

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: 0247-24

SPONSOR: Shawna Ann Claw

TITLE: An Action Relating to Resources and Development, the Naabik'íyáti' Committee and the Navajo Nation Council; Rescinding CM-9-50 and Repealing 14 N.N.C. § 1200 which Established a Control Zone of 750 Feet on Either Side of a Roadway

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LEGISLATIVE SUMMARY SHEET

Tracking No. 0247-24

DATE: September 22, 2023

TITLE OF RESOLUTION: PROPOSED NAVAJO NATION COUNCIL RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT, THE NAABIK'ÍYÁTI' COMMITTEE AND THE NAVAJO NATION COUNCIL; RESCINDING CM-9-50 AND REPEALING 14 N.N.C. § 1200 WHICH ESTABLISHED A CONTROL ZONE OF 750 FEET ON EITHER SIDE OF A ROADWAY

PURPOSE: The purpose of this proposed resolution is to rescind the Navajo Nation Council Resolution CM-9-50 and to repeal 14 N.N.C. § 1200 which established a control zone of 750 feet on either side of a roadway.

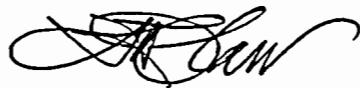
This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.

5-DAY BILL HOLD PERIOD
Website Posting Time/Date
Posting End Date: 11-23-24
Eligible for Action: 11-24-24

Resources & Development Committee
Thence
Naabik'iyáti' Committee
Thence
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
25th NAVAJO NATION COUNCIL—First Year, 2023

INTRODUCED BY



Primary Sponsor

TRACKING NO. 0247-24

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT, THE NAABIK'ÍYÁTI'
COMMITTEE AND THE NAVAJO NATION COUNCIL; RESCINDING CM-9-50
AND REPEALING 14 N.N.C. § 1200 WHICH ESTABLISHED A CONTROL ZONE
OF 750 FEET ON EITHER SIDE OF A ROADWAY

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Resources and Development Committee has oversight authority over land to establish policy with respect to utilization of resources. 2 N.N.C. § 500 (C) (1).
- B. A proposed resolution that requires final action by the Navajo Nation Council shall be assigned to the Naabik'iyáti' Committee before it is heard by the Navajo Nation Council. 2 N.N.C. § 164 (A)(9).
- C. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102 (A).

SECTION TWO. FINDINGS

- A. In 1950 the Navajo Nation Council passed Resolution CM-9-50, attached as **Exhibit A**. (**Exhibit A** contains the signed version of CM-9-50 and a

1 "PERMANENT FILE-NAVAJO TRIBE ARCHIVE COPY" which is typed
2 in larger print.)

3 B. In the Whereas section of Resolution CM-9-50, it states that "*the Navajo*
4 *Tribe deems it advisable to control all business enterprises, structures,*
5 *installations, and any other developments for a distance of seven hundred fifty*
6 *(750) feet on both sides of the right-of-way of all constructed and maintained*
7 *roads on tribal lands[.]*"

8 C. Navajo Nation Council Resolution CM-9-50 THEREFORE, BE IT
9 RESOLVED section states "*that controlled zones of seven hundred fifty (750)*
10 *feet on both sides of the right-of-way of any constructed, maintained, or*
11 *proposed new roads are hereby established. The Advisory Committee of the*
12 *Navajo Tribal Council shall have full authority, acting for the Navajo Tribal*
13 *Council, to make and regulate any installations, grant permits or leases,*
14 *establish rental rates, require submission of plans for proposed installations*
15 *and specify conditions which must be met to receive a permit or lease in said*
16 *zones, subject to the approval of the General Superintendent of the Navajo*
17 *Agency. This authority shall not be construed to regulate the control of*
18 *engineering structures required in the construction of roads, water*
19 *development, soil and moisture conservation structures, or any other land*
20 *Improvements to be made by the government for the benefit of the Navajo*
21 *Tribe of Indians, nor shall this authority be construed to restrict the use of*
22 *land within such zones for grazing and farming by individuals Navajo Indians*
23 *who may have recognized use rights of tribal lands within such zones.*"

24 D. Resolution CM-9-50 was essentially codified at 14 N.N.C. § 1200.

25 E. Since the passage of Navajo Nation Council Resolution CM-9-50 and the
26 enactment of 14 N.N.C. § 1200 the Navajo Nation Council's Advisory
27 Committee has ceased to exist.

28 F. The Navajo Land Department has been delegated the authority to grant
29 approval for rights-of-way (RDCS-21-22); to grant approval for Tribal
30 Authorization Authorizing Access without Bureau of Indian Affairs Approval

1 for Independent Legal Entities Wholly Owned and Operated by the Navajo
2 Nation (TAA) (RDCJN-17-20); to grant approvals for homesite leases (RDC-
3 289-92, RDCO-74-16). The Division of Economic Development has been
4 granted the authority to approve business site leases (EDCAU-39-09). Rules
5 and regulations and the delegation of approval authority for the grant of
6 rights-of-way, TAAs, homesite leases and business site leases have been
7 approved by standing committees of the Navajo Nation Council.

8 G. During the seventy-three years since the approval of Resolution CM-9-50, the
9 Navajo Nation Local Governance Act (1998) was enacted. The Chapters of
10 the Navajo Nation have exercised their authorities to approve Community
11 Land Use Plans pursuant to 26 N.N.C. § 2004 (B) (C) (D). These Community
12 Land Use Plans “shall project future community land needs, shown by
13 location and extent, of areas identified for residential, commercial, industrial,
14 and public purposes. The land use plan shall be based upon the guiding
15 principles and vision as articulated by the community; along with information
16 revealed in inventories and assessments of the natural, cultural, human
17 resources, and community infrastructure, and, finally with consideration for
18 the land-carrying capacity.”

19 H. The enactment of Navajo Nation laws, rules and regulations with regard to
20 approval of land uses provides procedures and guidance for land usage on the
21 Navajo Nation. These same Navajo Nation laws, rules and regulations would
22 be used when making decisions about the 750 feet on both sides of roadways
23 which is the topic of Resolution CM-9-50 and the enactment of 14 N.N.C. §
24 1200.

25
26 **SECTION THREE. RESCINDING NAVAJO NATION COUNCIL**
27 **RESOLUTION CM-9-50**

28 The Navajo Nation Council hereby rescinds CM-9-50, attached hereto as **Exhibit**
29 **A.**
30

1 **SECTION FOUR. REPEALING 14 N.N.C. § 1200**

2 The Navajo Nation Council repeals Title 14 Section 1200 as follows:

3 _____

4 **NAVAJO NATION CODE**

5 **TITLE 14. NAVAJO NATION MOTOR VEHICLE CODE**

6 **CHAPTER 10. ~~Zoning Sides of Highways~~**

7 ~~§1200. Generally~~

8 ~~Controlled zones of 750 feet on both sides of the right of way of any constructed,~~
9 ~~maintained or new proposed roads are established.~~

10 _____

11 **SECTION FIVE. CODIFICATION**

12 The provisions of the Act which amend or adopt new sections of the Navajo Nation
13 Code shall be codified by the Office of Legislative Counsel. The Office of Legislative
14 Counsel shall incorporate such amended provisions in the next codification of the Navajo
15 Nation Code.

17 **SECTION SIX. SAVING CLAUSE**

18 Should any provision of this Act be determined invalid by the Navajo Nation Supreme
19 Court or the District Courts of the Navajo Nation, without appeal to the Navajo Nation
20 Supreme Court, the remainder of the Act shall remain the law of the Navajo Nation.

22 **SECTION SEVEN. EFFECTIVE DATE**

23 The amendments approved herein shall become effective in accordance with 2 N.N.C.
24 § 221(B).