

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0112-20__

SPONSOR: Amber Kanazbah Crotty

TITLE: An Action Relating to an Emergency; Waiving 13 N.N.C. §§ 1901-1903 (Burial Statute), 13 N.N.C. §§ 1951-1953 (Cemeteries), 16 N.N.C. §§ 2251-2253 (Navajo Nation Civil Trespass Act), 16 N.N.C. §§ 2301 et seq. (Navajo Nation General Leasing Regulations) as relates to obtaining a lease for family burial plots, guidance on burials, community cemeteries, family plot burials and related services Section (G), RDCJN-33-15, the Navajo Land Department's Land Withdrawal Designation Regulations, and, RDCO-74-16, and Homesite Lease Regulations Section 17.08 (J) to allow family members to bury their loved ones in family burial plots during this State of Emergency due to the COVID-19 virus; Waivers to be for a limited time; and compensation and due process pursuant to 16 N.N.C. 1401 et seq. shall be afforded to land users who have not consented to the use of their land for family burial plots

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LEGISLATIVE SUMMARY SHEET

Tracking No. 0112-20

DATE: April 24, 2020

TITLE OF RESOLUTION: PROPOSED NAVAJO NATION COUNCIL RESOLUTION; AN ACTION RELATING TO AN EMERGENCY; WAIVING 13 N.N.C. §§ 1901-1903 (BURIAL STATUTE), 13 N.N.C. §§ 1951-1953 (CEMETERIES), 16 N.N.C. §§ 2251-2253 (NAVAJO NATION CIVIL TRESPASS ACT), 16 N.N.C. §§ 2301 *ET SEQ.* (NAVAJO NATION GENERAL LEASING REGULATIONS) AS RELATES TO OBTAINING A LEASE FOR FAMILY BURIAL PLOTS, GUIDANCE ON BURIALS, COMMUNITY CEMETERIES, FAMILY PLOT BURIALS AND RELATED SERVICES SECTION (G), RDCJN-33-15, THE NAVAJO LAND DEPARTMENT'S LAND WITHDRAWAL DESIGNATION REGULATIONS, AND, RDCO-74-16, AND HOMESITE LEASE REGULATIONS SECTION 17.08 (J) TO ALLOW FAMILY MEMBERS TO BURY THEIR LOVED ONES IN FAMILY BURIAL PLOTS DURING THIS STATE OF EMERGENCY DUE TO THE COVID-19 VIRUS; WAIVERS TO BE FOR A LIMITED TIME; AND COMPENSATION AND DUE PROCESS PURSUANT TO 16 N.N.C. §§ 1401 *ET SEQ.* SHALL BE AFFORDED TO LAND USERS WHO HAVE NOT CONSENTED TO THE USE OF THEIR LAND FOR FAMILY BURIAL PLOTS

PURPOSE: The purpose of this legislation is to approve the waiver of 13 N.N.C. §§ 1901-1903 (Burial Statute); 13 N.N.C. §§ 1951-1953 (Cemeteries); 16 N.N.C. §§ 2251-2253 (Navajo Nation Civil Trespass Act); Guidance on Burials, Community Cemeteries, Family Plot Burials and Related Services Section (G); RDCJN-33-15, the Navajo Land Department's Land Withdrawal Designation Regulations; RDCO-74-16, Homesite Lease Regulations Section 17.08 (J); and the Navajo Nation General Leasing Regulations as relates to obtaining a lease for family burial plots so that family members may bury their loved ones in family burial plots during this Declared State of Emergency. This legislation will also authorizes the use of 16 N.N.C. §§ 1400 *et seq.* to afford land users who have not given their consent for the use of land for family burial plots just compensation and due process.

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

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
24th NAVAJO NATION COUNCIL – Second Year, 2020

INTRODUCED BY

(Prime Sponsor)



TRACKING NO. 0112-20

AN ACTION

RELATING TO AN EMERGENCY; WAIVING 13 N.N.C. §§ 1901-1903 (BURIAL STATUTE), 13 N.N.C. §§ 1951-1953 (CEMETERIES), 16 N.N.C. §§ 2251-2253 (NAVAJO NATION CIVIL TRESPASS ACT), 16 N.N.C. §§ 2301 *ET SEQ.* (NAVAJO NATION GENERAL LEASING REGULATIONS) AS RELATES TO OBTAINING A LEASE FOR FAMILY BURIAL PLOTS, GUIDANCE ON BURIALS, COMMUNITY CEMETERIES, FAMILY PLOT BURIALS AND RELATED SERVICES SECTION (G), RDCJN-33-15, THE NAVAJO LAND DEPARTMENT'S LAND WITHDRAWAL DESIGNATION REGULATIONS, AND, RDCO-74-16, AND HOMESITE LEASE REGULATIONS SECTION 17.08 (J) TO ALLOW FAMILY MEMBERS TO BURY THEIR LOVED ONES IN FAMILY BURIAL PLOTS DURING THIS STATE OF EMERGENCY DUE TO THE COVID-19 VIRUS; WAIVERS TO BE FOR A LIMITED TIME; AND COMPENSATION AND DUE PROCESS PURSUANT TO 16 N.N.C §§ 1401 *ET SEQ.* SHALL BE AFFORDED TO LAND USERS WHO HAVE NOT CONSENTED TO THE USE OF THEIR LAND FOR FAMILY BURIAL PLOTS

BE IT ENACTED:

Section One. Authority

1 A. The Navajo Nation Council is the governing of body of the Navajo Nation. 2
2 N.N.C. § 102(A).

3 B. Pursuant to 2 N.N.C. §164 (A)(16) “[m]atters constituting an emergency shall be
4 limited to the cessation of law enforcement services, and disaster relief services,
5 fire protection services or other direct services required as an entitlement under
6 Navajo Nation or Federal law, or which directly threaten the sovereignty of the
7 Navajo Nation. Such an emergency matter must arise due to the pressing public
8 need for such resolution(s) and must be a matter requiring final action by the
9 Council.”

10 **Section Two. Findings**

11 A. The Navajo Nation President issued Executive Order 001-20 declaring a state of
12 emergency due to COVID-19 on March 13, 2020.

13 B. On March 11, 2020, the Emergency Management Commission declared a state of
14 emergency due to COVID-19. CEM-20-03-11.

15 C. As of April 23, 2020, the COVID-19 disease has claimed 52 lives on the Navajo
16 Nation. Navajo Department of Health, April 23, 2020.

17 D. Not all Navajo Nation families who wish to bury their loved ones at a home burial
18 plot have had the time to comply with 13 N.N.C. §§ 1901-1903 (Burial Statute);
19 13 N.N.C. §§ 1951-1953 (Cemeteries); 16 N.N.C. §§ 2251-2253 (Navajo Nation
20 Civil Trespass Act); 16 N.N.C. §§ 2301 *et seq.* (Navajo Nation General Leasing
21 Regulations) as relates to obtaining a lease for family burial plots; Guidance on
22 Burials, Community Cemeteries, Family Plot Burials and Related Services
23 Section (G), attached as **Exhibit A**; the RDCJN-33-15, Navajo Land
24 Department’s Land Withdrawal Designation Regulations, attached as **Exhibit B**;
25 and, RDCO-74-16, the Homesite Lease Regulations Section 17.08 (Homesite
26 Lease Residential Use Restriction) (J).

27 E. In this Declared State of Emergency due to the COVID-19 disease, there is a need
28 to waive the requirements of 13 N.N.C. §§ 1901-1903 (Burial Statute); 13 N.N.C.
29 §§ 1951-1953 (Cemeteries); 16 N.N.C. §§ 2251-2253 (Navajo Nation Civil
30 Trespass Act); 16 N.N.C. §§ 2251-2253 (Navajo Nation Civil Trespass Act); 16

1 N.N.C. §§ 2301 *et seq.* (Navajo Nation General Leasing Regulations) as relates
2 to obtaining a lease for family burial plots; Guidance on Burials, Community
3 Cemeteries, Family Plot Burials and Related Services Section (G); RDCJN-33-15,
4 the Navajo Land Department's Land Withdrawal Designation Regulations; and
5 RDCO-74-16, Homesite Lease Regulations Section 17.08 (J).

6 F. "The Navajo Tribe has the power to take or authorize the taking of property
7 without the consent of the owners of the property or of any interest therein,
8 provided that the owners are given due process of law and just compensation.
9 *Dennison v. Tucson Gas and Electric Co.*, 1 Nav. R. 95 (Nav. Sup. Ct. 1974).

10 G. Because of the waivers of the above Navajo Nation laws and regulations, land
11 users who have not given their consent for the use of land for family burial plots
12 shall be afforded just compensation and due process pursuant to 16 N.N.C. § 1401
13 *et seq.* (Compensation for Improvements and Customary Use Rights Upon
14 Adverse Disposition of Land).

15
16 **Section Three. Approving waivers of 13 N.N.C. §§ 1901-1903 (Burial Statute);**
17 **13 N.N.C. §§ 1951-1953 (Cemeteries); 16 N.N.C. §§ 2251-2253 (Navajo Nation**
18 **Civil Trespass Act); 16 N.N.C. §§ 2301 *et seq.* (Navajo Nation General Leasing**
19 **Regulations) as relates to obtaining a lease for family burial plots; Guidance on**
20 **Burials, Community Cemeteries, Family Plot Burials and Related Services**
21 **Section (G); the RDCJN-33-15, Navajo Land Department's Land Withdrawal**
22 **Designation Regulations; RDCO-74-16, and Homesite Lease Regulations Section**
23 **17.08 (J)**

24
25 The Navajo Nation approves the waiver of 13 N.N.C. §§ 1901-1903 (Burial
26 Statute); 13 N.N.C. §§ 1951-1953 (Cemeteries); 16 N.N.C. §§ 2251-2253 (Navajo
27 Nation Civil Trespass Act); 16 N.N.C. §§ 2301 *et seq.* (Navajo Nation General
28 Leasing Regulations) as relates to obtaining a lease for family burial plots;
29 Guidance on Burials, Community Cemeteries, Family Plot Burials and Related
30 Services Section (G); RDCJN-33-15, the Navajo Land Department's Land

1 Withdrawal Designation Regulations; RDCO-74-16, and Homesite Lease
2 Regulations Section 17.08 (J) so that family members may bury their loved ones
3 in family burial plots during this Declared State of Emergency.
4

5 **Section Four. 16 N.N.C. §§ 1400 *et seq.* Compensation for Improvements and**
6 **Customary Use Rights Upon Adverse Disposition of Land**

7 The Navajo Nation hereby authorizes the use of 16 N.N.C. §§ 1400 *et seq.* to
8 afford land users who have not given their consent for the use of land for family
9 burial plots just compensation and due process.
10

11 **Section Five. Effective Date**

- 12 A. The provisions of this Action shall become effective pursuant to 2 N.N.C. §
13 221 (B).
14 B. The provisions of this Action shall expire sixty (60) days after its effective
15 date, unless otherwise determined by resolution of the Navajo Nation Council.
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