

THE BUSINESS BOARD OF DIRECTORS ACT OF 2012

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SECTION 101- PURPOSE

To establish one overall board of directors for the Yavapai-Apache Nation's Subordinate Economic Organizations consisting of Yavapai-Apache Sand & Rock, Distant Drums RV Resort, and Whitehills and such other Subordinate Economic Organizations as the Yavapai-Apache Tribal Council may designate from time to time; and to define the board of directors' authority and powers, its financial responsibilities, its composition; and for other purposes.

SECTION 201- DEFINITIONS

A. "Business Board or Business Board of Directors" means that body created pursuant to this Title, The Business Board of Directors Act of 2012, to govern the operation of Yavapai-Apache Sand and Rock, Distant Drums RV Resort, Whitehills, and such other Subordinate Economic Organization as the Tribal Council may designate from time to time.

B. "Bylaws" means the formal rules adopted by the Business Board of Directors to govern the Business Board's internal operations (such as calling and running Board meetings) and to define the rights and obligations of Business Board members not otherwise covered by this Title.

C. "Council" means the Yavapai-Apache Tribal Council.

D. "Distant Drums" means the Yavapai-Apache Nation Distant Drums, a Subordinate Economic Organization of the Yavapai-Apache Nation created pursuant to Title 35 of the Yavapai-Apache Nation Tribal Code.

E. "Governed SEO" means the Subordinate Economic Organization of the Nation that the Council gives the Business Board the authority to oversee pursuant to the provisions of this Code.

F. "Immediate Family" means mother, father, sister, brother, husband, wife, significant partner, son or daughter, including halves and steps in each instance.

G. "Nation" means the Yavapai-Apache Nation.

H. "SEO" means Subordinate Economic Organization, an economic subdivision of the Yavapai-Apache Nation.

I. "Whitehills" means the Yavapai-Apache Whitehills, a Subordinate Economic Organization of the Yavapai-Apache Nation created pursuant to Title 38 of the Yavapai-Apache Nation Tribal Code.

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J. "YASR" means the Yavapai-Apache Sand & Rock, a Subordinate Economic Organization of the Yavapai-Apache Nation created pursuant to Title 30 of the Yavapai-Apache Nation Tribal Code.

SECTION 301 – ESTABLISHMENT; APPOINTMENTS; VACANCY; REMOVAL*

A. There is hereby created one (1) board of directors with the authority to govern the SEOs for Distant Drums, YASR, Whitehills and such other SEO(s) as the Council may designate from time to time. This board of directors shall be known as the Business Board.

B. The Business Board shall be comprised of five (5) voting members.

1. The qualifications for members of the Business Board shall be as follows:

a. At least three (3) members shall be enrolled individuals of the Yavapai-Apache Nation.

b. At least one (1) member shall be a person who has extensive professional or management experience in business, experience in banking and finance, and/or experience in a field beneficial to the businesses of the Governed SEOs. The Council shall give preference to qualified enrolled Tribal members, if any, in making this appointment.

c. None of the persons appointed to the Business Board shall be a member of the Council, Immediate Family of a Council member, or an employee of the Governed SEOs.

2. Business Board members shall be selected through an application process prescribed by the Council. As a part of this process, active Business Board members may or may not be asked by the Council to recommend Business Board candidates to the Council. The Council shall appoint Business Board members in accordance with the requirements of this Code and existing Council policy regarding the appointment of individuals to board of directors.

3. The term of any particular Business Board member shall be for a period of three (3) years; provided however, that the Council may adjust the term of an appointee for the purpose of staggering member terms in appointing the initial Business Board members and for other purposes the Council deems fit.

* Section 301.B.1.c – Amended on March 13, 2014 by Resolution No. 55-14
Section 301.B.1.c – Amended on April 9, 2015 by Resolution No. 64-15

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4. Any Business Board member may resign at any time by giving written notice to the Chair of the Business Board and/or to the Council. Resignations shall become effective at the time specified in writing therein. The acceptance of the resignation shall not be necessary to make the resignation effective. Any vacancy on the Business Board due to death, resignation, removal, or otherwise shall be filled for the unexpired time of the vacated term in accordance with the requirements of this Section 301.

5. In the event a Business Board member becomes temporarily incapacitated or otherwise unable to perform his or her duties as defined herein, the remainder of the Business Board, by a simple majority vote, may recommend an interim Business Board member to serve as a replacement, subject to the approval of the Council. An interim Business Board member may serve no more than six months, at which point the temporarily replaced Business Board member must reassume his or her position, or the position shall be declared vacant by the Council and filled, in accordance with the qualifications set forth herein, for the unexpired portion of the term remaining and, if deemed appropriate by the Council, for the subsequent term for that position.

6. The Council reserves the right to remove any Business Board member at any time in the Council's sole discretion.

SECTION 302 - MEETINGS; QUORUM; ACTS

A. The Business Board shall hold meetings as necessary to provide governance to each Governed SEO.

1. Regular meetings shall be held at least once every month for each Governed SEO.

2. Special meetings for a Governed SEO may be called by the Business Board Chair or jointly by any three Business Board members.

3. Meetings shall be held at the time and place specified by those legitimately calling the meeting. However, the Business Board shall hold meetings for all Governed SEOs, whether regular or special, on the same day to the greatest extent possible.

4. When the Business Board holds meetings for several Governed SEOs in the same day, the minutes shall reflect the start and finish of the meeting for one Governed SEO before the start of the meeting for another Governed SEO.

B. A simple majority of the Business Board Members appointed who are present at a meeting shall constitute a quorum for the transaction of business at that meeting.

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C. The vote of a simple majority of the Business Board members present at a meeting at which a quorum is present shall be the act of the Business Board, unless the act requires a greater number of votes as dictated by a Governed SEO Code. Each Business Board member, including the Business Board Chair or other presiding Business Board member present at the meeting, shall be entitled to one vote.

D. For emergencies, any action that may be taken at a Business Board meeting may be taken without a meeting if written consent setting forth the action taken is signed by all active Business Board members thereafter. This written consent must be initiated by the Board Chair or presiding officer. All Business Board member signatures for the consent must be in the hands of the Board Chair or presiding officer within thirty (30) calendar days following the initiation of such action, otherwise such action shall be null and void.

E. Board meetings shall be held in person or by telephonic means; provided that, Business Board members participating telephonically can hear and communicate with the other Business Board members collectively. Business Board members may not act by proxy.

F. Recorded minutes shall be kept for all Regular and Special Business Board meetings.

SECTION 303 – BYLAWS; POLICIES; ETHICS; STIPENDS; TAX STATUS*

A. The Business Board of Directors shall adopt:

1. By-laws for the Business Board to operate under to address matters not otherwise covered by this Code and which are consistent with this Code;

2. Personnel policies that include procedures for the resolution of grievances of non-probationary employees, which policies must be approved by the Council; and

3. An ethics policy for Business Board members including a conflict of interest statement in a form approved by the Office of Attorney General and the Council. The conflict of interest form is to be signed by all Business Board members. No Business Board member may participate in any Business Board action until the conflict of interest form is signed by that Board member; and

4. Other policies identified as necessary to successfully operate the Business Board or to properly govern the Business Board.

B. Board fees or stipends shall be set by the Council.

* Section 303.C – Amended on March 13, 2014 by Resolution No. 55-14
Section 303.C – Amended on April 9, 2015 by Resolution No. 64-15

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C. Any employee of the Nation appointed to the Business Board shall be subject to the Nation's Human Resources policies in relation to attending Business Board meetings during employee work hours.

D. Business Board members shall not be deemed employees of any Governed SEO for tax or other purposes unless a Business Board member performs employment duties outside of and in addition to his or her duties as a member of the Board. In that case, the Business Board member's duties shall be segregated between Board and employment duties.

SECTION 304 – OFFICERS

A. The officers of the Business Board shall be a Chairperson, a Vice-Chairperson and a Secretary.

B. The Business Board shall select its officers from amongst the Business Board's members at the first regular meeting of each fiscal year. All officers elected by the Business Board shall hold office for a period of one (1) year, or until their successors are elected, unless sooner removed from the Board by the Council or removed from office by the Board. Unless approved by a unanimous vote of the Business Board and confirmed by the Council, or unless temporarily holding an office on an emergency basis, no person may simultaneously hold more than one office.

C. In the event an officer becomes temporarily incapacitated or otherwise unable to perform his or her duties, the remainder of the Business Board, by a simple majority vote, may appoint an interim officer to serve as a replacement. The interim officer may serve no more than six months, at which point the temporarily replaced officer must reassume his or her position. Should the temporarily replaced officer not resume his or her position, the Business Board must elect a permanent replacement officer for the remainder of the vacated term.

SECTION 305 – OFFICER DUTIES

A. Chairperson.

1. The Chairperson of the Business Board shall preside at the meetings of the Business Board of Directors. Along with the executive director of a particular Governed SEO, the Chairperson shall act as the primary liaison to the Nation and to the Council for the Governed SEOs. In that capacity, the Chairperson shall be responsible for presenting reports to the Council and responding to Council inquiries as necessary.

2. Subject to the Business Board of Directors' control, the Chairperson shall assist the executive directors of each Governed SEO in supervising the business and affairs of each Governed SEO. The Chairperson may sign any contract, purchase order, check or other instrument which the Business Board authorizes the Chairperson to execute, except in cases where the

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signing and execution thereof shall be especially delegated by the Business Board or by the applicable SEO Code to some other employee, officer or agent of a Governed SEO.

3. The Chairperson shall perform such other duties as from time to time may be prescribed by the Business Board of Directors and/or set forth in Business Board's By-laws.

B. Vice-Chairperson.

1. In the absence of the Chairperson of the Board, or in the event of the Chairperson's death, inability or incapacity to act, the Vice-Chairperson shall perform the duties of the Chairperson. When so acting, the Vice-Chairperson shall have all the same powers and be subject to the same duties and restrictions as the Chairperson otherwise has.

2. The Vice-Chairperson shall perform such other duties as from time to time may be prescribed by the Business Board and/or as set forth in the By-laws.

C. Secretary.

1. The Secretary shall ensure that minutes are taken, and subsequently approved, for each Business Board meeting.

2. The Secretary, in conjunction with the Business Board's presiding officer, shall prepare the Agendum for each Business Board meeting and work with each Governed SEO's administration to provide Business Board members with the information and paperwork the Business Board members need in order to conduct the business of the Business Board.

3. The Secretary shall perform such other duties as Business Board may prescribe from time to time and/or as set forth in the Bylaws.

Section 306 - FINANCIAL INTERESTS IN A GOVERNED SEO

A. No Business Board member shall have any direct or indirect financial interest that conflicts with, or appears to conflict substantially with, the responsibilities or duties of Business Board members.

B. No Business Board member shall engage in financial transactions as a result of, or otherwise make use of for private gain, information obtained through his or her status as a Business Board member.

C. No Business Board member shall solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan or any other thing of monetary value, from any person, corporation, group or entity that:

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1. has interests in or any relationship with, or is seeking to obtain any contractual or other business or financial relationship with, a Governed SEO; or
 2. conducts or seeks to conduct operations or activities that are regulated by a Governed SEO; or
 3. has interests that may be affected by a Business Board member's performance or non-performance of his or her official duties for a Governed SEO.
- D. Business Board members may accept, within the bounds of good taste, social amenities and tokens of negligible monetary value as are consistent with generally prevailing customs.
- E. Business Board members may not use any Governed SEO property for purposes other than officially approved activities.

Section 307 - MISCELLANEOUS

- A. The Nation's Attorney General or his/her designee shall serve as legal counsel to the Business Board and the Governed SEOs. The Attorney General or his/her designee should be present during all Business Board meetings. Outside legal counsel for specialized legal assistance may be retained by the Business Board with approval of the Council and the Nation's Attorney General and in accordance with an approved SEO budget.
- B. The Business Board is responsible for determining the compensation of management for each Governed SEO based upon the Board's goals for each Governed SEO.
- C. The Business Board shall cooperate with the Nation's Finance Director in order to complete the annual audits of each Governed SEO. At least one Business Board member and the Executive Director of each Governed SEO shall meet with the external auditors prior to the beginning of an audit to advise the auditors of any concerns or areas of emphasis for the audit. The parties shall meet again after the audit is completed to receive and review the audit report.
- D. Business Board members shall not be liable for the debts of any Governed SEO. The private property of Business Board members shall be forever exempt from the debts of a Governed SEO. The Yavapai-Apache Nation shall indemnify and hold harmless Business Board members from liability or other claims arising out of their duties or functions Board members. This indemnity and protection from personal liability shall not extend to those actions or activities of Business Board members create liability in relation to their intentionally wrongful acts or omissions, and/or who create liability for themselves or a Governed SEO by exceeding the scope of their official duties, responsibilities or obligations.

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E. The Council hereby determines that all legitimate actions taken by a Governed SEO as of the effective date of this Code, and all rights and obligations legally established by a Governed SEO, are not to be invalidated by the adoption of this Code and this Code shall be controlling as to future actions, rights and obligations of the the Business Board for each Governed SEOs beginning with the effective date specified below.

Section 308 – EFFECTIVE DATE

This Code will take effect on the date identified in the applicable Council Resolution enacting this Code.