

**RESOLUTION OF THE  
RESOURCES AND DEVELOPMENT COMMITTEE  
Of the 23rd Navajo Nation Council---First Year 2015**

**AN ACTION**

**RELATING TO THE RESOURCES AND DEVELOPMENT COMMITTEE; APPROVING THE NAVAJO NATION BUSINESS LICENSE REGULATIONS; AND, DELEGATING THE AUTHORITY TO APPROVE BUSINESS LICENSES TO THE DIVISION OF ECONOMIC DEVELOPMENT**

**BE IT ENACTED:**

**Section One. Findings**

A. Pursuant to 2 N.N.C. § 501 (B)(2)(a), the Resources and Development Committee is authorized to approve licenses on Navajo Nation lands and restricted (fee) land. This would include approval of business licenses.

B. Pursuant to 2 N.N.C. § 501 (B)(11), the Resources and Development Committee is authorized to delegate its responsibilities and authorities for efficiency and streamlining of government processes to Divisions of the Navajo Nation provided the Resources and Development Committee first approves rules and regulations governing such delegations.

C. The Resources and Development Committee finds it is in the best interest of the Navajo Nation to approve the Navajo Nation Business License Regulations attached as Exhibit A.

D. The Resources and Development Committee finds it is in the best interest of the Navajo Nation for efficiency and streamlining of government processes to delegate the authority to approve business licenses to the Navajo Nation Division of Economic Development.

**Section Two. Approval of the Navajo Nation Business License Regulations**

The Navajo Nation hereby approves the Navajo Nation Business License Regulations, attached hereto as Exhibit A.

**Section Three. Delegation of Business License Authority**

The Navajo Nation hereby delegates the authority to approve business licenses to the Navajo Nation Division of Economic Development.

**Section Four. Effective Date**

This resolution shall become effective at the beginning of the second Fiscal Quarter of 2016.

**CERTIFICATION**

I, hereby, certify that the foregoing resolution was duly considered by the Resources and Development Committee of the 23<sup>rd</sup> Navajo Nation Council at a duly called meeting at Tohajiilee Chapter, Tohajiilee, (Navajo Nation) New Mexico, at which quorum was present and that same was passed by a vote of 5 in favor, 0 opposed, 1 abstained this 29th day of December, 2015.



**Benjamin Bennett, Vice-Chairperson  
Resources and Development Committee  
Of the 23<sup>rd</sup> Navajo Nation Council**

**Motion: Honorable Leonard Pete  
Second: Honorable Davis Filfred**



## NAVAJO NATION BUSINESS LICENSE REGULATIONS

This Document shall be known as the "Navajo Nation Business License Regulations" (Regulations)

### I. PURPOSE

The purpose of these Regulations is as follows:

- A. Establish a business license program and ensure those Persons conducting business within the Navajo Nation apply for a business license.
- B. Provide a mechanism that will allow the Navajo Nation to monitor commercial activity for goods and services that are procured by enrolled members of the Navajo Nation, the Navajo Nation government, Navajo Nation enterprises and other entities that are wholly or partially owned by the Navajo Nation, federal and state agencies, and private entities.
- C. Enable the Navajo Nation to secure, monitor, and analyze data concerning economic activity within the Navajo Nation for purposes of economic development planning and Navajo Nation policy development.
- D. Provide for the development of an income source through the business license fees to assist with the development of Navajo-owned businesses within the Navajo Nation.

### II. DELEGATION, REGULATIONS AND RULES

- A. Pursuant to 2 N.N.C. § 501 (B) (2) (a), the committee has the authority to approve licenses, including business license. The Committee also has the authority to delegate its approval authority of licenses to appropriate Divisions, governance certified chapters, Townships or appropriate entity.
- B. The Committee hereby delegates its approval of business license to the Division of Economic Development.
- C. The Rules shall be consistent with these Regulations. If the Rules are inconsistent with these Regulations, these Regulations shall govern.



### III. DEFINITIONS

- A. "Applicant" means any Person who applies for a License pursuant to these Regulations.
- B. "Business" includes all activities or acts including professions, trades, and occupations, personal or corporate, which any individual or association of individuals engaged in and caused to be engaged in with the object of gain, benefit or advantage, either direct or indirect, but not casual activities or sales.
- C. "Business License Fee" is any fee paid by an Applicant in connection with the filing or modification of an application seeking to obtain a Business License pursuant to these Regulations.
- D. "Casual activity or sale" means a transaction of an isolated nature made by a person who neither represents himself to be nor is engaged in a business subject to the licensing requirements of these Regulations.
- E. "Committee" is the Resource and Development Committee of the Navajo Nation Council.
- F. "Company" is any company formed under any Navajo Nation, state, or federal law; and shall include all its members and managers, but only including those controlling owners.
- G. "Corporation" is any corporate or chartered entity formed under any Navajo Nation, state, or federal law; and shall include all of its board of directors, officers, and controlling shareholders.
- H. "Engaging in business"
  - 1. The term "engaging in business" means commencing, conducting, or continuing in business, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators hold themselves out to the public as conducting such business.
  - 2. The Rules may present examples of activities that constitute engaging in business in the Navajo Nation, and may establish safe harbors for certain de minimus commercial activities that are outside the scope of these Regulations. The activities listed in the Business License Policies pursuant to this definition are illustrative only and are not intended to narrow the definition of "engaging in business" set forth in Section III (H) (1).

- I. "Individual" is any natural person and shall include person's spouse pursuant to applicable principles of community property law.
- J. "License" or "Business License" is a permit issued by the Navajo Nation to allow a Person to conduct business within the Navajo Nation for a specified period of time in accordance with the provisions of these Regulations.
- K. "Navajo Nation"
  - 1. When referring to the "Navajo Nation" as an entity, the Navajo Nation shall have the same definition as provided by 1 N.N.C. § 552.
  - 2. When referring to the "Navajo Nation" as a territory, all land within territorial boundaries of the Navajo Nation shall have the same definition as 7 N.N.C. § 254.
- L. "Navajo-owned" is a business that has 51% to 100% owned and controlled ownership by an enrolled member of the Navajo Nation.
- M. "Native-American owned" is a business that has 51% to 100% owned and controlled ownership by an enrolled member of a federally recognized tribe.
- N. "Partnership" is any partnership formed under any Navajo Nation or state law or any group of two or more individuals who hold themselves out as a partnership, formally or informally, including, but not limited to joint venture partners, brokers, dealers, etc.; and shall include each individual partner for eligibility identification purposes.
- O. "Person" includes any individual, trustee, executor, fiduciary, officer, agent, firm, partnership, sole proprietorship, joint venture, association, company, corporation, or other legal entity or combination acting as a unit or the principals of the aforementioned.
- P. "Principals" is one of the primary persons, including, but not limited to the owner, proprietor, shareholder, director, officer, president, members, managers, managing partner and the like.
- Q. "Principal place of business" is a primary location where business is performed. The principal place of business is generally where the business' books and records are kept and where the principals of a business are located.



- R. "Sale" is a transfer of title or possession, or both exchange, barter, lease and rental, conditional or otherwise, in any manner or by any means whatever, of tangible personal property, for the consideration, and includes:
1. Any transaction whereby the possession of property is transferred, but the seller retains the title as security for the payment of the price.
  2. The fabrication of tangible personal property for consumers who furnish either directly or indirectly the materials used in the fabrication work, and the furnishing, preparing or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing or serving such tangible personal property.
- S. "Special Event" is a sporting, cultural, business or other type of unique activity that occurs at a limited or fixed duration.

**IV. APPLICATION; COMPLIANCE REQUIREMENTS AND VIOLATIONS.**

- A. **Application.** These Regulations shall apply uniformly to all Persons engaging in business within the territorial boundaries of Navajo Nation.
- B. **Inapplicability.** These Regulations shall not apply to the following:
1. Navajo Nation Government;
  2. Navajo Nation Enterprises that are wholly owned by the Navajo Nation; and
  3. Federal or state governmental entities;
- C. While the above-mentioned entities are not required to obtain a Business License, all Persons that engage in business with the entities listed in Subsection B in this Section are required to obtain a Business License.
- D. **Falsification or Concealment of Information.** Any Person who authorizes, or knowingly or recklessly omits, or allows, or falsifies, or otherwise misrepresents any fact or matter material to any determination required by these Regulations or applicable Navajo Nation laws or policies, shall be subject to revocation of the Business License.

E. **Compliance.** Any Person engaging in business within the Navajo Nation shall comply with all applicable Navajo Nations laws and policies.

F. **Conflicts of Interest.**

1. No official or employee of the Navajo Nation government or entity of the Navajo Nation that is authorized to implement these Regulations shall promote, approve or participate in any matter pending before that agency or entity, in which such official or employee or any member of his or her immediate family has an economic or other special interest pursuant to the Navajo Nation Ethics in Government Law, 2 N.N.C. § 3741 et. seq.
2. The failure or refusal of such official or employee to abstain from such participation as required thereunder, shall trigger an independent review by the Ethics and Rules Office with respect to any Business License issued by such official or employee to the pertinent Applicant pursuant to these Regulations. If this review determines that the License would not have been issued but for the conflict of interest, or that the documentation submitted by the Applicant was other than that required under these Regulations, the License shall be deemed void. If the information submitted by the Applicant was accurate and complete, and the requirements for issuance of a License pursuant to these Regulations have otherwise been satisfied, the License shall be deemed valid and shall remain in effect.

V. **REQUIREMENT TO OBTAIN A BUSINESS LICENSE**

- A. All Persons engaging in business within the Navajo Nation must obtain a Business License to conduct business pursuant to these Regulations.
- B. The requirement that Persons engaging in business within the Navajo Nation obtain a Business License applies even in instances where the Person's principal place of business is located outside of the Navajo Nation.
- C. A separate Business License is required and a separate Business License Fee must be paid by an Applicant in the following situations:
  1. For each place of business, unless two or more places of business are contiguous to each other, communicate



directly with and open into each other, and are operated as a unit; and

2. If a legal entity (i.e. corporation or company) has several subsidiaries engaging in business on the Navajo Nation, each subsidiary will be required to obtain a separate Business License.
- D. The Business License shall authorize the Licensee to engage in business within the Navajo Nation.
  - E. A Business License issued pursuant to these Regulations shall not be transferable except insofar a Business License may be amended pursuant to Section VII (D).

#### **VI. APPLICATION AND ISSUANCE**

- A. An application for a Business License may be obtained in person at the Navajo Nation Business License Office or such other locations within the Navajo Nation. Applications for a license shall be submitted in writing, either via hard copy, or through an Internet-based application system.
- B. The Rules adopted pursuant to Section II shall establish a Business License Fee schedule for Applicants, including any appropriate exemptions.
  1. Navajo Owned;
  2. Native American Owned,

#### **VII. TERM OF LICENSE**

- A. **Term.** Subject to the provisions of these Regulations, a Business License shall be valid for a period of one (1) year from the date of approval.
- B. **Renewal.** A Person may renew its License thirty (30) days prior to the expiration date of the License.
- C. **Special Event.** A license may be issued for a special event for a period of five (5) days from the date of approval. A Person may apply for a special event license no more than two (2) times per a 12-month period.
- D. **Changes in status, ownership, location, or line of business during the period in which the License is in force.** A licensee shall report a change to the information contained in its Business License application using procedures



specified in the Rules. Changes shall be reported within thirty (30) days after the change occurs.

1. **Changes and fees.** The Rules shall specify procedures for applicable Business License Fee adjustments and license amendments based upon notice of changes provided pursuant to this Section.
2. **Changes requiring refusal or revocation of a License.** If the change reported by the licensee gives rise to a basis for revoking the License under the provisions of these Regulations, the Division of Economic Development shall initiate revocation procedures in accordance with the process outlined in Section IX.

#### **VIII. TRANSACTING BUSINESS WITHOUT A LICENSE**

- A. If a Person is engaging in any business within the Navajo Nation without a valid Business License, the Division of Economic Development shall notify the Person of the non-compliance of these Regulations, in writing, and inform the Person that no further business may be conducted unless the Person obtains a Business License.
- B. If the Person continues to engage in any business without a Business License, the Division of Economic Development has the authority to assess a penalty of \$500.00, and such Person will be prohibited from engaging in business in the Navajo Nation until all fines of penalties are paid.

#### **IX. REVOCATION OF LICENSE**

- A. Business Licenses issued pursuant to these Regulations may be revoked, for any of the following causes;
  1. Fraud, misrepresentation or incorrect statement contained in the application for license;
  2. Fraud, misrepresentation or incorrect statement made in the course of carrying on the business or trade;
  3. Any violation of these Regulations or any other Navajo Nation Law or policies;
  4. Conviction of a crime of moral turpitude;
  5. Conducting business or trade in an unlawful manner of in such a manner as to constitute a breach of the peace or constitute a menace to the health, safety or general welfare of the public;

6. Unconscionable and other unfair business practices;
  7. Abandonment of the business for which the license was issued; or
  8. A determination of ineligibility as provided by the Navajo Business and Procurement Act, 12 N.N.C. § 1501 *et. seq.*
- B. After reasonable notice to the Person involved and reasonable opportunity for that Person to be heard, the Division of Economic Development shall revoke the Business License if it finds by a preponderance of the evidence that one or more of grounds for revocation set forth in Section IX (A) have been established. The revocation shall not be for a period of more than three (3) years.
- C. The Navajo Nation shall issue a written decision to revoke the license. The decision shall include the following:
1. State the reason for the action taken, and
  2. Inform the Person of his/her right to appeal this decision.

#### **X. APPEAL**

- A. The Office of Hearings and Appeals shall have jurisdiction to review and determine de novo:
1. Any protest of a denial or renewal of a Business License;
  2. Any protest concerning the revocation of Business License; and
  3. Any protest of any other determination of the Division of Economic Development as authorized or required under the provisions of these Regulations or the Business License Policies.
- B. Time Limitation on Filing an Appeal. The aggrieved Person shall file his or her appeal within ten (10) business days from the date of the Division of Economic Development's revocation decision.
- C. Decision. The Office of Hearings and Appeals shall make a determination based on the preponderance of the evidence on the issue of whether the actions of the Navajo Nation are consistent with the provisions of these Regulations and the Rules. The Division of Economic Development's decision



shall be upheld unless it is shown by a preponderance of the evidence that the actions of the Navajo Nation violated a specific provision of these Regulations or the Rules.

#### **XI. PRESUMED FINALITY OF DECISIONS**

Determinations by the Office of Hearings and Appeals shall be final and conclusive.

#### **XII. SEVERABILITY**

The Provisions of these Regulations are severable and if any provision of these Regulations, or its application to any person or circumstance is held invalid by a final judgment of the Navajo Nation Court, such decision shall not affect the validity of the remaining portions of these Regulations.

#### **XIII. AMENDMENTS**

These Regulations may be amended by the Committee at any time.