

RESOLUTION OF THE NAVAJO TAX COMMISSION**APPROVING THE CHAPTER TAX ORDINANCE TEMPLATE FOR UTILIZATION
BY LOCAL GOVERNANCE ACT - CERTIFIED CHAPTERS****WHEREAS:**

1. Pursuant to 2 N.N.C. § 3353(A)(1), the Navajo Tax Commission is authorized to *“review and study all sources of wealth and income within the Navajo Nation and the possible revenues from the taxation of those sources, in order to develop an appropriate, comprehensive system of taxation;”* and
2. Pursuant to 26 N.N.C. § 103(E)(8), Local Governance Act (“LGA”)-certified chapters may adopt ordinances including to enact *“[l]ocal taxes pursuant to a local tax code developed by the Navajo Tax Commission and approved by the Navajo Nation Council;”* and
3. The Navajo Nation Council resolution CJA-12-18 amended Title 24 of the Code by enacting the Uniform Local Tax Code at 24 N.N.C. § 150 *et seq.*; and
4. LGA-certified chapters seeking enactment of local taxes must adhere to 26 N.N.C. § 2001 (A) – (H) requirements for enactment of proposed ordinances; and
5. LGA-certified chapters are authorized to enact a local Sales Tax Ordinance; and
6. The Navajo Tax Commission has developed a Model Chapter Tax Ordinance template for utilization by all LGA-certified chapters seeking to enact local taxes within their chapter boundaries.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Tax Commission authorizes the use of the attached Exhibit “A” Chapter Tax Ordinance template for LGA-certified chapters seeking implementation of a local Sales Tax.
2. LGA-certified chapters will need to comply with requirements outlined in 26 N.N.C. § 2001 (A) – (H).

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Tax Commission at a duly called meeting in St. Michael’s, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 3 in favor and 0 opposed, with 0 abstaining, this 21st day of March, 2018.


Chairperson, Navajo Tax Commission

Motion: Shana Barehand
Second: Pearline Kirk

MODEL LOCAL TAX ORDINANCE

_____ Chapter Local Tax Code

Chapter 1

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MODEL LOCAL TAX ORDINANCE

Chapter 1

101. SHORT TITLE

This Ordinance shall be known as the Local Tax Ordinance of the _____ Chapter.

102. PURPOSE

The purpose of this Ordinance is to impose certain local taxes on behalf of the _____ Chapter, a governance-certified chapter, pursuant to the Navajo Tax Code, 24 N.N.C. § 101 *et seq.*, and the Uniform Local Tax Code, enacted pursuant to Navajo Nation Council Resolution number CJA-12-18 and codified at 24 N.N.C. § 150 *et seq.*, and 26 N.N.C. § 103(E)(8) of the Navajo Nation Local Governance Act.

103. ADMINISTRATION

- A. The Office of the Navajo Tax Commission is empowered to administer, enforce, and collect all _____ Chapter local taxes imposed under this Ordinance on behalf of the Chapter. The Office of the Navajo Tax Commission shall be empowered to adopt substantive and procedural rules and regulations, orders implementing its decisions and rulings, and instructions such as may be necessary to the proper and efficient administration of the Chapter's local tax ordinances.
- B. The Office of the Navajo Tax Commission shall retain a negotiated percentage of _____ percent (___%) (not to exceed 5%) of the local tax revenue it collects on behalf of the Chapter as a fee to offset the costs of administration.
- C. The Office of the Controller shall maintain a Chapter Tax Administration Suspense Fund on behalf of the Chapter. Two percent (2%) of all local tax revenue collected by the Office of the Navajo Tax Commission on behalf of the Chapter shall be placed in the Fund on an ongoing basis for the purpose of issuing tax refunds.

104. LOCAL TAXES IMPOSED

Pursuant to Title 24 Section 605(B), the Chapter imposes a local Sales Tax.

105. LIMITATIONS

Every local tax imposed pursuant to Section 104 of this Ordinance is subject to each of the following limitations:

- A. It is an additional tax authorized by the Navajo Tax Code for local imposition.
- B. The rate of the additional tax imposed is authorized by the Navajo Tax Code for local imposition.
- C. It applies solely to the same activity, and in the same manner as, the correlating Navajo tax for which a local tax component has also been authorized under the Navajo Tax Code.
- D. It does not displace the correlating Navajo tax.
- E. It shall become effective and enforceable in the first full quarter following submission of the duly adopted ordinance to the Office of Navajo Tax Commission pursuant to Section 153(E) of the Uniform Local Tax Code.

106. TAX REVENUES

- A. The local tax revenues generated under this Ordinance are Navajo Nation revenues and funds pursuant to 12 N.N.C. § 810(S).
- B. The net local tax revenues generated under this Ordinance are chapter funds for purposes of Title 26 N.N.C. § 2003 of the Navajo Nation Local Governance Act.
- C. All tax revenues generated hereunder or expended by the Chapter shall be: (1) timely reported to the Navajo Nation Office of Management and Budget to facilitate the budget process set forth in Title 26 Section 2003 of the Navajo Nation Local Governance Act; and (2) subject to audit by the Navajo Auditor General pursuant to Title 12 of the Navajo Code.
- D. The net local tax revenues generated hereunder shall be allocated according to the allocation provisions of Chapter 2 of this ordinance/s attached hereto.

107. EFFECTIVE DATE

This Ordinance shall take effect following adoption by the Chapter in accordance with 26 N.N.C. § 2001(H) of the Navajo Nation Local Governance Act, and upon satisfaction of each requirement set forth in the Uniform Local Tax Code at 24 N.N.C. § 153. The effective date shall be [January / April / July / October] 1, 20__.

MODEL LOCAL TAX ORDINANCE

Chapter 2

LOCAL SALES TAX ORDINANCE OF _____ CHAPTER

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MODEL LOCAL TAX ORDINANCE

Chapter 2

LOCAL SALES TAX ORDINANCE OF _____ CHAPTER

201. SHORT TITLE

The tax imposed by this Ordinance shall be called the " _____ Chapter Local Sales Tax."

202. PURPOSE

The _____ Chapter hereby enacts this Sales Tax for the privilege of engaging in business activity within the territorial boundaries of the _____ Chapter, and for purposes of defraying necessary governmental expenses at the local level incurred in providing for the public welfare.

203. TAX IMPOSED

A tax is hereby imposed on the gross receipts of a person. The tax due for a period is determined by first calculating applicable gross receipts for a period, and then multiplying those gross receipts by the applicable tax rate.

204. LEGAL INCIDENCE AND RESPONSIBILITY FOR PAYMENT

The person liable for the payment of the tax imposed by this Ordinance is the person receiving the gross receipts from a sale.

205. RATE OF TAX

- A. The tax imposed by this Chapter Ordinance is imposed at a rate of not less than one-quarter percent (.25%), nor more than four percent (4%). Until another rate is established by a subsequent Chapter Ordinance, the rate shall be _____ percent (___%) of the applicable gross receipts from all retail sales (.0__ x applicable gross receipts).
- B. This local Sales Tax rate is in addition to the rate approved by the Navajo Tax Commission for the Navajo Nation Sales Tax.

206. ADMINISTRATION

- A. This tax shall be administered in conformance with the Uniform Tax Administration Statute and other relevant provisions of the Navajo Tax Code.
- B. The Office of the Navajo Tax Commission is empowered to administer, enforce, and collect the local Sales Tax imposed by this Ordinance on behalf of the Chapter. The Office of the Navajo Tax Commission is empowered to adopt substantive and procedural rules and regulations, orders implementing its decisions and rulings, and instructions such as may be necessary to the proper and efficient administration of the Chapter's Sales Tax.
- C. The Office of the Navajo Tax Commission shall retain a negotiated percentage of _____ percent (___%) (not to exceed 5%) of the local Sales Tax revenue it collects on behalf of the Chapter as a fee to offset the costs of administration, and shall remit the balance of tax revenue to the Chapter.

207. DEFINITIONS

Subject to additional definitions, if any, contained in the subsequent sections of this Ordinance, and unless the context otherwise requires, the definitions contained in the Navajo Nation Sales Tax Statute at 24 N.N.C. § 607 shall apply to this Ordinance.

208. NAVAJO NATION AND CHAPTER GOVERNMENT

- A. Sales within the territorial boundaries of this Chapter by corporations owned by the Navajo Nation government or any political subdivision thereof shall be fully subject to the tax imposed by this Ordinance.
- B. Sales within the territorial boundaries of this Chapter by the Chapter government shall be subject to the tax imposed by this Ordinance.

209. EXEMPTIONS AND EXCLUSIONS

The exemptions and exclusions to the Navajo Nation Sales Tax pursuant to the Navajo Nation Sales Tax Statute and corresponding Regulations shall be recognized herein and are applicable to the local Sales Tax imposed by this Ordinance.

210. CREDITS

There shall be no tax credits.

211. FILING OF RETURN

- A. Each Person must file a return with the Office of the Navajo Tax Commission indicating all sales from applicable gross receipts and the tax due under this Ordinance for each period by the fifteenth day of the second month after the end of each calendar quarter. Returns are due on May 15, August 15, November 15, and February 15 of each calendar year.
- B. The Office of the Navajo Tax Commission may by form or regulation require that other information, records or relevant documents which it deems necessary for the proper and efficient administration of this Ordinance be included with the return, and that the return be signed by a specified Person.
- C. No return need be filed by any Person who is exempt under § 209, provided that the Office of the Navajo Tax Commission may require such person to file the information necessary to establish its exempt status.

212. PAYMENT OF TAX

Payment in full of the taxes owed for a particular period is due on the same date that the completed return for that same period is due.

213. RECORDKEEPING

- A. Each Person shall keep all records which pertain to or relate in any manner to all sales from any business activity engaged in at any time by such Person within the territorial boundaries of this Chapter. Such records shall be maintained separately for each reporting period during which a Person is engaged in such business activity.
- B. Records required to be kept must be preserved for four years beyond the end of the period to which the records relate.

214. ALLOCATION OF REVENUE

The net revenue from this Ordinance shall be disbursed to the Chapter and allocated as follows:

[The allocation list below is just an example. Chapters can allocate funds for any lawful purpose.]

- A. _____ percent (__%) of the revenue shall be allocated for the Chapter's administration costs;
- B. _____ percent (__%) of the revenue shall be allocated for the Chapter's public safety costs;
- C. _____ percent (__%) of the revenue shall be allocated for the Chapter's economic development projects;
- D. _____ percent (__%) of the revenue shall be allocated for the Chapter's facilities improvement projects;
- E. _____ percent (__%) of the revenue shall be allocated for the Chapter's education and scholarship programs; and
- F. _____ percent (__%) of the revenue shall be allocated for the Chapter's programs for youth and the elderly.

215. NO CONFLICT WITH NAVAJO NATION LAW

The provisions of this Chapter and corresponding regulations shall not be construed inconsistently with the Local Governance Act, the Navajo Nation Tax Code and Regulations, including the Uniform Local Tax Code and the Navajo Nation Sales Tax Statute and Regulations, or any other Navajo Nation laws.

216. SEVERABILITY

If any provision of this Ordinance or its application to any Person or circumstance, is held invalid by a final judgment of a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable.

217. EFFECTIVE DATE

This Ordinance shall take effect following adoption by the Chapter in accordance with Section 26 N.N.C. § 2001(H) of the Navajo Nation Local Governance Act, and upon satisfaction of each requirement set forth in the Uniform Local Tax Code at 24 N.N.C. § 153. The effective date shall be [(designate month) January / April / July / October] 1, 20__.