might otherwise have; but under no circumstances shall the Navajo Nation be liable for the debts and obligations of the Authority, nor shall the land, funds and all other real or personal property of the Navajo Nation be subject to execution or levy on account of the debts or obligations of the Authority. Nothing contained herein nor in any other provision of this Subchapter shall be construed to waive the right of the Navajo Nation to assert the defense of sovereign immunity in any lawsuit against the Navajo Nation, and nothing contained herein nor in any other provision of this Subchapter shall impair the validity of this defense; and the right to assert that defense is and shall remain inviolate and inviolable.

2. To adopt and use a corporate seal.

3. To enter into agreements, contracts and understandings with any governmental agency, federal, state or local (including the Navajo Nation Council and/or standing committees) or with any person, partnership, corporation or Indian Tribe; and to agree to any conditions attached to federal financial assistance. Notwithstanding anything to the contrary contained in this Subchapter or in any other provision of law, to agree to any conditions attached to federal financial assistance relating to the determination of prevailing salaries or wages or payment of not less than prevailing salaries or wages or compliance with labor standards, in the development or administration of projects, and to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum salaries or wages and maximum hours of labor, and comply with any conditions which the federal government may have attached to its financial aid of the project. The Authority shall exercise any other power, duties or responsibilities as shall be delegated by law or regulation including the Native American Housing Assistance and Self-Determination Act (NAHASDA).

It is the purpose and intent of this Subchapter to authorize the Authority to do any and all things necessary or desirable to secure the financial aid or cooperation of the federal government in the undertaking, construction, maintenance or operation of any project by the Authority.

4. To lease property from the Navajo Nation and others for such periods as are authorized by law, and to hold and manage or to sublease the same.

5. To borrow money, to issue temporary or long-term evidence of indebtedness; and to repay the same. Corporate bonds shall be issued and repaid in accordance with the provisions of 6 N.N.C. § 617.

6. To pledge the assets and receipts of the Authority as security for debts; and to acquire, sell, lease, exchange, transfer or assign personal property or interests therein.

7. To purchase land or interests in land or take the same by gift; to lease land or interests in land to the extent provided by law.

8. To undertake and carry out studies and analyses of the housing needs in areas under the jurisdiction of the Navajo Nation, to prepare housing plans, to execute the same, to operate projects and to provide for the construction, reconstruction, improvement, extension, alteration or repair of any project or any part thereof.

9. With respect to any dwellings, accommodations, lands, buildings or facilities embraced within any project (including individual cooperative or condominium units): to lease or rent, sell, enter into purchase agreements, mortgages, encumbrances, lease-purchase agreements or leases with option to purchase; to establish and revise rents or required monthly payments; to make rules and regulations concerning the selection of tenants or homebuyers, including the establishment of priorities, and concerning the occupancy, rental, care and management of housing units; and to make such further rules and regulations as the Board may deem necessary and desirable to effectuate the powers granted by this Subchapter.

10. To purchase insurance in any stock or mutual company for any property or against any risks or hazards.

11. To invest such funds as are not required for immediate disbursement.

12. To establish and maintain such bank accounts as may be necessary or convenient.

13. To employ an executive director, technical and maintenance personnel and such other officers and employees, permanent or temporary, as it may require; and to delegate to such officers and employees such powers or duties as the Board shall deem proper.

14. To take such further actions as are commonly engaged in by corporate bodies of this character as the Board may deem necessary and desirable to effectuate the purposes of the Authority.

15. To adopt such bylaws as the Board deems necessary and appropriate.

16. To join or cooperate with any other public housing agency or agencies operating under the laws or ordinances of a state or another tribe in the exercise, either jointly or otherwise, of any or all of the

powers of the Authority and such other public housing agency or agencies for the purpose of financing (including but not limited to the issuance of notes or other obligations and giving security therefor), planning, undertaking, owning, constructing, operating, or contracting with respect to a housing project or projects of the Authority or such other public housing agency or agencies. For such purpose, the Authority may by resolution prescribe and authorize any other public housing agency or agencies, so joining or cooperating with the Authority, to act on the Authority's behalf with respect to any or all powers, as the Authority's agent or otherwise, in the name of the Authority or in the name of such agency or agencies.

17. To finance purchase of a home by an eligible homebuyer in accordance with regulations and requirements of the Department of Housing and Urban Development including development of lending, mortgage, loan guaranty or other financial assistance programs.

18. To terminate any lease or rental agreement, lease purchase agreement, purchase agreement or other agreements when the tenant or homebuyer who has violated the terms of such agreement, or failed to meet any of its obligations thereunder, or when such termination is otherwise authorized under the provisions of such agreement; and to bring action for foreclosure, breach of contract, eviction or other legal remedies against such tenant or homebuyer.

19. To aid in increasing employment opportunities and diversification of Navajo economic development, the Authority is authorized and empowered to engage in economic development and business development activities.

C. No ordinance or other enactment of the Navajo Nation with respect to the acquisition, operation, or disposition of Navajo Nation property shall be applicable to the Authority in its operations pursuant to this Subchapter.

D. It is the purpose and intent of this Subchapter to authorize the Authority to do any and all things necessary or desirable to secure the financial aid or cooperation of the federal government in the undertaking, construction, maintenance or operation of any project by the Authority.

History

CJY-51-05, July 22, 2005.

CMY-41-77, May 6, 1977.

ACMA-80-71, March 16, 1971.

CN-75-66, June 21, 1966.

CN-21-63, June 14, 1963.

ACJN-85-63, June 11, 1963.

Cross References

Approval of financial assistance contract by Secretary of the Interior, see § 625 of this Title.

Bonds, powers with respect to issuance of, see § 617 of this Title.

Exercise of powers by Board, see § 614 of this Title.

Navajo Nation Sovereign Immunity Act, inclusion of NHA, 1 N.N.C. § 552(P).

Annotations

1. Construction and application

"NHA approved the articles of incorporation under the power granted by the Navajo Nation Code in 6 N.N.C. §§ 605, 616(B)(14)." *Cabinets Southwest, Inc. v. Navajo Nation Labor Commission*, No. SC-CV-46-03, slip op. at 5 (Nav. Sup. Ct. February 11, 2004).

2. Immunity

"This case concerns whether a monetary judgment against the Navajo Housing Authority (NHA) may be enforced, or whether sovereign immunity, Navajo statutory exemption from execution, or a circular issued by the U.S. Office of Management and Budget (OMB) prohibits the enforcement. The Court holds that only certain NHA funds are exempt from execution, and that the judgment must be satisfied with those that are non-exempt." *Tso v. Navajo Housing Authority*, No. SC-CV-20-06, slip op. at 1 (Nav. Sup. Ct. December 6, 2007).

"Based on this history, it is clear that the Resolution did not merely 'clarify' an ambiguity, but altered the legal landscape by purporting to bring NHA under the Sovereign Immunity Act." *Phillips v. Navajo Housing Authority*, No. SC-CV-13-05, slip op. at 6 (Nav. Sup. Ct. December 8, 2005).

"As we have previously noted, NHA does not have sovereign immunity from a lawsuit, but NHA generally is exempt from levy and execution. See 6 N.N.C. §§ 616, 623." *Tso v. Navajo Housing Authority*, No. SC-CV-10-02, slip op. at 4 (Nav. Sup. Ct. August 26, 2004).

"Under this Section, NHA is required to waive its immunity from suits in any agreement with another party. Even when NHA fails to do so, it lacks immunity under the clear language of Section 616(b)(1)." *NHA v. Bluffview Resident Management Corporation, Board of Directors, et al.*, No. SC-CV-35-00, slip op. at 9 (Nav. Sup. Ct. December 17, 2003).

" ... [T]he NHA can waive its immunity from levy and execution by contract. The contract language that waives the NHA's immunity from levy and execution must be clear and express, and any ambiguity will not be construed as a waiver of immunity." *The Navajo Housing Authority v. Dana and Associates*, 5 Nav. R. 157, 160 (Nav. Sup. Ct. 1987).

§ 617. Bonds

A. The Authority may issue obligations from time to time in its

discretion for any of its purposes and may also issue refunding obligations for the purpose of paying or retiring obligations previously issued by it. The Authority may issue such types of obligations as it may determine, including obligations on which the principal and interest are payable:

1. Exclusively from the income and revenues of the project financed with the proceeds of such obligations, or with such income or revenues together with a grant from the federal government in aid of such project;

2. Exclusively from the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of such obligations; or

3. From its revenues generally. Any of such obligations may be additionally secured by a pledge of any revenues of any project or other property of the Authority.

B. Neither the Commissioners of the Authority nor any person executing the obligations shall be liable personally on the obligations by reason of issuance thereof.

C. The notes and other obligations of the Authority shall not be a debt of the Navajo Nation and the obligations shall so state on their face.

D. Obligations of the Authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from taxes imposed by the Navajo Nation. The tax exemption provisions of this Subchapter shall be considered part of the security for the repayment of obligations and shall constitute, by virtue of this Subchapter and without necessity of being restated in the obligations, a contract between the Authority and the Navajo Nation and the holders of obligations and each of them, including all transferees of the obligations from time to time.

E. Obligations shall be issued and sold in the following manner:

1. Obligations of the Authority shall be authorized by a resolution adopted by the vote of a majority of the full Board and may be issued in one or more series;

2. The obligations shall bear such dates, mature at such times, bear interest at such rates, be in such denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment and at such places, and be subject to such terms of redemption, with or without premium, as such resolution may provide;

3. The obligations may be sold at public or private sale at not less than par value;

4. In case any of the Commissioners of the Authority whose signatures appear on any obligations cease to be Commissioners before the delivery of such obligations, the signatures shall, nevertheless, be

valid and sufficient for all purposes, the same as if the Commissioners had remained in office until delivery.

F. Obligations of the Authority shall be fully negotiable. In any suit, action or proceeding involving the validity or enforceability of any obligations of the Authority or the security therefor, any such obligation reciting in substance that it has been issued by the Authority to aid in financing a project pursuant to this Subchapter shall be conclusively deemed to have been issued for such purpose, and the project for which such obligation was issued shall be conclusively deemed to have been planned, located and carried out in accordance with the purposes and provisions of this Subchapter.

G. In connection with the issuance of obligations or incurring of obligations under leases and to secure the payment of such obligations, the Authority, subject to the limitations in this Subchapter, may:

1. Pledge all or any part of its gross or net rents, fees or revenues to which its right then exists or may thereafter come into existence;

2. Provide for the powers and duties of obligees and limit their liabilities, and provide the terms and conditions on which such obligees may enforce any covenants or rights securing or relating to the obligations;

3. Covenant against pledging all or any part of its rents, fees and revenues or against mortgaging any or all of its real or personal property to which its title or right then exists or may thereafter come into existence or permitting or suffering any lien on such revenues or property;

4. Covenant with respect to limitations on its right to sell, lease or otherwise dispose of any project or any part thereof,

5. Covenant as to what other or additional debts or obligations may be incurred by it;

6. Covenant as to the obligations to be issued and as to the issuance of such obligations in escrow or otherwise, and as to the use and disposition of the proceeds thereof;

7. Provide for the replacement of lost, destroyed or mutilated obligations;

8. Covenant against extending the time for the payment of its obligations or interest thereof;

9. Redeem the obligations and covenant for their redemption and provide the terms and conditions thereof;

10. Covenant concerning the rents and fees to be charged in the operation of a project or projects, the amount to be raised each year or other period of time by rents, fees and other revenues, and as to the use and disposition to be made thereof;

11. Create or authorize the creation of special funds for monies held for construction or operating costs, debt service, reserves or other purposes, and covenant as to the use and disposition of the monies held in such funds; .

12. Prescribe the procedures, if any, by which the terms of any contract with holders of obligations may be amended or abrogated, the proportion of outstanding obligations the holders of which must consent thereto, and the manner in which such consent may be given;

13. Covenant as to the use, maintenance and replacement of its real or personal property, the insurance to be carried thereon and the use and disposition of insurance monies;

14. Covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation;

15. Covenant and prescribe as to events of default and terms and conditions upon which any or all of its obligations become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived;

16. Vest in any obligee or any proportion of them the right to enforce the payment of the obligations or any covenants securing or relating to the obligations;

17. Exercise all or any part or combination of the powers granted in this Section;

18. Make covenants other than and in addition to the covenants expressly authorized in this Section, of like or different character;

19. Make any covenants and do any acts and things necessary or convenient or desirable in order to secure its obligations, or, in the absolute discretion of the Authority, tending to make the obligations more marketable although the covenants, acts or things are not enumerated in this Section.

History

CMY-41-77, May 6, 1977.

ACJN-85-63, June 11, 1963.

Cross References

Powers generally, see § 616 of this Title.

§ 618. Quarterly report

The Authority shall submit quarterly reports, signed by the Chairperson of the Board, to the Navajo Nation Council showing:

- A. A summary of the quarter's activities;
- B. The financial condition of the Authority;
- C. The condition of the properties;
- D. The number of units and vacancies;
- E. Any significant problems and accomplishments;
- F. Plans for the future;
- G. Such other information as the Authority or the Navajo Nation Council shall deem pertinent.

History

CO-78-91, October 25, 1991.

CMY-41-77, May 6, 1977.

ACJN-85-63, June 11, 1963.

§ 619. Interest of officers or employees in project or property

A. During his or her tenure and for one year thereafter, no Commissioner, officer or employee of the Authority, or any member of any governing body of the Navajo Nation, or any other public official who exercises any responsibilities or functions with regard to the project, shall voluntarily acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any project, or in any contract or proposed contract relating to any project, unless prior to such acquisition, he or she discloses his or her interest in writing to the Authority and such disclosure is entered upon the minutes of the Authority, and the Commissioners, officer or employee shall not participate in any action by the Authority relating to the property or contract in which he or she has any such interest.

B. If any Commissioner, officer or employee of the Authority involuntarily acquires any such interest, or voluntarily or involuntarily acquired any such interest prior to appointment or employment as a Commissioner, officer or employee, the Commissioner, officer or employee, in any such event, shall immediately disclose his or her interest in writing to the Authority, and such disclosure shall be entered upon the minutes of the Authority, and the Commissioner, officer or employee shall not participate in any action by the Authority relating to the property or contract in which he or she has any such interest.

C. Any violation of the foregoing provisions of this Section shall constitute misconduct in office.

D. This Section shall not be applicable to the acquisition of any interest in obligations of the Authority issued in connection with any project, or to the execution of agreements by banking institutions for the deposit or handling of funds in connection with a project or to act as trustee under any

trust indenture, or to utility services the rates for which are fixed or controlled by a governmental agency, or to membership on the Board as provided in § 606(C) of this Title.

History

CMY-41-77, May 6, 1977.

ACJN-85-63, June 11, 1963.

Cross Reference

Concerning Subsection (A), see also 6 N.N.C. § 606.

§ 620. Planning, zoning, sanitary and building regulations

All projects of the Authority shall be subject to the planning, zoning, sanitary and building regulations applicable to the locality in which the planned project is situated.

History

ACJN-85-63, June 11, 1963.

§ 621. Non-profit construction or operation

The Authority shall not construct or operate any project for profit where the funding agency imposes limitations and conditions upon the use of the funds or the funds are otherwise restricted. In those instances where the Authority is utilizing non-restricted funds the Authority may construct or operate projects for profit.

History

CJY-51-05, July 22, 2005.

ACJN-85-63, June 11, 1963.

§ 622. Tax exemption

The property of the Authority is declared to be public property used for essential public and governmental purposes and such property and the Authority are exempt from all taxes and special assessments of the Navajo Nation.

History

ACJN-85-63, June 11, 1963.

§ 623. Exemption from execution or other judicial process

Without exception, all property, including funds acquired or held by the Authority pursuant to this Subchapter, shall be exempt from levy and sale by virtue of any and all execution, and no execution or other judicial process shall issue against the same nor shall any judgment against the Authority be a

charge or lien upon such property. No exception to this Section shall be recognized without a specific reference in any statute citing this provision and stating clearly that the exception is waived. However, the provisions of this Section shall not apply to or limit the right of the obligee to pursue any remedies for the enforcement of any pledge or lien given by the Authority on its rents, fees or revenues or the right of the federal government to pursue any remedies conferred upon it pursuant to the provisions of this Subchapter or the right of the Authority to bring eviction actions in accordance with § 616(B) (18) of this Title.

History

CJY-51-05, July 22, 2005.

CMY-41-77, May 6, 1977.

ACJN-85-63, June 11, 1963.

Cross Reference

Navajo Nation Sovereign Immunity Act, inclusion of NHA, 1 N.N.C. § 552(P).

Annotations

1. Defenses

" ... [S]overeign immunity is a jurisdictional defense, which may be raised for the first time on appeal." *The Navajo Housing Authority v. Dana and Associates*, 5 Nav. R. 157, 160 (Nav. Sup. Ct. 1987).

2. Immunity

"This case concerns whether a monetary judgment against the Navajo Housing Authority (NHA) may be enforced, or whether sovereign immunity, Navajo statutory exemption from execution, or a circular issued by the U.S. Office of Management and Budget (OMB) prohibits the enforcement. The Court holds that only certain NHA funds are exempt from execution, and that the judgment must be satisfied with those that are non-exempt." *Tso v. Navajo Housing Authority*, No. SC-CV-20-06, slip op. at 1 (Nav. Sup. Ct. December 6, 2007).

"The real issue in this case is whether the NPEA overrides the general exemption in Section 623. In considering the relationship between the two statutes, we emphasize the difference between sovereign immunity and a statutory exemption. Ordinarily, a legislative body must waive sovereign immunity through explicit language in the statute. See, e.g., *United States v. King*, 395 U.S. 1, 4 (1969). However, as Section 623 does not address the sovereign immunity of NHA, we do not require the same explicit expression to find a waiver of the statutory exemption. We hold that the Navajo Nation Council may override a statutory exemption if there is clear intent in the plain language and/or structure of the later law to include the exempted individual or entity in a generally applicable regulation." *Tso v. Navajo Housing Authority*, No. SC-CV-10-02, slip op. at 5 (Nav. Sup. Ct. August 26, 2004).

"The Navajo Nation Council (Council) waived NHA's sovereign immunity, but there is a separate section in the Navajo Nation Code that provides for an exemption from execution of 'other judicial process'.... " *Tso v. Navajo Housing Authority*, No. SC-CV-10-02, slip op. at 4 (Nav. Sup. Ct. August 26, 2004).

§ 624. Navajo Nation cooperation

A. For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of projects, the Navajo Nation agrees that:

1. It will not levy or impose any real or personal property taxes or special assessments upon the Authority or any project.

2. It will furnish or cause to be furnished to the Authority and the tenants of projects all services and facilities of the same character and to the same extent as the Navajo Nation furnishes from time to time without cost or charge to other dwellings and inhabitants in areas under the jurisdiction of the Navajo Nation.

3. Insofar as it may lawfully do so, it will grant such deviations from any present or future building or housing codes of the Navajo Nation as are reasonable and necessary to promote economy and efficiency in the development and operation of any project, and at the same time safeguard health and safety, and make such changes in any zoning of the site and surrounding territory of any project as are reasonable and necessary for the development and protection of such project, and the surrounding territory.

4. It will do any and all things, within its lawful powers, necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of projects.

5. It will join in any disposition of project property or interest therein by the Authority and make assignments or other appropriate disposition of the underlying land as permitted by law, where action is required in order to grant the maximum interest therein permitted by law.

6. This Section will not be abrogated, changed, or modified without the consent of the Public Housing Administration.

B. The Navajo Nation declares its intention to use its lawful powers, to the extent feasible, to eliminate unsafe or unsanitary dwelling units in areas subject to the jurisdiction of the Navajo Nation, as additional dwellings are provided by projects of the Authority.

C. The provisions of Subsection (A) of this Section shall remain in effect with respect to any project so long as the project is either owned by a public body or governmental agency and is used for low-rent housing purposes, any contract between the Authority and the Public Housing Administration for loans or annual contributions, or both, in connection with such project remains in force and effect, or any bonds issued in connection with such project or any monies due to the Public Housing Administration in connection with such project remain unpaid, whichever period is the longest.

D. If at any time title to or possession of any project is held by any public body or governmental agency authorized by law to engage in the development or operation of low income housing, including the federal government, the provisions of this Section shall inure to the benefit of and be enforced by such public body or governmental agency.

E. It will do any and all things, within its lawful powers, necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of projects.

F. The Navajo Nation declares that the powers of the Navajo Nation shall be vigorously utilized to enforce eviction of a tenant or homebuyer for nonpayment or other contract violations including action through the appropriate courts.

G. The appropriate court shall have jurisdiction to hear and determine an action for eviction of a tenant or homebuyer. The Navajo Nation declares that the powers of said Court shall be vigorously utilized and the Navajo Nation will cooperate to the fullest extent possible to enforce eviction of a tenant or homebuyer for nonpayment or other contract violations.

History

CMY-41-77, May 6, 1977.

ACJN-85-63, June 11, 1963.

Cross References

Tax exemption, see § 622 of this Title.

§ 625. Actions involving validity or enforcement of contracts; evidence

In any suit, action or proceeding involving the validity or enforcement of or relating to any of its contracts, the Authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers upon proof of the adoption of this Subchapter.

History

CJY-51-05, July 22, 2005.

ACJN-85-63, June 11, 1963.

Note. Renumbered; previously at § 626. Previous § 625, Approval by Secretary of the Interior, was deleted by CJY-51-05, July 22, 2005.

Cross References

Financial assistance generally, see § 616 of this Title.

§ 626. Federal law

Each project developed or operated under a contract, grant or other agreement providing for federal financial assistance shall be developed and operated in compliance with all requirements of such contract and applicable federal legislation, and with all regulations and requirements prescribed from time to time by the federal government in connection with such assistance.

History

CJY-51-05, July 22, 2005.

CMY-41-77, May 6, 1977.

Note. Renumbered; previously at § 627.

§ 627. Fidelity bonds

The Authority may, at its discretion, obtain or provide for adequate fidelity bond coverage of its officers, agents, or employees handling cash or authorized to sign checks or certify vouchers.

History

CJY-51-05, July 22, 2005.

CMY-41-77, May 6, 1977.

Note. Renumbered; previously at § 628.

Subchapter 1. Navajo Planning and Development Board

§§ 1001 to 1006. [Repealed]

History

CAU-37-73, August 22, 1973.

Revision note. By CAU-37-73, the Navajo Nation Council merged the duties of the Navajo Planning and Development Board with those given to the Economic Development and Planning Committee, a standing committee of the Navajo Nation Council. The functions of the Economic Development and Planning Committee were redelegated to the Community Development Committee (now the Transportation and Community Development Committee), the Economic Development Committee and the Resources Committee. See 2 N.N.C. §§ 420, 721, and 691 respectively. CD-68-89, December 15, 1989.

Subchapter 3. Zoning

§ 1051. Preparation of ordinances

The Transportation and Community Development Committee is authorized to adopt zoning ordinances for communities having an adopted Comprehensive

Community Plan where land for the community as defined therein has been withdrawn.

History

CS-76-65, September 1, 1965.

Revision note. The Advisory Committee is no longer a standing committee of the Navajo Nation Council. The Transportation and Community Development Committee has been delegated authority to review and approve comprehensive community land use plans and zoning ordinances pursuant to 2 N.N.C. § 423(C)(2).

Cross Reference

Regarding zoning, see also, 26 N.N.C. § 2004.

§ 1052. Approval and adoption

The Planning and Zoning Officer, Navajo Nation, shall cause to be prepared proposed zoning ordinances for the communities. The proposed ordinances shall require approval by the Transportation and Community Development Committee before becoming effective.

History

CS-76-65, September 1, 1965.

Revision note. The Advisory Committee is no longer a standing committee of the Navajo Nation Council. The Transportation and Community Development Committee has been delegated authority to review and approve comprehensive community land use plans and zoning ordinances pursuant to 2 N.N.C. § 423(C)(2). Also, the statutory reference to the Navajo Community Planning Board was repealed by CAU-37-73, August 22, 1973.

Cross Reference

Regarding zoning, see also, 26 N.N.C. § 2004.

§ 1053. Enforcement and information

The Planning and Zoning Officer shall be responsible for the enforcement of all zoning ordinances adopted by the Transportation and Community Development Committee. The Officer shall further provide and maintain a public information office relative to all matters arising from adopted zoning ordinances.

History

CS-76-65, September 1, 1965.

Revision note. The Advisory Committee is no longer a standing committee of the Navajo Nation Council. The Transportation and Community Development Committee has been delegated authority to review and approve comprehensive community land use plans and zoning ordinances pursuant to 2 N.N.C. § 423(C)(2).

Cross Reference

Regarding zoning, see also, 26 N.N.C. § 2004.

§ 1054. Amendments

All proposed amendments to zoning ordinances shall first be reviewed by the Local Planning Board, and shall require approval by the Transportation and Community Development Committee before becoming effective.

History

CS-76-65, September 1, 1965.

Revision note. The Advisory Committee is no longer a standing committee of the Navajo Nation Council. The Transportation and Community Development Committee has been delegated authority to review and approve comprehensive community land use plans and zoning ordinances pursuant to 2 N.N.C. § 423(C)(2). Also, the statutory reference to the Navajo Community Planning Board was repealed by CAU-37-73, August 22, 1973.

Cross Reference

Regarding zoning, see also, 26 N.N.C. § 2004.

Subchapter 5. Comprehensive Plan

§ 1101. Origin and purpose

The Chapter, at a meeting called for that purpose, shall formally request of the Planning and Zoning Officer, Navajo Nation, the preparation of a Comprehensive Community Plan of the community. A Comprehensive Community Plan will provide a means for the Chapter, working with the Local Planning Board assisted by technical experts, to make an assessment of the resources of the community and to develop a plan and a program for providing the kind of environment needed for improvement, growth and development of the community. Such a plan shall include, but not be limited to, the following:

A. An *Open Space Plan* which preserves for the people certain areas to be retained in their natural state or developed for recreational purposes.

B. A *Land Use Plan* which projects future community land needs, showing by location and extent, areas to be used for residential, commercial, industrial, and public purposes.

C. A *Thoroughfare Plan* which provides a system of and design criteria 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.

D. 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.

History

CAU-72-65, August 31, 1965.

Note. The Transportation and Community Development Committee of the Navajo Nation Council is authorized to review and approve comprehensive community land use plans and zoning ordinances, including land withdrawals necessary for the implementation of such land use plans. See 2 N.N.C. § 423(C)(2). Also, the statutory reference to the Navajo Community Planning Board was repealed by CAU-37-73, August 22, 1973.

Cross Reference

Regarding zoning, see also, 26 N.N.C. § 2004.

§ 1102. Preparation of plan

The Planning and Zoning Officer, Navajo Nation, shall prepare with the assistance of appropriate technical staff of the Navajo Nation, the Bureau of Indian Affairs, and the United States Public Health Service, a Comprehensive Community Plan. The Planning and Zoning Officer shall consult with the Chapter and the Local Planning Board during the preparation of this plan for advice. He shall consult with the Transportation and Community Development Committee for advice during the preparation of this plan and their written approval of the plan shall be required before the same may be submitted to the Chapter for final approval. The officer shall be responsible for the preparation of a proper Comprehensive Community Plan to fit the needs of the community.

History

CAU-72-65, August 31, 1965.

Note. The Transportation and Community Development Committee of the Navajo Nation Council is authorized to review and approve comprehensive community land use plans and zoning ordinances, including land withdrawals necessary for the implementation of such land use plans. See 2 N.N.C. § 423 (C) (2).

Cross Reference

Regarding zoning, see also, 26 N.N.C. § 2004.

§ 1103. Presentation of plan

The Comprehensive Community Plan so prepared for a community shall be presented to the Chapter at a duly called meeting for approval.

History

CAU-72-65, August 31, 1965.

Note. The Transportation and Community Development Committee of the Navajo Nation Council is authorized to review and approve comprehensive community land use plans and zoning ordinances, including land withdrawals necessary for the implementation of such land use plans. See 2 N.N.C. § 423(C)(2).

Cross Reference

Regarding zoning, see also, 26 N.N.C. § 2004.

§ 1104. Control by the Transportation and Community Development Committee

The Comprehensive Community Plan, as approved by the local Chapter, shall be presented to the Transportation and Community Development Committee for adoption and withdrawal of the land for the community as defined in the plan. The Transportation and Community Development Committee shall have full control and complete authority of land utilization of community withdrawn lands as defined by the adopted Comprehensive Community Plan. No person shall, after Transportation and Community Development Committee adoption of the plan and withdrawal of the land for the community, as defined in the plan, utilize any land therein without specific written approval of the Transportation and Community Development Committee; provided that easements and rights-of-way may be granted as provided by Navajo Nation law so long as same comply with the Comprehensive Community Plan.

History

CAU-72-65, August 31, 1965.

Revision note. The Advisory Committee is no longer a standing committee of the Navajo Nation Council. The Transportation and Community Development Committee has been delegated authority to review and approve comprehensive community land use plans and zoning ordinances pursuant to 2 N.N.C. § 423(C)(2).

Cross Reference

Regarding zoning, see also, 26 N.N.C. § 2004.

§ 1105. 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; provided that variations thereunder shall be permitted when approved by the Transportation and Community Development Committee.

History

CAU-72-65, August 31, 1965.

Revision note. The Navajo Community Planning Board was repealed by CAU-37-73, August 22, 1973. See 2 N.N.C. § 423(C)(2) for the authority of the Transportation and Community Development Committee.

Cross Reference

Regarding zoning, see also, 26 N.N.C. § 2004.

§ 1106. Applications for land use

All applications for Transportation and Community Development Committee consideration for utilization of lands within a community to be developed under a Transportation and Community Development Committee approved Comprehensive Community Plan and where lands for the community, as defined in the plan have been withdrawn by the Transportation and Community Development Committee shall be reviewed expeditiously first by:

- A. The Local Planning Board;
- B. The Planning and Zoning Officer, Navajo Nation;
- C. The Bureau of Indian Affairs;
- D. The United States Public Health Service;
- E. Department of Justice, Navajo Nation;
- F. The President, Navajo Nation;

G. The Office of Legislative Counsel, Navajo Nation prior to being submitted to the Transportation and Community Development Committee, to insure conformance with the Comprehensive Community Plan.

History

CS-74-65, September 1, 1965.

Revision note. By CF-8-82 the Navajo Tribal Legal Office was abolished and the Department of Justice was established with the Attorney General given authority over administrative and operating policies and supervisory control over the Department. See 2 N.N.C. § 1961 *et seq.* The Navajo Tribal Legal Office was redesignated the Tribal Legal Department by the 1978 Budget pages IX-1 and IX-12 and was moved from 2 N.N.C. § 1101-1104 to 2 N.N.C. § 1991-1994. The Legislative Secretary no longer exists in Navajo Nation government. The Office of Legislative Counsel provides legal advice and legislative services to the Navajo Nation Council and its standing committees. See 2 N.N.C. § 960 *et seq.*, see also, 2 N.N.C. § 164.

Cross Reference

Regarding zoning, see also, 26 N.N.C. § 2004.

Subchapter 7. Damages

§ 1151. Damages to improvements

A. When in accomplishing the purpose of the Comprehensive Community Plan, the Navajo Nation disposes of land containing any improvement belonging to a person 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 Navajo Nation will pay or require to be paid damages to the rightful claimant of such improvement or improvements.

1. As used herein "improvement" means houses, hogans, sunshades, stables, storage sheds and dugouts, and sweathouses; sheep and horse corrals, lamb pens, and fences lawfully maintained; irrigation ditches, dams, charcos, 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 person is readily removable and he or she 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.

2. 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 Navajo Nation adversely to such person's interest.

B. Upon adverse disposition by the Navajo Nation of a person's lawful interest, the President of the Navajo Nation shall cause to be prepared an appraisal of the improvements for which the person is entitled to compensation as hereinabove provided. The President of the Navajo Nation or his authorized representative shall negotiate with the person for settlement of his or her claim for payment of the value of the improvement or the reasonable cost of its removal. If a settlement satisfactory to the President of the Navajo Nation or his or her authorized representative and the person is reached, the proposed agreement shall be submitted to the Transportation and Community Development Committee for approval, and authorization to pay the claim if appropriate.

C. If a settlement satisfactory to the President of the Navajo Nation or his authorized representative and the person cannot be reached, the President of the Navajo Nation shall appoint a negotiating committee with representation from the following to make a settlement of the claim:

1. Local Planning Board
2. Resources Committee, Navajo Nation Council; and
3. Land Administration Department, Navajo Nation.

D. If a settlement satisfactory to the negotiating committee and the person cannot be reached, the claim will be referred to the Transportation and Community Development Committee for review and further directions in accordance with appropriate laws of the Navajo Nation.

History

CS-78-65, September 2, 1965.

Revision note. In Subsection (B) the words "and the person" were added after "representative" for clarity. Land Administration Department was added in place of Land Investigation Department as that is the successor agency. The Navajo Community Planning Board was repealed by CAU-37-73, August 22, 1973. See 2 N.N.C. § 420 *et seq.* for the Transportation and Community Development Committee's authority.

Cross Reference

Concerning damages, see also, 16 N.N.C. § 1401 *et seq.* and 26 N.N.C. § 2005.

§ 1152. Damages to intangible interests

When in accomplishing the purpose of the Comprehensive Community Plan, the Navajo Nation as a result of the granting of any lease or permit embracing Navajo Nation land, or of granting permission by the Navajo Nation 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 a person formerly lawfully using the same is destroyed or diminished, the Navajo Nation will compensate or cause to be compensated the former user in the manner hereinafter specified.

A. 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 Nation shall pay the expense of removing said person, his or her family, and property to any new land made available for his or her use, and such shall constitute full compensation to such Navajo.

B. 1. In all other cases involving damages under this Paragraph, the amount thereof shall be fixed and determined in the manner specified in § 1151(A)(1) of this Subchapter.

2. If a settlement satisfactory to the President of the Navajo Nation or his authorized representative and the person cannot be reached, settlement will be made as specified under § 1151(A)(2) and (B) of this Subchapter.

C. Where, through reseeding, irrigation or otherwise, the remaining land in the customary use area of any individual damaged by adverse disposition of Navajo Nation land is within a reasonable time made able to provide the same economic return as his former entire customary use area, no damages shall be payable to such person, except for the period, if any, between adverse disposition of 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.

D. 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 permitted number, or without a permit.

E. Every person otherwise entitled to damages under Subsection (B) of this Section shall not be entitled to receive any payment thereof until he or she has surrendered for cancellation his or her grazing permit as to all animal units in excess of the carrying capacity of the land remaining in his or her customary use area. Persons so surrendering their grazing permits shall be entitled to an immediate appropriate lump sum payment for each sheep unit cancelled.

History

CS-78-65, September 2, 1965.

Cross Reference

Concerning damages, see also, 16 N.N.C. § 1401 *et seq.* and 26 N.N.C. § 2005.

Chapter 9. Swimming Pools

§ 1301. Definitions

For the purposes of this Chapter the following definitions shall apply:

A. "Swimming pool" shall mean any artificial swimming pool together with the buildings and appurtenances essential to the use thereof, and shall include public swimming pools, semiprivate swimming pools and wading pools.

B. "Artificial swimming pool" shall mean a structure intended for bathing or swimming purposes, made of concrete, masonry, metal, plastic or other impervious material, together with building and appurtenances located either indoors or outdoors and provided with a controlled water supply.

C. "Public swimming pool" shall mean a swimming pool, admission to which may be gained by the general public with or without the payment of a fee, such as a school, community, municipal or commercial pool, and shall include all swimming pools operated and maintained in conjunction with or by clubs and community associations.

D. "Semiprivate swimming pool" shall mean a swimming pool on the premises of or which is part of a hotel, motel, trailer court, apartment house, recreation camp or similar establishment where the primary business of the establishment is not the operation of swimming facilities and where admission to the use of the pool is included in the fee or consideration given for the primary use of the premises.

E. "Wading pool" shall mean a shallow public or semiprivate swimming pool intended chiefly for use of children and having a maximum depth of two feet.

F. "Lifeguard" shall mean a person who holds a valid Red Cross or YMCA Senior Lifeguard Certificate or who has equivalent qualifications and who has no duties other than to superintend the safety of those using the swimming pool during the time the pool is open.

G. "Approved" shall mean acceptable to the Health Advisor based on a determination as to conformance with appropriate standards and good health practice.

H. "Transportation and Community Development Committee" shall mean the Transportation and Community Development Committee of the Navajo Nation Council.

I. "Health Advisor" shall mean the Director, Navajo Area Indian Health Service, United States Public Health Service, Window Rock, Arizona, or his or her designated representative.

J. "Operator's Permit" shall mean a written permit issued by the Office of Navajo Resources and Security upon recommendation of the Health Advisor, reflecting a swimming pool operator's compliance with this Chapter.

History

ACMY-191-71, May 12, 1971.

Revision note (1995). The Advisory Committee is no longer a standing committee of the Navajo Nation Council. See 2 N.N.C. § 420 *et seq.* for the authority of the Transportation and Community Development Committee.

Note. The Office of Navajo Resources and Security was discontinued in 1978 pursuant to the 1978 Budget resolution and organization chart. See Title 2, Navajo Division of Natural Resources.

§ 1302. Plans and specifications; submission and approval

Whenever any alterations, modifications or new construction of a swimming pool is contemplated by the operator or prospective operator, three sets of plans and specifications shall be submitted to the Health Advisor for review, who shall recommend approval or such modifications as are necessary for approval.

History

ACMY-191-71, May 12, 1971.

Revision note. Partially reworded for purpose of clarity.

§ 1303. Operator's permit

No person shall operate or maintain a public or semiprivate swimming pool unless he or she has a valid operator's permit to operate such pool that has been obtained through the Office of Navajo Resources and Security. Only persons who comply with the provisions of this Chapter and other applicable laws, regulations and ordinances shall be entitled to receive or retain such an operator's permit. Such permits are not transferable to another owner, person or location. A permit shall be permanent unless revoked for cause.

History

ACMY-191-71, May 12, 1971.

Revision note. First sentence partially reworded for purpose of clarity.

Note. The Office of Navajo Resources and Security was discontinued in 1978 pursuant to the 1978 Budget resolution and organization chart. See Title 2, Navajo Division of Natural Resources.

§ 1304. Revocation of permit

The Office of Navajo Resources and Security may revoke any permit for failure to comply with any of the provisions of this Chapter. Before a permit is revoked, the person holding the permit shall be given notice in writing enumerating the alleged failure to comply with the provisions of these regulations and specifying a reasonable time for compliance. If after the stated time the Office of Navajo Resources and Security finds such violations have not been remedied, he shall give notice that the permit has been revoked.

History

ACMY-191-71, May 12, 1971.

Revision note. Second and third sentences partially reworded for purpose of clarity.

Note. The Office of Navajo Resources and Security was discontinued in 1978 pursuant to the 1978 Budget resolution and organization chart. See Title 2, Navajo Division of Natural Resources.

§ 1305. Hearing

Any person affected by any notice issued in connection with the enforcement of any provision of this Chapter may request and shall be granted a hearing on the matter according to the approved procedures. Such person shall file in the Office of the President of the Navajo Nation, a written petition requesting such hearing and setting forth a brief statement of the grounds for such request within 10 days after the day notice was served. Upon receipt of such petition the Office of Navajo Resources and Security shall set a time and place for such hearing and give the petitioner written notice thereof. At the hearing, petitioners shall be given an opportunity to be heard and to show cause why such notice should be modified or withdrawn. The hearing shall be commenced not later than 10 days after the day on which the petition was filed: Provided the petitioner has not upon application submitted good and sufficient reason for postponement of such hearing.

History

ACMY-191-71, May 12, 1971.

Revision note. Partially rephrased for purpose of clarity.

Note. The Office of Navajo Resources and Security was discontinued in 1978 pursuant to the 1978 Budget resolution and organization chart. See Title 2,

Navajo Division of Natural Resources.

§ 1306. Decision and order

After a hearing, the Office of Navajo Resources and Security, with the consultation of the Health Advisor, shall sustain, modify or withdraw the notice, depending on the findings as to compliance or noncompliance with this Chapter. If the Office of Navajo Resources and Security shall sustain or modify such notice, it shall be deemed to be an order.

History

ACMY-191-71, May 12, 1971.

Revision note. Partially reworded for purpose of clarity.

Note. The Office of Navajo Resources and Security was discontinued in 1978 pursuant to the 1978 Budget resolution and organization chart. See Title 2, Navajo Division of Natural Resources.

§ 1307. Emergency orders; hearing

A. Whenever the Office of Navajo Resources and Security, upon the advice of the Health Advisor, finds that an emergency matter exists which requires immediate action to protect public health, he may, without notice or hearing, issue an order reciting the existence of such emergency and requiring that such action be taken as is deemed necessary in view of the emergency. Notwithstanding any other provision of this Chapter, such order shall be effective immediately.

B. Upon petition to the Office of Navajo Resources and Security, petition shall be afforded a hearing as soon as possible. After such hearing, depending upon findings regarding compliance or noncompliance with the provisions of this Chapter, the Office may continue the order in effect, or modify or revoke it.

History

ACMY-191-71, May 12, 1971.

Revision note. Reworded for purpose of clarity.

Note. The Office of Navajo Resources and Security was discontinued in 1978 pursuant to the 1978 Budget resolution and organization chart. See Title 2, Navajo Division of Natural Resources.

§ 1308. Reissuance of revoked permit

Any permit revoked in accordance with the provisions of this Chapter shall be reissued upon proper application by the operator and presentation of evidence that the deficiencies causing the revocation have been corrected.

History

ACMY-191-71, May 12, 1971.

Revision note. Partially reworded for purpose of clarity.

§ 1309. Regulations of other agencies

All public and semiprivate pools shall comply with all requirements of the electrical, plumbing and other agencies, whose regulations are considered to be the minimum requirements for the health and safety of bathers.

History

ACMY-191-71, May 12, 1971.

Revision note. Partially reworded for purpose of clarity.

§ 1310. Physical features of swimming pools; cleanliness; inoperative equipment

A. All swimming pools, and their accompanying premises, shall be so designed, constructed, equipped, operated and maintained as to insure clean and sanitary conditions at all times.

B. Inoperative equipment shall constitute grounds for closing the pool.

History

ACMY-191-71, May 12, 1971.

Revision note. Subsection (A) partially rephrased for purpose of clarity.

§ 1311. Dimensions

A. *Depth of water.* The minimum depth of water in the deepest part of any pool which is used for diving purposes shall not be less than eight feet six inches. A pool designed for swimming purposes only shall have a maximum depth of five feet.

B. *Width.* The minimum width of any section of a swimming pool shall be 15 feet.

C. *Length.* The length of the diving portion (section of pool where water is over five feet in depth) shall be a minimum of 18 feet with the center line of the deepest part of the pool being not less than 10 feet from the deep end of the pool. The minimum length of any swimming pool which is greater than five feet in depth shall be 36 feet, unless exempted by extenuating circumstances.

History

ACMY-191-71, May 12, 1971.

Revision note. Subsection (C) slightly reworded for purpose of clarity.

§ 1312. Design and construction requirements

A. *Slope.* The slope of the bottom of any part of a pool where the water is less than five feet deep must be not more than one foot in each 12 feet. There shall be no sudden changes of slope within the area where the water depth is less than five feet. (Any flat area on the pool bottom offers excellent lodging places for sediment and shall be avoided.) All portions of the pool bottom shall have a definite slope toward the pool drains.

B. *Walls.* The inside wall surface of a swimming pool shall be vertical, except that, where covered construction is used between the side walls and bottom of a swimming pool, the radius of curvature in the area less than five feet deep shall not exceed six inches; in the area between the deep end of the pool and the point of maximum depth, a minimum of a five-foot radius cove at the base of a three-foot top vertical section shall be provided. There shall be a uniform transition in the cove between five-foot depth and the cove at the maximum pool depth.

C. *Steps.* Steps for entering and leaving the pool shall be of such construction as to minimize chances of accidents. Ladders shall be located at one or preferably both sides of the pool; a ladder or steps shall be placed at the shallow end of the pool. Treads of ladders or steps shall be of nonslip material. In public pools, all steps must be recessed and shall not protrude into the pool proper. In semiprivate pools, the maximum projection shall be limited to three feet six inches, but no abrupt projection will be permitted if it creates a safety hazard.

D. *Runways.* A runway at least four feet wide, constructed of concrete or other impervious material, shall completely surround the pool. The runway shall have a slope between one-fourth and three-eighths inch per foot away from the pool; it shall be an integral part of the pool walls or it shall overlap the walls. Either floor drains, in the ratio of not less than one per 200 square feet of runway area, provided they shall not exceed 25 feet on centers, or collecting troughs covered with gates shall be provided unless drainage is to the surrounding area. The drainage from runways shall be considered sewage and shall be conducted to the sewer or drained to the area outside the runway paved area around the pool. A complete and effective break shall be provided between the drains for the runway area and the sewer to prevent the possibility of sewage backing up into the runway area drains. Runway drains shall not be interconnected with scum gutter drain lines.

E. *Barrier.* There shall be an effective separation of the space used by spectators from that used by bathers in all public pools. The swimming pool and bather area of all pools shall be completely enclosed by a barrier at least 36 inches high. There shall be no unpaved area within the barrier enclosed bathing area surrounding public pools.

F. *Curbs.* No elevated curbs shall be permitted within the bathing area.

G. *Scum gutters.* Scum gutters shall be provided around the entire perimeter of swimming pools. Scum gutter drains shall not exceed 15 feet on centers. Water from scum gutters may be either recirculated through the filters or discharged to the sewer. If discharged to the sewer there shall be a minimum of an eighth-inch gap between the scum gutter drain line and the top rim of the sewer manhole or drain box.

1. Skimmers may be used in lieu of scum gutters providing the following minimum requirements are met: A minimum of two skimmers shall be required for all swimming pools; an additional skimmer shall be provided for each 450 square feet of surface area or fraction thereof in excess of 900 square feet. Skimmers, when used on swimming pools whose surface area exceeds 2000 square feet, shall be used in combination with scum gutters, which shall be provided around at least fifty percent (50%) of the pool perimeter. Piping for skimmers shall be of a size allowing at least sixty percent (60%) of the total outflow of water to be handled. An adjustable skimmer wire and strainer basket shall be provided for each skimmer.

2. Skimmers should not be used as a means of adding filter aid to filters.

H. *Vacuum line.* A separate vacuum line is desirable for use in vacuuming the pool.

I. *Drains.* Where the pool width is greater than 25 feet, multiple outlet drains shall be provided. The drainage system including the backwash filter line, for a swimming pool shall be constructed with a minimum of an eighth-inch air gap to prevent sewage or other waste from siphoning, flooding, or otherwise discharging into the swimming pool. Drains shall be covered with an approved grate.

J. *Fill spout.* The fill spout shall be so located as to constitute a minimum hazard to persons in the pool area, such as under the diving board or adjacent to a ladder. The discharge end of the fill pipe shall have a minimum effective air gap of five inches above the overflow level.

History

ACMY-191-71, May 12, 1971.

Revision note. Subsections (B), (C), (E), (G), 2nd par., and (J) partially reworded for purpose of clarity.

§ 1313. Color, longitudinal stripes and depth marks

A. *Color.* The swimming pool walls and floor surfaces shall be a light color.

B. *Striping.* Dark contrasting stripes, a minimum of four inches wide, shall divide the pool into longitudinal lines five to seven feet wide on all public swimming pools. The striping on semiprivate pools shall be five feet from the pool ends.

C. *Depth markings.* Depth markings of a dark color and of sufficient size to be clearly visible across the pool shall be placed in pairs, one of each pair being on either side of the pool on the vertical wall near the water level. A pair of markings shall be placed at each successive one-foot increment of depth, except depth markings need not be placed less than four feet apart. The minimum and maximum depths shall be so designated, including

the five-foot depth.

History

ACMY-191-71, May 12, 1971.

Revision note. Partially reworded for purpose of clarity.

§ 1314. Diving boards; regulation and nonregulation

A. Diving boards shall be installed with one thought in mind: the provision of maximum safety for the diver.

B. Regulation one meter and three meter board installations must comply with the following requirements:

1. The minimum depth of water under a regulation one meter board shall not be less than eight feet six inches.

2. The minimum depth of water under a regulation three meter board shall not be less than 12 feet.

3. Open water of the recommended minimum depth shall be provided in the area of a 200-degree arc extending forward and to either side of the center of the tip of the board. The radius of such arc shall be a minimum of eight feet for the one meter board installations and 12 feet for three meter board installations.

4. The minimum length of the diving area of a swimming pool having a one meter board installation shall be 25 feet, and the minimum length of the diving area of a swimming pool having a three meter board shall be 35 feet.

5. A minimum of 12 feet of free, unobstructed headroom shall be provided above the installation of a regulation one meter or three meter diving board.

6. Parallel or diverging multiple diving board installations shall be allowed providing all the above requirements are met and the boards are not placed closer than 12 feet at the center of the tips of the boards.

C. Nonregulation diving board installations must comply with the following requirements:

1. In all installations of nonregulation diving boards, safety of use shall be the prime consideration.

2. An area which is a minimum of four feet square shall be provided in the diving portion of the pool, and this area shall not be less than eight feet six inches deep. The center line of this area shall be in line with the diving board and the nearest edge of this area shall be eight feet from the deep end of the pool.

3. The area above the diving board shall be such that there is no possibility of collision by the diver with any overhead obstruction.

History

ACMY-191-71, May 12, 1971.

Revision note. Words "must comply with the following requirements" added in Subsections (B) and (C); Subsection (C) slightly reworded for purpose of clarity.

§ 1315. Wading pools; requirements

A. *Barrier.* A barrier at least 36 inches high shall be provided to separate a wading pool from a swimming pool.

B. *Depth.* The maximum depth of a wading pool shall be 24 inches.

C. *Slope.* The maximum slope of the bottom of a wading pool shall be not more than one foot in each 12 feet.

D. *Main drain.* Wading pools shall have a main drain located in the deepest part of the pool.

E. *Scum gutter or skimmer.* Wading pools shall be equipped with a scum gutter, skimmer or other means to remove floating material. If skimmers are used, one skimmer shall be provided for each 400 square feet of pool area or fraction thereof.

F. *Air gap.* There shall be a minimum of five-inch air gap on the fill line to prevent the possibility of any wading pool water siphoning or otherwise getting into the domestic water supply.

1. The fill line or fill spout shall be located so it does not present a hazard to children in the pool area.

2. There shall be a minimum effective air gap of eight inches between the pool and filter drain lines and that of the top of the sewer manhole.

G. *Runways.* A runway at least four feet wide constructed of concrete or other impervious material shall completely surround the pool. The runway shall have a slope between one-fourth and three-eighths inch per foot away from the pool; it shall be an integral part of the pool walls. The drainage from runways shall be constructed as a sewage and either be conducted to a sewer or allowed to drain the area outside the barrier.

H. *Water.* Water in the wading pools shall be from a potable source. The turnover period shall not exceed two hours. Incoming water shall be chlorinated to maintain a free chlorine residual as near 0.6 ppm as practical. Supplemental hand chlorination is desirable to maintain a minimum of 0.6 ppm or more of free chlorine residual in the pool. The pH range of the pool water should be maintained between 7.2 and 8.0.

History

ACMY-191-71, May 12, 1971.

§ 1316. Water supply and quality

Water used to fill or add to a swimming pool shall be from a supply properly located, protected and operated; and shall be easily accessible, adequate and of a safe, sanitary quality. No water supply shall be used except under conditions approved by the Health Advisor. Bacteriological quality shall be maintained in the pool as follows:

A. *Public pool.* At least one sample containing five ten milliliter portions must be submitted to a laboratory approved by the Health Advisor each week that the pool is in operation. If a nonconforming sample is obtained, additional samples shall be submitted by the Health Advisor as soon as possible and two consecutive nonconforming samples shall constitute grounds for closing the pool unless evidence of correction of this deficiency is provided.

B. *Semiprivate pools.* At least two samples containing five ten milliliter portions each must be submitted by the Health Advisor to a laboratory each month that the pool is in operation. If a nonconforming sample is obtained, additional samples shall be submitted by the Health Advisor as soon as possible, and two consecutive nonconforming samples shall constitute grounds for closing the pool unless evidence of correction of this deficiency is provided.

History

ACMY-191-71, May 12, 1971.

§ 1317. Clarity, disinfection and pH of water

A. *Clarity.* All water in the pool at times of use shall be sufficiently clear to permit a black disc six inches in diameter on a white field, when placed on the bottom of the pool at the deepest point to be clearly visible from the runway around the deep area.

B. *Disinfection.* Swimming pool water shall be disinfected by chlorination secured through the use of chlorine or hypochlorites. The dosage of chlorine or hypochlorites added shall be sufficient to secure a concentration of at least 0.4 ppm free available chlorine (flash reaction) at all times when the pool is in operation.

1. An approved mechanical chlorinator having a capacity to feed a minimum of one pound of chlorine in 24 hours for each 5000 gallons of pool capacity shall be provided. Hand chlorination of swimming pool water is not acceptable, except for emergency or supplemental operation.

2. The disinfection residual in a swimming pool shall be checked immediately prior to opening the pool to swimming. It is important that frequent checks be made on the chlorine residual during periods of heavy bather load and during periods of high intensity of sunlight.

3. Other disinfecting agents will be permitted when approved by the Health Advisor.

C. *Handling of toxic materials.* Toxic materials such as gas chlorinators and chlorine gas cylinders shall be housed in an enclosure separated from the swimming pool, corridors, dressing rooms, and other space used by bathers by a tight partition wall with no doors or other access opening in the partition wall.

1. In the room where chlorine gas is stored or in a room where a gas chlorinator is located, a door to the outside extending to the floor level shall be provided.

2. Chlorine gas equipment or chlorine gas shall not be located where the floor is below grade, and access to the room shall be only through a door to the outside of the building.

3. The requirements of this regulation shall also apply to other toxic gaseous disinfecting agents.

4. Existing nonconforming installations may be permitted subject to the approval of the Health Advisor.

D. *Chlorine testing kit.* A chlorine comparator testing kit, preferably of the color disc type, to read 0.1, 0.4, 0.6 and 1.0 ppm shall be provided. It is desirable to have a chlorine testing kit with additional intermediate readings and broader range. If chemicals other than chlorine are used, an approved testing kit shall be provided for testing the residual of these chemicals.

E. *pH control.* The pH of the water in the pool shall be maintained between 7.2 and 8.0. A pH comparator testing kit preferably of the color disc type, to read from 6.8 to 8.4, with at least two intermediate readings, shall be provided.

History

ACMY-191-71, May 12, 1971.

Revision note. In Subsection (B), "when" added near end of 1st paragraph and "opening the pool" substituted for "being opened" in 3rd paragraph. In Subsection (C), "the" added in last sentence of 2nd paragraph.

§ 1318. Filtration

A. All swimming pool water shall be recirculated through rapid sand or diatomite filters. The filter rate shall not exceed the manufacturer's recommended filter rate and in no case shall the filter rate exceed three gallons per minute per square foot. The turnover period shall not exceed six hours for public pools and seven hours for semiprivate pools. Other methods of filtration using equipment bearing the Seal of Approval of the National Sanitation Foundation may be approved in lieu of rapid sand or diatomite filters.

B. If rapid sand filters are used at least 36 inches of sand, free of clay, organic, and soluble material, having an effective size of .4 to .5 mm, and a uniformity coefficient not exceeding 1.75 shall be provided, unless other treatment approved by the Health Advisor is provided.

C. Filters shall be equipped for effective backwashing. If rapid sand filters are to be used a minimum of three filters shall be provided and the pump shall have sufficient capacity to backwash filters at a minimum rate of nine gallons per square foot of filter area per minute.

D. Filters shall be equipped with pressure gauges on the inlet and outlet filter lines. Rapid sand filters shall also have suitable provision for feeding chemicals.

E. A lint and hair catcher shall be provided on all swimming pools.

F. All public pools shall be equipped with a rate of flow meter.

G. Diatomite filters should be equipped with slurry and precoat feeders for adding filter aid. Skim filters are not approved.

History

ACMY-191-71, May 12, 1971.

§ 1319. Plumbing connections; cross connections; back siphonage

There shall be no physical connection between a swimming pool and a water supply and/or sewers. All plumbing and piping shall be so arranged as to prevent back siphonage. Cross-connections are prohibited.

History

ACMY-191-7 1, May 12, 197 1.

Revision note. Word "so" added in second sentence.

§ 1320. Bath houses

A. *Dressing room.* Adequate and sanitary dressing rooms shall be provided for all public swimming pools.

B. *Showers.* Showers in sufficient number shall be provided with hot and cold water with soap. The minimum number to be provided shall be one for the first 40 bathers or fraction thereof, and an additional one for each additional 40 bathers or fraction thereof of the bathing load design.

The hot water heater shall be of adequate capacity to provide hot water for all bathers using the showers.

C. *Toilet facilities.* The minimum number of water closets to be provided per sex shall be one for the first 40 bathers or fraction thereof, and an additional one for each additional 40 bathers or fraction thereof of the bathing load design; provided, however, urinals may be substituted for the

male sex, not to exceed one-third of the total number of water closets required. Urinals shall be so constructed as to prevent splashing.

D. *Wash basins.* Wash basins in the ratio of one to each two toilet facilities shall be provided for each sex.

E. *Floors.* Floors in toilets, dressing rooms, walkways, and runways shall have a slope between one-fourth and three-eighths inch each per foot to floor drains. Floor finish shall be nonskid Portland cement, tile or other impervious material.

F. *Drinking fountains.* At least one approved sanitary drinking fountain utilizing the slanting jet principle with surrounding guard, nonsubmersible opening, and supplied with water under adequate pressure shall be provided at a convenient point on all public swimming pools and also preferably on semiprivate pools.

G. *Ventilation.* Good ventilation shall be provided to minimize condensation and odors,

H. *Heating facilities.* All gas-fired heating appliances, including water heaters, shall be vented directly to the outside air with "B" vents. Open-face heaters are prohibited. Gas-fired heaters shall not be located in any service room or bathhouse. All liquefied petroleum installations shall have one hundred percent (100%) shut-off. All gas installations shall comply with all laws governing such installations.

I. *Semiprivate pools.* In the case of semiprivate swimming pools, facilities provided for separate lodging units and/or other shower and restroom facilities may be used to satisfy this Section.

History

ACMY-191-71, May 12, 1971.

Revision note. Subsections (C) and (D) partially reworded for purpose of clarity.

§ 1321. Prevention of the spreading of diseases

A. *Shower.* A cleansing shower with soap shall be required of all bathers entering or reentering the enclosed bathing area.

B. *Suspected persons excluded.* No person having a communicable disease shall be employed at a public or semiprivate swimming pool. All patrons known to be, or suspected by the Health Advisor or the management of being afflicted with an infectious disease, suffering from sores or wearing bandages shall be excluded from all public or semiprivate bathing places, except on presentation of a written statement of current dates as approved by the Health Advisor.

C. *Foot baths.* Foot baths are not approved in swimming pools.

History

ACMY-191-71, May 12, 1971.

Revision note. The word "enclosed" substituted for "fenced".

§ 1322. Construction and care of indoor floor surfaces

All floors of dressing rooms, toilet rooms, passageways, walkways and runways at every indoor swimming pool shall be constructed of impervious material, having no holes or places for water to stand, provided with a nonskid surface, maintained in a clean condition, and rinsed daily with a chlorine solution having not less than 1,000 ppm of chlorine, or other approved disinfecting solutions. All new floor surfaces shall have a slope between one-fourth and three-eighths inch per foot to drains.

History

ACMY-191-7 1, May 12, 1971.

§ 1323. Suits and towels; cleaning and storing

Provision shall be made for laundering, rinsing and drying all suits and towels supplied by the management. All suits and towels owned by the management shall be laundered with a detergent or soap by one of the following methods: In 160° F water for 15 minutes; in 170° F water for eight minutes; 212° F water for three minutes.

Clean suits and towels must be kept strictly separated from those which have been used.

History

ACMY-191-71, May 12, 1971.

Revision note. Subsections (D) and (E), first sentence, slightly reworded for purpose of clarity.

§ 1324. Maximum permissible number of bathers

The maximum number of bathers permitted within the enclosed bathing area at any one time shall not exceed one bather for each 25 square feet of water surface of the pool.

History

ACMY-191-7 1, May 12, 1971.

Revision note. Word "enclosed" substituted for "fenced".

§ 1325. Safety precautions

A. *Ring buoys.* At every swimming pool there shall be provided two or more throwing ring buoys having a maximum outside diameter of 18 inches and with a one-fourth inch line attached whose length shall be not less than the pool width plus 10 feet, placed on racks at strategic intervals about the pool.

B. *Poles or life hooks.* One or more light but strong poles (bamboo or other) with blunt ends not less than 12 feet in length, for making reaching assists or rescues shall be provided.

C. *First aid kit and supplies.* A first aid kit containing sterile gauze, absorbent cotton, adhesive tape, bandages of various widths and a lifesaving plastic airway for mouth to mouth resuscitation shall be provided.

D. *Telephone.* Every swimming pool shall be provided with a telephone and the telephone numbers of one or more doctors, ambulances, hospitals, police departments, fire departments and sheriff's departments.

E. *Lifeguard.* A lifeguard shall be on duty in the bathing area at all times that a public swimming pool is in operation. For a semiprivate pool, a responsible person shall be in the pool area at all times the pool is open to swimmers. If regulation lifeguard service is not provided at semi private pools a sign shall be posted clearly stating that this service is not provided.

F. *Glass containers.* Glass containers shall not be permitted in shower rooms or the enclosed area of any pool.

G. *Lighting.* Pools open for night swimming shall be equipped with adequate artificial area lighting, including underwater lights.

History

ACMY-191-71, May 12, 1971.

Revision note. Second paragraph slightly reworded for purpose of clarity.

§ 1326. Food and refreshments

A. No food or refreshments shall be permitted in the immediate enclosed bathing area of a public swimming pool.

B. The operator of a semiprivate swimming pool may provide food and drink service within the enclosed barrier area, providing non-breakable eating and drinking utensils and containers.

History

ACMY-191-71, May 12, 1971.

Revision note. Word "may" substituted for "is allowed to" in second paragraph.

§ 1327. Spectators

Spectators may be allowed within the enclosed bathing area of semiprivate pools only, except that during recognized, organized aquatic programs, spectators may be allowed in the bathing area of public pools.

History

ACMY-191-71, May 12, 1971.

Revision note. Rephrased for purpose of clarity.

§ 1328. Operating records

The daily operating record for a public swimming pool shall include the following: date; the total number of bathers accommodated; the maximum number of bathers at any time; starting and stopping time of filters; time of backwashing; whether or not the pool bottom at its greatest depth is plainly visible at all times; results of disinfecting residuals; pH of pool water; kinds and quantities of chemicals added; and the name of the pool operator. Accidents shall be recorded.

History

ACMY-191-71, May 12, 1971.

Title 7

Courts and Procedure

Chapter 1. Definitions

§ 101. Signature defined

The term "signature" as used in this Title shall be defined as the written signature, official seal, or the witnessed thumb print or mark of any individual.

History

CO-72-03, October 24, 2003.

CD-94-85, December 4, 1985.

CJA-1-59, January 6, 1959.

§ 102. Navajo Nation Council defined

The term "Navajo Nation Council," as used in this Title shall be construed to refer to the Navajo Nation Council, as defined in 2 N.N.C. § 101.

History

CO-72-03, October 24, 2003.

CD-94-85, December 4, 1985.

CJA-1-59, January 6, 1959.

§ 103. District Courts defined