

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
SAIPAN, TINIAN, ROTA and NORTHERN ISLANDS**



COMMONWEALTH REGISTER

**VOLUME 41
NUMBER 07
JULY 28, 2019**

COMMONWEALTH REGISTER

VOLUME 41
NUMBER 07
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TABLE OF CONTENTS

ADOPTED REGULATIONS

Public Notice of Certification and Adoption of Regulations of Department of Lands and Natural Resources	042682
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PROPOSED REGULATIONS

Proposed Amendments to the Personnel Rules and Regulations of the Commonwealth Ports Authority	042690
Public Notice of Proposed Amendments to the Development Corporation Division (DCD Rules and Regulations Commonwealth Development Authority	042713
Notice of Proposed Amendments to Health Care Professions Licensing Board	042723
Notice of Proposed Amendment of Regulations for Department of Public Lands	042730
Notice of Proposed Amendment of Regulations for Department of Public Lands	042740

ORDERS

Number:	2019-003	
Subject:	Order Confirming Stipulated Agreement in DEI 18-0024-I (Executive Director v. Imperial Pacific International (CNMI), LLC)	
Authority:	Commonwealth laws (including but not limited to P.L.18-56 and 19-24), Regulations of the Commission, NMIAC Ch. 175-10.1	
Commonwealth Casino Commission		042754

Labor Case No. 19-002
Subject: Order of Dismissal
In the Matter of: Zaji O. Zajradhara v. S.W. Corporation
Department of Labor **042756**

Labor Case No. 19-042
Subject: Sua Sponte Order of Dismissal
In the Matter of: Nathan A. Roppul v. Micronesia
Renewable Energy, Inc.-CNMI
Department of Labor **042758**



Commonwealth of the Northern Mariana Islands
Office of the Governor
DEPARTMENT OF PUBLIC LANDS

**NOTICE OF PROPOSED AMENDMENT OF REGULATIONS FOR THE
DEPARTMENT OF PUBLIC LANDS**

INTENDED ACTION: TO AMEND REGULATIONS AFTER CONSIDERING

PUBLIC COMMENT: The Commonwealth of the Northern Mariana Islands, Department of Public Lands ("the Department") intends to amend its regulations in accordance to the attached proposed amendments, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The amendments would become effective 10 days after adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

AUTHORITY: The Department has the inherent authority to adopt rules and regulations in furtherance of its duties and responsibilities pursuant to Article XI of the Commonwealth Constitution and 1 CMC § 2801 et. seq.

THE TERMS AND SUBSTANCE: The attached Regulation proposes to reduce fees for the use of public lands for cattle grazing or livestock purposes and are in conformity with the Department's obligation to objectively manage the use and disposition of public lands set forth at 1 CMC § 2801 et. seq. The amendment will adjust the fees for subsistence purposes, correct the guidelines for livestock requirements and grandfather previous ranchers affected by the current regulation.

THE SUBJECTS AND ISSUES INVOLVED: These amendments to §145-70-201 General Requirements include the following:

1. Adjust the fees to coincide with Subsistence purposes.
2. Expand the terms for Livestock to consider Confined Livestock versus Grazing Livestock
3. Adjust the maximum amount of Hectares to be permitted.
4. Insert a clause in the regulation to grandfather previous grazers that were affected by the previous regulation to continue the use of the land greater than 5 hectares, provided they are maximizing the use of the land

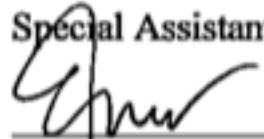
DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Amendments shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and this notice shall be posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular. (1 CMC § 9104(a)(1)).

TO PROVIDE COMMENTS: Send or deliver your comments to the Department of Public Lands Attn: Secretary, at the address below, fax or email address. Comments are due within 30 days from the date of publication of this notice. Please submit your data, views or arguments: (1 CMC § 9104(a)(2)).

The Department of Public Lands approved the attached Regulations on the date listed below.


Submitted by:  23 JUL 2019
Marianne Concepcion-Teregeyo
Secretary, Department of Public Lands
Date

Received and Filed by:  07/24/19
Mathilda A. Rosario
Special Assistant for Administration
Date

Received and Filed by:  07.25.2019
Esther SN. Nesbitt
Commonwealth Registrar
Date

Pursuant to I CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and I CMC § 9104(a)(3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, 1 CMC § 2153(f) (publication of rules and regulations.)

Dated the 24 day of July, 2019


Hon. Edward Manibusan
Attorney General



Commonwealth of the Northern Mariana Islands
Office of the Governor
DEPARTMENT OF PUBLIC LANDS

Commonwealth Gi Sangkattan na Islas Mariñas
DIPATTAMENTUN TANU' PUPBLIKU
Marianne Concepcion-Teregeyo, Sekretaria
P.O. Box 500380 Saipan, MP 96950
Tel. 234-3751

**NUTISIA PUT I MANMAPROPONI NA AMENDA NU I REGULASION SIHA PARA I
DIPATTAMENTUN TANU' PUPBLIKU**

**I AKSION NI MA'INTENTSIONA: PARA U AMENDA I REGULASION SIHA
DISPUES DI MAKUNSIDEDERA I UPIÑON PUPBLIKU:** I Commonwealth gi Sangkattan
na Islas Mariñas, Dipattamentun I Tanu' Pupbliku ("i Dipattamentu") ha intensiona para u
amenda i iyon-ñiha Regulasion gi tinattitiyi na mañechettun maproponi na amenda siha, sigun
para i maneran i Akton Atministrasion Procedure, 1 CMC §9104(a). I manma'amenda siha para
u ifektibu gi hálum dies (10) dihas dispues di adaptación yan publikasion gi hálum i Rehistran
Commonwealth. (1 CMC § 9105(b))

ATURIDÁT: I Dipattamentu gai aturidát para u adaptación i areklamentu yan i regulasion siha ni
para u makonsigi mo'na i obligasion yan responsabilidát-ñiha siha sigun i Attikulu XI giya i
Commonwealth Konstitusion yan 1 CMC §2801 et. Seq.

I TEMA YAN SUSTANSIAN I PALÁBRA SIHA: I mañechettun na Regulasion prumuponi
para u ribáha i fees para i ma'usá-ña i tanu' pupbliku para pástion guaka pat rason ga'ga' siha yan
kumunfotmi yan i ubligasion i Dipattamentu ni para u makumpli mamaneha i usan yan
disposition nu i tanu' pupbliku ni mapega mo'na gi 1 CMC § 2801 et.seq. I amenda siempri
ahusta i fees para rason i subsistence siha, kurihi i guidelines para nisisidát ga'ga' yan i
manmo'fo'na na manma'pus na lanceru siha ni maninafekta ni tinilaikan i regulasion siha gi
ma'pus.

I SUHETU NI MASUMÁRIA YAN ASUNTU NI TINEKKA: Esti na amenda siha para i
§145-70-201 General Requirements ingklusu i tinattitiyi:

1. Ahusta i fees para u kunsisti yan i Subsistence na rason siha.
2. Ekstendi i tema nu i Ga'ga' siha para u makunsidera i Manmakollat na Ga'ga' kontra i Manmapápástu na Ga'ga' siha.
3. Ahusta i mäs takkilu' na kinuántidát i Hektaria para u mapetmiti.
4. Na'hálum i clause gi hálum i regulasion para i manmo'fo'na na manma'pus na pastadot ni ginin maninafekta ni ma'pus na regulasion para u kontinua i usan tanu' ni takkilo'ña ki singku (5) hektaria, pribeni na u manasietbi todú i usan i tanu'.

DIREKSION PARA I PINE'LU YAN I PUPBLIKASION: Esti i Manmaproponi na Amenda siha debi na u mapupblika gi hálum i Rehistran Commonwealth gi hálum i seksiona ni manmaproponi yan i mannuebu ma'adaptá na regulasion siha (1 CMC § 9102(a)(1)), yan esti na

nutisia debi na u mapega gi hălum kumbinienti na lugât siha giya i civic center yan gi hălum ufisinin gubietnu gi kada distritun senatorial, parehu Inglis yan i dos na lingguâhin natibu, (1 CMC § 9104(a)(1)).

PARA U MAPRIBENIYI UPIÑON SIHA: Na'hălum pat intrega i upiñon-mu siha para i Dipăttamentun Tanu' Publiku Attn: Sekretaria, giya sanhilu' na address, fax pat email address. I upiñon siha debi na u fanhălum gi hălum trenta (30) dihas ginin esti na nutisian publikasion. Putfabot na'hălum iyo'-mu data, views pat atgumentu siha. (1 CMC § 9104(a)(2)).

I Dipăttamentun Tanu' Publiku ha aprueba i mañechettun na regulasion siha gi fetcha ni malista gi sanpapa'.

Nina'hălum as:


Marianne Concepcion-Teregeyo
Sekritaria, Dipăttamentun Tanu' Publiku

123 JUL 2019

Fetcha

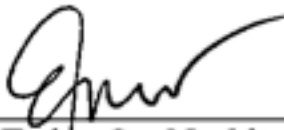
Rinisibi yan
pine'lu as:


Mathilda A. Rosario
Ispisiât Na Ayudânti Para I Atministrasion

07/24/19

Fetcha

Pine'lu yan
Ninota as:

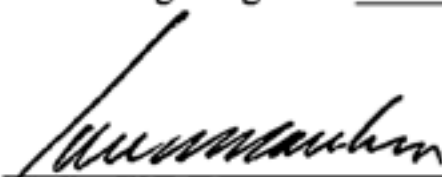

Esther Sn. Nesbitt
Rehistran Commonwealth

07.25.2019

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Sigun i 1 CMC § 2153(e) (I Abugâdu Henerât ha aprueba i regulasion siha na para u macho'gui kumu fotma) yan i 1 CMC § 9104(a)(3) (hentan inaprueban Abugâdu Henerât) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligât ginen i CNMI Abugâdu Henerât yan debi na u mapublika, 1 CMC § 2153(f) (publikasion areklamentu yan regulasion siha).

Mafetcha guini gi diha 24, gi July 2019.


Hon. Edward Manibusan
Abugâdu Henerât



Commonwealth of the Northern Mariana Islands
Office of the Governor
DEPARTMENT OF PUBLIC LANDS

Commonwealth Téél Falúw kka Efáng Iló Marianas
BWULASIYOL AMMWELIL FALUWEER TOULAP
Marianne Concepcion-Teregeyo, Sekkretóóriya
P.O. Box 500380 Saipan, MP 96950
Til. 234-3751

**ARONGORONGOL TOULAP REEL POMMWOL LIIWELIL MWÓGHUTUGHUT NGÁLI
BWULASIYOL AMMWELIL FALUWEER TOULAP**

MÁNGEMÁNGIL MWÓGHUT: REEL LIIWELIL MWÓGHUTUGHUT MWIRIL AAR TOULAP
ISIISILONG KKAPAS: Commonwealth Téél Falúw kka Efáng Iló Marianas, Bwulasiyol Ammwelil Faluweer Toulap ("Bwulasiyo we") re mángemángil rebwe liiweli mwóghutughutúl ikka e appasch bwe pommwol liiwel, sáangi mwóghutughutúl Administrative Procedure Act, 1 CMC § 9104(a). Ebwe bwunguló Mwóghutughut kkal llól seigh ráál mwiril aal adóptááli me akkatééwowul me llól Commonwealth Register. (1 CMC § 9105(b))

BWÁNGIL: Eyoor bwángil Bwulasiyo reel rebwe adóptááli allégh me mwóghutughut llól mwóghutughutúl me lemelemil sáangi Article XI reel Commonwealth Constitution me 1 CMC §2801 et.seq.

KKAPASAL ME AWEEWEL: Mwóghutughut iye e appasch e pommw reel ebwe aghitighiitiló fees ngáli aar toulap yááyá falúw ngáli mwóghutughutúl tchoor maal ngáre mwóghutughutúl livestock me e ffil ngáli lemelemil Bwulasiyo me ghatch reel faluweer toulap sáangi 1 CMC § 2801 et.seq. Liiwel ebwe siiweli mwutta ngáli mwóghutughutúl subsistence, ffil ngáli afal ngáli requirement-il livestock me schóó kkewe re fasúl ffóól me e afekktááliir reel mwóghutughut kkewe ighiwe nge ayoor siiwel.

KKAPASAL ME ÓUTOL: Liiwel kkal ngáli § 145-70-201 General Requirement ebwe schuu me milikka e amwirimwiritiw:

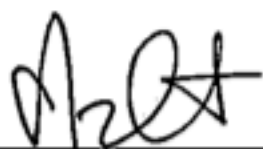
1. Awelaló óbwóss reel ebwe weewe fengál me mwóghutughutúl me bwulul Subsistence.
2. Aschéélapayló kkapasal Livestock reel rebwe rághiiy Maal ikka re lo llól Ghollal kontura maal ikka re lo bwe tchoor maal
3. Awelaló lapal reel Hectares iye e wetigh.
4. Ayoorai clause llól mwóghutughut ngáliir schóó kkewe re ghommw le ffóól maal ikka e afekktaliir reel mwóghutughut kkewe e ghommw me ebwe sóbweeyló yááyál falúw iye e lapaló sáangi limoow (5) hectares, ebwe bwal schuulong bwe re yááyá alongal lapal falúw

AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Ebwe akkatééwow Pommwol Liiwel kkal me llól Commonwealth Register llól tálil pommwol me ffél mwóghutughut ikka ra adóptáálil (1 CMC § 9102(a)(1) me ebwe appaschetá llól civic center me bwal llól bwulasiyol gobetnameento llól senatorial district, fengál reel English me mwáliyaasch. (1 CMC § 9104(a)(1)).

REEL ISIISILONGOL KKPAS: Afanga ngáre bwughiló yóómw kkapas ngáli Bwulasiyol Ammwelil Faluweer Toulap Attn: Acting Secretary, reel féléfél iye e lo weiláng, fax ngáre email address. Ebwe toolong kkapas llól eliigh ráál (30 days) mwiril aal akkatééwow arongorong yeel. Isiisilong yóómw data, views ngáre anglingi. (1 CMC § 9104(a)(2)).

Bwulasiyol Ammwelil Faluweer Toulap re átirow reel Mwóghutughut ikka e appasch wóól ráál iye e e lo faal.

Isáliyalong:



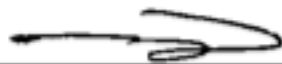
Marianne Concepcion-Teregeyo

Sekkretóóriya, Bwulasiyol Ammwelil Faluweer Toulap

23 JUL 2019

Ráál

Bwughiyal:



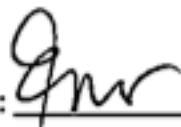
Mathilda A. Rosario

Special Assistant ngáli Administration

07/24/19

Ráál

Ammwelil:



Esther SN. Nesbitt

Commonwealth Register

07.25.2019

Ráál

Sángi 1 CMC § 2153(e) (mwiril aal átirow sáangi AG bwe aa ffil reel fféerúl) me 1 CMC § 9104(a)(3) (sáangi átirowal AG) reel pommwol mwóghutughut ikke e appasch bwe ra takkal amwuri fischiiy me aa lléghló reel fféerúl me legal sufficiency sáangi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow, 1 CMC § 2153(f) (akkatééwowul allégh me mwóghutughut.)

Aghikkilátiw wóól

24

ráálil



2019.

Hon. Edward Manibusan

Soulemelemil Allégh Lapalap

- (4) Be reviewed periodically for compliance;
- (5) Prohibit the construction of permanent structures;
- (6) Provide non-exclusive rights to the land or property unless otherwise stated in these regulations;
- (7) Be non-transferable, non-assignable, and cannot be sold, subjected to mortgage, or used as collateral;
- (8) Self-terminate should Occupant or Operator cease to exist or ceases the activity described in the application; and
- (9) Require compliance with all business licensing, permitting, and regulatory requirements for business or other activities to be conducted including without limitation all zoning, building and other permits as applicable.
- (10) Property valuations for purposes of calculating fees for TOA's may be determined by DPL's in-house appraiser.

§ 145-70-205 Occupancy and Easements for Private Telecommunications

Non-exclusive occupancy rights or easements granted to non-governmental telecommunications service providers may be granted for multiple year terms up to twenty five (25) years in total. Occupancy or proposed uses that sever, transect, or present a material impediment to the use of the surface land or air above or otherwise render the burdened and/or adjacent lands undevelopable, shall not be eligible for easement or similar authorization contemplated in this section but instead, shall only be authorized through leases of fully burdened parcels on commercially reasonable terms in accordance with the leasing regulations set forth herein.

- (a) **Underground Telecommunication Cables** – The activity involving the use of public lands to lay, maintain and operate underground telecommunication cable wires and related telecommunication equipment. Upon promulgation of these regulations the annual fee for buried cable trenches shall be 5.0% per year of 50.0% of average market price of lands on the island where the trenching will occur. Average market price shall be an area-weighted average determined by DPL based on recent publicly available real estate sales data for fee simple land transactions.
- (b) **Telecommunication Tower** – The activity involving the use of small parcels of public lands to, erect, maintain and operate commercial pedestals, access nodes underground telecommunication cable wires and radio transmitter antenna, and or wireless communication equipment shelter for cellular telephones, paging systems or similar related wireless telecommunication equipment. The annual fee for the use of public land for this purpose shall be 8.00% of the estimated fair market value. In environmentally, historically, or otherwise sensitive areas including tourist destinations, such activity (if permitted in DPL's sole discretion) may be subject to space-sharing conditions as imposed by DPL.

§ 145-70-210 Temporary Occupancy Agreement

Temporary Occupancy Agreements (TOA) shall be used for the temporary occupancy of certain public lands laying fallow at the time of application where no proposals have been received by DPL for the long term lease of those lands. In any case, TOA's do not in any way grant an interest in the land, written or implied, and the new construction of permanent structures shall not be allowed. Allowable purposes include short-term agricultural use, temporary livestock grazing, sporting or social events, or planning activities in anticipation of a lease. TOAs

are subject to termination upon thirty (30) day's written notice by DPL. DPL will consider issuing 5-year agricultural permits to NRCS eligible candidates.

For applications submitted by CNMI government entities for sporting events, signboards/banners, filming, and social events, DPL may provide an annual TOA for multiple department/agency requests throughout the period covered by the TOA provided, however, that the department/agency submits a written request to the Secretary for each occurrence. The Secretary may approve such requests via letterhead within thirty days of receipt after which the request shall be deemed approved if no action is taken by the Secretary. All fees and insurance requirements may be waived provided that the department/agency indemnify DPL of all risks and liabilities.

- (a) The following apply to all TOA's:
 - (1) All TOAs are terminable by DPL at will;
 - (2) Applications for renewal (if any) shall be made annually two months prior to expiration or as solicited via a Request for Proposal or at auction;
 - (3) Unless otherwise provided in this section the fee per use shall be an annual charge of 8% of estimated value but not less than \$250 per month and 3% of revenue generated, or such greater amount as bid;
 - (4) TOAs are non-exclusive with the exception of Agricultural, Staging, and Quarry which shall be exclusive and limited to the activities performed directly by Occupant;
 - (5) Property shall be used solely as outlined in the application for TOA in accordance and DPL's regulations for the operations of the Occupant;
 - (6) DPL can demand the removal of any and all structures at any time at Occupant's expense;
 - (7) Liability insurance shall be required with exception of Agricultural (Farming and/or Livestock) and Residential Maintenance. The policy shall name DPL and the Commonwealth as co-insured, with a minimum coverage of \$50,000 in an action for wrongful death, \$200,000 for each occurrence, \$100,000 in bodily injury per person, and \$100,000 in property damage for each occurrence, or such higher amounts as DPL may reasonably require.
- (b) Agricultural use shall be limited to family subsistence (non-commercial) purposes and shall only be permitted as follows:
 - (1) Farming - limited to up to 2,000 square meters (per household) of public lands determined by DPL to be suitable for farming, the annual application fee shall be \$150.00 per TOA; and
 - (2) Livestock – limited to up to 250,000 (25 Hectares) square meters (per household) of public lands for cattle grazing 50,000 square meters (5 Hectares) for livestock and/or goat grazing, and 20,000 square meters (2 Hectares) for confined livestock, the annual application fee shall be \$150.00 per TOA. TOA's shall be assessed an annual fee of \$10.00 per 10,000 square meters (equivalent to 1 hectare) but shall not exceed 250,000 square meters as follows:

Area Size	Per Hectare Fee	Annual Application Fee	Annual TOA Fee
0.01 – 1 Hectare	\$10.00	\$150.00	\$160.00
1.1 – 2 Hectare	\$20.00	\$150.00	\$170.00
2.1 – 3 Hectare	\$30.00	\$150.00	\$180.00
3.1 – 4 Hectare	\$40.00	\$150.00	\$190.00
4.1 – 5 Hectare	\$50.00	\$150.00	\$200.00
5.1 – 6 Hectare	\$60.00	\$150.00	\$210.00

6.1 - 7 Hectare	\$70.00	\$150.00	\$220.00
7.1 - 8 Hectare	\$80.00	\$150.00	\$230.00
8.1 - 9 Hectare	\$90.00	\$150.00	\$240.00
9.1 - 10 Hectare	\$100.00	\$150.00	\$250.00
10.1 - 11 Hectare	\$110.00	\$150.00	\$260.00
11.1 - 12 Hectare	\$120.00	\$150.00	\$270.00
12.1 - 13 Hectare	\$130.00	\$150.00	\$280.00
13.1 - 14 Hectare	\$140.00	\$150.00	\$290.00
14.1 - 15 Hectare	\$150.00	\$150.00	\$300.00
15.1 - 16 Hectare	\$160.00	\$150.00	\$310.00
16.1 - 17 Hectare	\$170.00	\$150.00	\$320.00
17.1 - 18 Hectare	\$180.00	\$150.00	\$330.00
18.1 - 19 Hectare	\$190.00	\$150.00	\$340.00
19.1 - 20 Hectare	\$200.00	\$150.00	\$350.00
20.1 - 21 Hectare	\$210.00	\$150.00	\$360.00
21.1 - 22 Hectare	\$220.00	\$150.00	\$370.00
22.1 - 23 Hectare	\$230.00	\$150.00	\$380.00
23.1 - 24 Hectare	\$240.00	\$150.00	\$390.00
24.1 - 25 Hectare	\$250.00	\$150.00	\$400.00

- (3) Agricultural uses in excess of the limitations in this subsection, or which require fixed terms shall be subject to the lease requirements of these regulations.
- (a) Occupants with permits to use properties for livestock/grazing prior to and through the effective date of the regulation of February 2016 and subsequent amendments thereafter that
- (b) a) have been continuously used/maintained and
- (c) b) are currently bound by USDA agricultural program support grant requirements, shall be exempt from the 25 Hectare limit as long as occupant continues to utilize the entire area and receive and is bound by USDA program agricultural grant requirements
- (c) Vehicular Parking - The activity that involves a location(s) and designated area(s)/assignment(s) on public land where motor vehicles may be temporarily stored or parked shall only be permitted under a temporary occupancy agreement as follows:
- (1) Temporary vehicular parking spaces are categorized as primary, secondary, and tertiary parking zones. The parking zone descriptions for Rota and Tinian, respectively are shown in Schedule 145-70-210(c)(1). The parking zones for Saipan are tied to the Saipan Zoning districts as follows:

Primary

GC: Garapan Core
GE: Garapan East
BR: Beach Road
MC: Mixed
Commercial
PR: Public Resource

Secondary

IN: Industrial
VC: Village Commercial

Tertiary

AG: Agriculture
RU: Rural
VR: Village Residential

- (2) The annual permit fee per square meter shall be \$10.00 for primary, \$6.00 for secondary, and \$2.00 for tertiary zones.
- (3) Parking Permit Fees – Non-Income Generating Non-Commercial Humanitarian or Social Welfare Non-Profits (Charitable Organizations, NMC Foundation, Health & Social Welfare, and Churches). The annual permit fee per square meter shall be \$2.00 for All Zones.
- (d) Signboards/Banners – The activity that involves erecting or placement of a temporary board, poster, banner, a piece of cloth or bunting, placard, or other temporary sign varying in size, color, and design which is temporarily displayed, posted, erected, hung, or tied in a certain public location or tract of land to advertise or to convey information or a direction shall only be permitted as follows:
 - (1) Public lands zones for the placement of signboards or banners are categorized as primary, secondary, and tertiary zones identical to Vehicular Parking.
 - (2) CNMI government and non-commercial Humanitarian or Social Welfare non-profit organizations shall not be charged a fee for local government funded signboards for public awareness purposes. The fees for the placement of signboard by other Applicants are shown in the tables below:

SIGNBOARD PERMIT STANDARD FEES

	Primary Zone	Secondary Zone	Tertiary Zone
Annually	\$600.00	\$350.00	\$250.00
Monthly	\$100.00	\$ 70.00	\$ 50.00

SIGNBOARD PERMIT FEES – NON-COMMERCIAL NON-PROFITS

	All Zones
Annually	\$250.00
Monthly	\$ 50.00

- (3) Political signboards: political signboards are charged an administrative processing fee of \$50.00 along with a semi-annual fee of \$100.00 and cannot be erected sooner than six months before the election date. A candidate may erect and place a maximum of Ten (10) signboards on its respective electoral senatorial district. A Candidate running for office on a CNMI wide election may erect and place a maximum of Twenty (20) signboards on each senatorial district.
 - (i) No signboard shall be placed on the western beach side along Tun Thomas P. Sablan and along Beach Road in Saipan, or such other areas as determined by DPL.
 - (ii) No signboard shall be placed or erected on any trees on public land.
 - (iii) No signboard shall be placed or erected on any utility poles.
 - (iv) No signboard shall be placed or erected within 50 feet from any traffic light.
 - (v) No signboard shall be placed or erected within 6 feet of any road pavement and any public right-of-way.
 - (vi) No signboard shall be placed on any public buildings, facilities, monuments, public parks, and tourist sites.
 - (vii) No signboard exceeding dimensions of 4ft by 8ft shall be placed on public land.
- (e) Roadside Vendors - The activity that involves the use of a temporary structure, vehicle, or mobile canteen for the sale of local produce or fish, other perishables or non-perishable items such as handicrafts, trinkets, souvenirs, or other goods, at a permitted distance from the side of a road or thoroughfare at a location(s) or designated area(s)/assignment(s) on public land shall be permitted on the same financial terms as other concession TOA: A monthly fee of at least \$250.00 per concession (up to 100 square feet) shall be charged in addition to 1% of BGR.

Commonwealth of the Northern Mariana Islands
Office of the Governor
DEPARTMENT OF PUBLIC LANDS
Marianne Concepcion-Teregeyo, Secretary
P.O. Box 500380
Saipan, MP 96950
Tel. 234-3751

**NOTICE OF PROPOSED AMENDMENT OF REGULATIONS FOR THE
DEPARTMENT OF PUBLIC LANDS**

INTENDED ACTION: TO AMEND REGULATIONS AFTER CONSIDERING PUBLIC COMMENT: The Commonwealth of the Northern Mariana Islands, Department of Public Lands ("the Department") intends to amend its regulations in accordance the attached proposed amendments, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The amendments would become effective 10 days after adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

AUTHORITY: The Department has the inherent authority to adopt rules and regulations in furtherance of its duties and responsibilities pursuant to Article IX of the Commonwealth Constitution and 1 CMC §2801 *et. seq.*

THE TERMS AND SUBSTANCE: DPL's Regulations prohibit the commercial use of public lands without a valid lease, temporary occupancy agreement, permit, or concession agreement; and govern the leasing and temporary occupancy of public lands whether by permit, lease, or temporary authorization in conformity with the Department's obligation to objectively manage the use and disposition of public lands set forth at 1 CMC § 2801 *et. seq.* The Department wishes to amend its recently adopted regulations to add clarity, adjust certain fees, and correct errors.

THE SUBJECTS AND ISSUES INVOLVED: These amendments:


1. Expand the definition of commercial use and allow for 2% passive use of entire public land site for dedicated employee housing.
2. Allow DPL to reduce the security deposit and extend the deposit date for large development projects.
3. Expand the definition of Fees, Security Deposit, costs, and include language on security deposit phases.
4. Require the security deposit of \$250,000 must be maintained for the duration of the lease term.
5. Expand on base rent for large developments that will require 2 years to construct.
6. Clarify additional rent for all large development not to exceed \$5 Million to attract investors during this economic time.
7. Clarify passive uses.

8. Expand on the performance bond and expand on acceptable finance documents.
9. Clarify that all proceeds from the facility secured by the mortgage shall be used for the improvement of the leased property.
10. Expands on the lease form as an attachment to the regs.

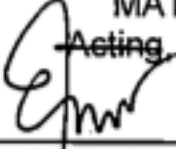
DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Amendments shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and this notice shall be posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular. (1 CMC § 9104(a)(1)).

TO PROVIDE COMMENTS: Send or deliver your comments to the Department of Public Lands Attn: Secretary, at the above address, fax or email address. Comments are due within 30 days from the date of publication of this notice. Please submit your data, views or arguments. (1 CMC § 9104(a)(2)).

The Department of Public Lands approved the attached Regulations on the date listed below.

Submitted by: 
MARIANNE CONCEPCION-TEREGEYO
Secretary, Department of Public Lands
Date 25 JUL 2019

Received and filed by: 
MATHILDA A. ROSARIO
Acting Special Assistant for Administration
Date 07/25/19

Filed and Recorded by: 
ESTHER SN NESBITT
Commonwealth Register
Date 07/25/2019

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, 1 CMC § 2153(f) (publication of rules and regulations).

Dated the 29 day of July, 2019.


Hon. EDWARD MANIBUSAN
Attorney General

Commonwealth Gi Sankattan na Islas Mariñas

Ufisinan Maga'láhi

DIPÁTTAMENTUN TANU' PUPBLIKU

Marianne Concepcion-Teregeyo, Sekretaria

P.O. Box 500380

Saipan, MP 96950

Tel. 234-3751

**NUTISIAN I MANMAPROPONI NA AMENDA NU I REGULASION SIHA PARA I DIPÁTTAMENTUN
TANU' PUPBLIKU**

**I AKSION NI MA'INTENTSIONA: PARA U MA'AMENDA I REGULASION SIHA DISPUES DI
MAKUNSIDERA I UPIÑON I PUPBLIKU:** I Commonwealth gi Sankattan Siha na Islas Mariñas, Dipáttamentun I Tanu' Pupbliku ("I Dipáttamentu") ha intensiona para u amenda iyon-ñiha Regulasion gi sigun mañechettun i mapropo ni na amenda siha, sigun para i maneran i Ákton Atministrasion Procedure, 1 CMC §9104(a). I amenda siha para u ifektibu gi hálum dies (10) dihas dispues di adáptasion yan publikasion gi hálum i Rehistran Commonwealth. (1 CMC § 9105(b))

ÁTURIDÁT: Gai aturidát i Dipáttamentu para u adápta i areklamentu yan regulasion siha ni para u makonsigi mo'na i obligasion yan responsabilidát-ñiha siha sigun i Attikulu IX giya i Commonwealth Konstitusion yan 1 CMC §2801 et. Seq.

I TEMA YAN SUSTÁNSIAN I PALÁBRA SIHA: I Regulasion DPL siha prumuhibi i isan kumisiát i tanu' pupbliku sin balidád na atkilon, tempuráriu okupáo na kontráta, lisensia, pat kontrátan concession; yan gubietna i manma'atkikila yan tempuráriun okupáo i tanu' pupbliku siha maseha ginin lisensia, pat tempuráriu na aturidát gi kontráta yan i obligasion Dipáttamentu para u objectively manage i inisan yan disposition i tanu' pupbliku ni mapega mo'na gi 1 CMC § 2801 et. Seq. I Dipáttamentu manmalagu para u amenda i mäs mannuebu manma'adápta na regulasion siha para u na'kláru yan ahusta i fitmi na ápas siha, yan u manadinanchi i linachi siha.

I SUHETU NI MASUMÁRIA YAN ASUNTU NI TINEKKA: Esti na amenda siha:

1. Aomenta i sustánsian nu i isan kumisiát yan sedi para dos pusentu (2%) i passive use gi todú i lugát tanu' pupbliku para housing impli'áo.
2. Sedi i DPL para u ribáha i security deposit yan ekstendi i fetchan deposit para i mandangkulu na dibelopmentu na project siha.
3. Aomenta i sustánsian nu i Fees, Security Deposit, gástu, yan ingklusu i lingguáhi gi security deposit phases.
4. Na'prisisu i security deposit gi dos sientus singkuenta mit pesos (\$250,000) ya debi na u mamantieni gi durántin nu i tiempun i atkilon.
5. Aomenta i base rent para todú i mandangkulu na dibelopmentu ni mu nisisita dos (2) sákkán para u mahátsa.

6. Na'klâru otru na atkila para todû i mandangkulu na dibelopmentu na ti para u ma'upus singku miyon (\$5 Million) para u bensi investors gi durântin esti na tiempun ikonomia.
7. Na'klâru i passive uses.
8. Aomenta i performance bond yan aomenta gi dukumentun inakseptan finansiât siha.
9. Na'klâru atyu todû i proceeds ginin i fasilidât secured ni mortgage na debi u ma'usa para i adilântun nu i atkilon propiedât.
10. Aomenta gi fotman atkilon komu mañechettun gi regulasion.

DIREKSION PARA I PINE'LU YAN I PUPBLIKASION: Esti i Manmaproponi na Amenda siha debi na u mapupblika gi hâlum i Rehistran Commonwealth gi hâlum i seksiona ni manmaproponi na regulasion (1 CMC § 9102(a)(1)), ya u mapega gi hâlum kumbinienti na lugât siha giya i civic center yan gi hâlum ufisinan gubietnu gi kada distritun senatorial, parehu Inglis yan i dos na lingguâhin natibu, (1 CMC § 9104(a)(1)).

PARA U MAPRIBENIYI UPIÑON SIHA: Na'hâlum pat intrega i upiñon-mu siha para i Dipâtamentun Tanu' Pupbliku Attn: Sekretâria, giya sanhilu' na address, fax pat email address. I upiñon siha debi na u fanhâlum gi hâlum trenta (30) dihas ginin esti na nutisian pupublikasion. Putfabot na'hâlum iyo'-mu data, views pat atgumentu siha. (1 CMC § 9104(a)(2)).

I Dipâtamentun Tanu' Pupbliku ha aprueba i mañechettun na regulasion siha gi fetcha ni malista gi sanpapa'.

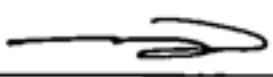
Nina'hâlum as:


 MARIANNE CONCEPCION-TEREGEYO
 Sekretâria, Dipâtamentun Tanu' Pupbliku

25 JUL 2019

Fetcha


Rinisibi yan
 pine'lu as:


 MATHILDA A. ROSARIO
~~Acting~~, Ispisiât Na Ayudânti Para I Atministrasion

07/25/19

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Pine'lu yan
 Ninota as:


 ESTHER S. NESBITT
 Rehistran Commonwealth

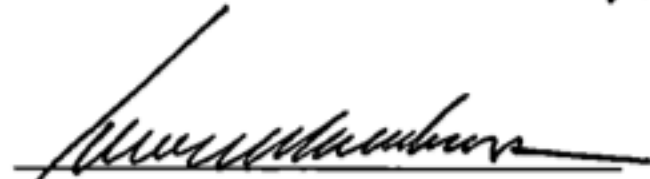
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Sigun i 1 CMC § 2153(e) (I Abugâdu Henerât ha aprueba i regulasion siha na para u macho'gui

kumu fotma) yan i 1 CMC § 9104(a)(3) (hentan inapueban Abugãdu Henerât) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'apueba kumu fotma yan sufisienti ligât ginen i CNMI Abugãdu Henerât yan debi na u mapupblika, 1 CMC § 2153(f) (pupublikasion areklamentu yan regulasion siha).

Mafetcha guini gi diha 29 gi July 2019.



Hon. EDWARD MANIBUSAN
Abugãdu Henerât

Commonwealth Téel Falúw kka Efáng llól Marianas
Bwulasiyol Gobenno
Bwulasiyol Ammwelil Faluweer Toulap
Marianne Concepcion-Teregeyo, Sekkretóoriya
P.O. Box 500380
Saipan, MP 96950
Til. 234-3751

ARONGORONGOL TOULAP REEL LIIWELIL MWÓGHUTUGHUT NGÁLI
BWULASIYOL AMMWELIL FALUWEER TOULAP

MÁNGEMÁNGIL MWÓGHUT: REEL REBWE LIIWEL MWOGHUT MWIRIL AAR AMWURI MWÁLIYEER TOULAP: Commonwealth Téel Falúw kka Efáng llól Marianas, Bwulasiyol Ammwelil Faluweer Toulap ("Bwulasiyo we") re mángemángil rebwe liiweli mwóghutughutúl ikka e appasch bwe liiwel, sáangi mwóghutughutúl Administrative Procedure Act, 1 CMC § 9104(a). Ebwe bwunguló Mwóghutughut kkal llól seigh ráál mwiril aal adóptááli me akkatééwowul me llól Commonwealth Register. (1 CMC § 9105(b))

BWÁNGIL: Eyoor bwángil Bwulasiyo reel rebwe adóptááli allégh me mwóghutughut llól mwóghutughutúl me lemelemil sáangi Article IX reel Commonwealth Constitution me 1 CMC §2801 et.seq.

KKAPASAL ME AWEEWEL: Mwóghutughutúl DPL e pileey commercial use reel faluweer toulap nge ese yoor valid lease, abwungubwungúl temporary occupancy, angúúngú, ngáre abwungubwung iye e concession; me lemeli atkkilóónol me temporary occupancy reel faluweer toulap ngare sáangi angúúngú, Atkkilóón, ngáre temporary authorization llól rongoschigh ngáli angúúngúl Bwulasiyo reel rebwe lemeli yááyál me disposition reel faluweer toulap ebwe tééló mmwal me 1 CMC § 2801 et. seq. Bwulasiyo re tipáli rebwe liiweli mwóghutughut ikka re gheláál adóptááli bwe ebwe schuulong me siiweli óbwóss ngáre fees ikka e lo, me awelewelaló milikka e nngaw.

KKAPASAL ME ÓUTOL: Liiwel kkal:

1. Aschéélapayló weewel commercial use me lighiti ngáli 2% passive use reel alongal faluweer toulap ngáli leliyál schagh schóól angaang.
2. Mweiti ngáli DPL reel rebwe aghitighitiló security deposit me sóbweeyló ráálil deposit ngáli project ikka e tomwógh.
3. Aschéélapayló weewel Óbwóss, Security Deposit, cost, me aschuulong kkapasal wóól security deposit phases.
4. Tip bwe security deposit-il \$250,000 ebwe isiis llól tempool abwungubwungúl atkkilóón.
5. Aschéélapayló base rent ngáli kkayú ikka e tomwógh iye ebwe yoor ruwoow ráágh bwe rebwe akkayú.
6. Ebwe ffat rent ikka ebwe schuulong ngáli kkayú ikka e tomwógh bwe esóóbw uppwusu \$5 Million reel rebwe amweschiyaar investors atol tempool economy yeel.
7. Affata passive uses.
8. Aschéélapayló performance bond me aschéélapayló pappidil acceptable finance
9. Ebwe ffat bwe alongal proceeds sáangi facility iye e secure sáangi mortgage rebwe yááyá ngáli ghatchúl lugóót iye re atkkilaay.
10. Aschéélapayló wóól pappidil atkkilóón bwe appasch ngáli mwóghutughut.

AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Ebwe akkatééwow Pommwol Liiwel kkal me llól Commonwealth Register llól táilil wóól pommwol me ffél mwóghutughut ikka ra adóptáali (1 CMC § 9102(a)(1)) me ebwe appaschetá arongorong yeel llól civic center me bwal llól bwulasiyol gobetnameento llól senatorial district, fengál reel English me mwáliyaasch. (1 CMC § 9104(a)(2)).

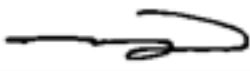
REEL ISIISILONGOL KKPAS: Afanga ngáre bwughiló yóómw ischil kkapas ngáli Bwulasiyol Ammwelil Faluweer Toulap Attn: Secretary, reel féféfé iye e lo weiláng, fax ngáre email address. Ebwe toolong kkapas llól eliigh ráál mwiril ráálil igha e akkatééwow arongorong yeel. Isiisilong yóómw data, views ngáre anglingi. (1 CMC § 9104(a)(2)).

Bwulasiyol Ammwelil Faluweer Toulap re átirowa Mwóghutughut ikka e appasch wóól ráál iye e lo faal.

Isáliyalong: 
MARIANNE CONCEPCION-TEREGEYO
Sekketóóriya, Bwulasiyol Ammwelil Faluweer Toulap

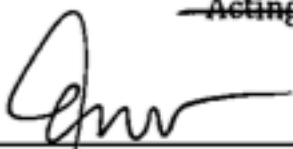
25 JUL 2019

Ráál

Bwughiyal me Ammwelil: 
MATHILDA A. ROSARIO
~~Acting~~ Special Assistant ngáli Administration

07/25/19

Ráál

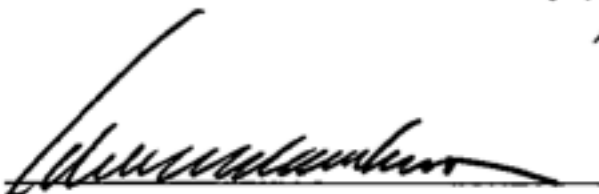
Ammwelil: 
ESTHER SN NESBITT
Commonwealth Register

07/25/2019

Ráál

Sángi 1 CMC § 2153(e) (sángi átirowal AG bwe aa lléghló reel fféerúl) me 1 CMC § 9104(a)(3) (sángi átirowal AG) reel pommwol mwóghutughut ikka e appasch bwe ra takkal amwuri fischiiy me aa lléghló reel fféerúl me legal sufficiency sángi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow, 1 CMC § 2153(f) (akkatééwowul allégh me mwóghutughut).

Aghikkilátiw wóól 24 ráálil July, 2019.


Hon. EDWARD MANIBUSAN
Soulemelemil Allégh Lapalap

TITLE 145: DEPARTMENT OF PUBLIC LANDS

§ 145-70-005 Purpose

These promulgated rules and regulations govern new leases, lease renewals, new temporary occupancy agreements, and temporary occupancy agreement renewals of public lands whether by permit, lease, or temporary authorization as in conformity with the obligation to objectively manage the use and disposition of public lands set forth at 1 CMC § 2801 *et. seq.* No commercial use of public lands is authorized or permitted without a valid lease, temporary occupancy agreement, permit, or concession agreement authorized by these regulations.

The Department of Public Lands (DPL) shall enforce these regulations to the extent allowed by law. DPL shall issue written notice of violation to any person or entity using or occupying public lands without authorization or in violation of these regulations for any activity or purpose.

History: Amdts Adopted 39 Com. Reg. 39605 (May 28, 2017); Amdts Proposed 39 Com. Reg. 39351 (Mar. 28, 2017); Adopted 38 Com. Reg. 37440 (Jan. 28, 2016); Emergency and Proposed 37 Com. Reg. 37247 (Nov. 28, 2015) (effective for 120 days from Nov. 28, 2015).

§ 145-70-010 Definitions

(a) "Applicant" means the person, persons, entity, or entities that have submitted a proposal to the DPL to lease or otherwise use public lands including respondents to requests for proposals issued by DPL for the leasing, development, or use of public lands, including without limitation persons or entities who have responded to one or more land use RFPs issued by the DPL.

(b) "Commercial Use" means used for revenue generating activities. Active use means the actual physical operations or facilities generating revenue. Passive use means a supplementary use that augments the revenue generating operations or facility (e.g. parking lots). For purposes of these regulations, residential dwellings (e.g. condominiums, apartments, or houses) are not recognized as Commercial Use , except that all development shall have no more than 2% of passive use dedicated for employee housing.

(c) "Department" means the Department of Public Lands (DPL).

(d) "Government" means, for purposes of the regulations in this chapter, the departments and agencies of the CNMI Government other than the Department of Public Lands, unless otherwise specified in these regulations.

(e) "Lessee" means the person, persons, entity, or entities holding leasehold interests in public lands.

(f) "Occupant" means the person or entity whose name appears on the temporary occupancy agreement.

(g) "Owner" means the person, persons, entity, or entities holding fee simple title in lands that are not public lands.

TITLE 145: DEPARTMENT OF PUBLIC LANDS

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 39 Com. Reg. 39605 (May 28, 2017); Amdts Proposed 39 Com. Reg. 39351 (Mar. 28, 2017); Adopted 38 Com. Reg. 37440 (Jun. 28, 2016); Emergency and Proposed 37 Com. Reg. 37247 (Nov. 28, 2015) (effective for 120 days from Nov. 28, 2015).

§ 145-70-110 Lease Agreement Requirements

DPL shall include in lease agreements provisions typical of commercial practices. All public land leases are on a "triple net" basis "as is where is". All leases shall conform to the following provisions:

- (a) Legal description of the property(ies) subjected to the lease.
- (b) Purpose – a detailed description of the intended development and operations.
- (c) Term – the effective date and duration of the lease shall not exceed ~~25~~ 40 years. Note: Upon expiration of the term, the property including all improvements shall revert to DPL for renewal, extension, or re-leasing to the highest best bidder as determined by these regulations in accordance with CNMI law.
- (d) Fees, Security Deposit, Costs.
 - (1) Prior to the preparation of any lease or supporting document, the applicant shall deposit an administrative processing fee equal to the greater of ~~\$5,000~~ \$2,500, or ~~0.50%~~ 0.25% of the estimated value of the subject property, not to exceed \$100,000.
 - (2) Prior to any lease approval, lessee must deposit at least 5% of the total cost of the proposed project to which the lease pertains, whether the entire project or only a part of it will be situated on public lands. These funds will be held by the DPL to secure construction start up, and remediation costs. However, for large projects that certified engineers estimate will require more than two years to construct and will be constructed in phases, lessee shall deposit 5% of the first each phase, or an amount mutually agreeable to both parties prior to construction commencement and (for clarity, 5% prior to the commencement of each subsequent phase). Provided, however, that each phase is constructed in a manner that allows for the facility within each phase to be operatable independent of other phases. DPL may seek the assistance of the Department of Public Works to certify each phase complete. the total project shall not exceed four phases, and ten years for the total project to be completed.
 - (3) The security deposit requirement shall also apply to lease extensions or renewals where one or more key factors for approval is lessee's proposal to further develop the property it currently occupies.
 - (4) Upon execution of a lease for public lands, lessee shall deposit as security \$250,000 that shall be maintained for the duration of the lease term. Funds remaining on account with the DPL after the completion of the proposed development in excess of \$250,000 ~~5,000 or 1% of the development cost (whichever is greater)~~ shall be released to lessee upon completion of the project development. Remaining funds shall be retained as security, and lessee shall be obligated to

TITLE 145: DEPARTMENT OF PUBLIC LANDS

maintain a constant balance for the term of the lease.

(5) Funds shall forfeit to DPL should the project be cancelled or start date delayed more than one year from the execution of the lease. Mere ceremonious commencement (i.e. ground breaking or ribbon cutting without materially beginning and continuing construction) will not avoid forfeiture.

(6) All costs related to the lease including underwriting, leasehold fee simples appraisals, surveys, topographical surveys consolidations, excavation, studies, recordings, etc. shall be borne by applicant or lessee. In the event of lessee's failure to perform any obligation under a lease, DPL may (but shall not be obligated to) expend funds held in lessee's account (including security deposits) to satisfy such obligation to the extent feasible (e.g., to procure surveys, appraisals, or insurance).

(e) Rental Rates.

Rent derived from public lands shall be based on the value of the property, and actually computed and collected on that basis; provided, that the DPL shall, within the limits set by fiduciary duty and the provisions of Public Law 15-2 and 20-84, and have discretion in negotiating basic rents and additional rents upward taking into account changing economic conditions and other relevant trends and factors including other land transactions deemed substantially similar to the proposed lease. For the avoidance of doubt the Secretary of DPL may determine that a property's true value is greater (but not less than) an appraised value determined by independent appraisal.

(1) New Leases – shall include new leases, and renewals.

(2) Basic rent shall be based on the value of the fee simple title to the property. It is the policy of DPL to collect at least 5% of a property's value each year for the term of the lease as base rent.

However, base rent for all large development that will require more than 2 years to construct will not exceed \$4 Million annually, which can be decreased by an amount mutually agreed upon by the parties during the development's permitting and construction period. DPL may cap the base rent at \$4 million for a large development project that will require more than two years to complete if DPL determines that the capital investment in the project will be no less than \$36 million and will benefit the economic development of the Commonwealth.

(3) In no event shall the rent in subsequent years be less than the amounts in previous years of the lease.

(4) Properties shall be re appraised and basic rent adjusted upward to market every five years based on an updated appraisal. For the purpose of determining basic rent, the value in subsequent periods shall include all improvements on the property less the value of improvements made by the lessee during the term of the lease.

(5) New Leases – shall be based on the value of the fee simple interest including improvements (if any).

(6) Extensions – shall be based on the appraised value of the fee simple interest including improvements less the value of improvements made by the lessee since the inception of the lease.

(7) Renewals – shall be treated as new leases for purposes of determining rent.

(8) Additional Rent – Percentage of Business Gross Receipts – due to the scarcity of public lands and in accordance with its fiduciary duties owed to its beneficiaries, DPL shall charge additional rent that allows its beneficiaries to participate in the revenues generated as a

TITLE 145: DEPARTMENT OF PUBLIC LANDS

result of the lease. This rent shall be charged as a percentage of lessee's business gross receipts (BGR) and shall also apply to the BGR of lessee's subtenants, concessionaries and others permitted to engage in commercial activity upon the leased premises. DPL may cap the additional rent due at \$5 million for a large development project that will require more than two years to complete if DPL determines that the capital investment in the project will be no less than \$36 million and will benefit the economic development of the Commonwealth. ~~However, additional rent for all large development that will require more than 2 years to construct shall not exceed \$5 million annually.~~ For the sake of clarity, BGR includes enterprise BGR, not just BGR derived from parts of the enterprise situated on public lands. The additional rent per year for every year of the lease term shall be as follows:

Business Gross Receipt Payment Schedule

Tier	Annual BGR Amounts		% of BGR	Minimum Per Tier	
	From	To			
1	\$ -	\$50,000.49	3.00%	1.50%	
2	\$50,000.50	\$100,000.49	2.89%	1.45%	\$1,500 \$750
3	\$100,000.50	\$200,000.49	2.78%	1.39%	\$2,890 \$1,445
4	\$200,000.50	\$400,000.49	2.67%	1.34%	\$5,560 \$2,780
5	\$400,000.50	\$800,000.49	2.56%	1.28%	\$10,680 \$5,340
6	\$800,000.50	\$1,600,000.49	2.44%	1.22%	\$20,480 \$10,240
7	\$1,600,000.50	\$3,200,000.49	2.33%	1.17%	\$39,040 \$19,520
8	\$3,200,000.50	\$6,400,000.49	2.22%	1.11%	\$74,560 \$37,280
9	\$6,400,000.50	\$12,800,000.49	2.11%	1.06%	\$142,080 \$71,040
10	\$12,800,000.50	and Over	2.00%	1.00%	\$270,080 \$135,040

(9) Passive Uses – Rent for standalone leases of public lands for use as parking area or activities that supplement the actual enterprise shall be basic rent and additional rents as outlined in this subsection. Additional rent shall be assessed based on the ratio of public lands to lessee's other lands ~~being used for the same purpose~~ on the BGR of the entire enterprise supplemented by the public lands (e.g. Lessee's ~~existing ground parking space~~ private land area is 10,000 square meters. Lessee wants to expand parking area by leasing 400 square meters of public lands. The ratio of public lands for use as ~~additional parking area~~ is $400 / (500 + 400) \cdot 10,000 = 44.4\%$ 4.0%. Rent will therefore be assessed at basic rent, plus ~~44.4%~~ 4.0% x applicable % of BGR x BGR).

(10) All rental amounts payable under all lease agreements and reimbursement of costs incurred by DPL as a result of enforcing the lease shall be fully assessed and collected from the Lessee.

(11) Lease rental payments shall be collected when due or timely pursuant of default provisions of the lease agreement shall be made.

(12) Past due rental payments of any amount shall bear interest at one and one half percent (1.5%) per month compounded monthly, from the date it becomes due until fully paid.

(13) Application of Rent Payments – Rent payments shall be applied in the following order (with oldest receivables in each category being credited first):

- (i) Outstanding cost reimbursements due to DPL first.
- (ii) Penalties due second.
- (iii) Past due interest third.
- (iv) Rent last.

TITLE 145: DEPARTMENT OF PUBLIC LANDS

(f) Construction Quality, Maintenance, Repairs, Alterations.

(1) Construction repairs and alterations shall be in good workmanlike manner and in compliance with applicable laws, regulations, ordinances, and building codes.

(2) Maintenance – Lessee shall maintain its leased premises in the level of condition at industry standards of similar facilities for the duration of the lease.

(3) Alterations – Lessee shall inform DPL of any proposed alterations or improvements exceeding 1.00% of the total cost of the facility or will result in the reducing the value of the property by more than 1.00% shall be subject to DPL's prior approval. Proposed alterations shall be in line with or enhance to existing operations and lessee shall submit pro forma financial statements showing the additional revenues (or revenue reduction) anticipated as a result of the alteration. DPL may require additional documentation for a proper assessment.

(g) Financing – Submission by lessee (and related party if any portion of the operations will be continuously funded by the related party) of the following periodically as required in the lease agreement: audited financial statements, annual reports of lessee, related parties, and subtenants, and CNMI BGR tax filings from lessee.

(1) No later than sixty days after lessee's fiscal year, financial statements audited by a certified public accountant certified in the United States comparing financial information of the past two years including any restatements on its profit and loss and cash flow statements, change in ownership and owner's equity, and balance sheet.

(2) Applicants and lessees with less than \$500,000 in BGR may submit management prepared financial statements together with a certified tax transcript for the corresponding period in lieu of audited statements.

(3) Publicly held corporations and corporations required to issue annual reports to their shareholders shall submit their annual report to shareholders to DPL at the time of issuance. Lessees shall submit to DPL all periodic reports required by the CNMI Department of Commerce before the filing deadline.

(4) Financial statements from lessee and subtenants shall include a schedule of gross receipts indicating sources and deductions in support of the gross receipts fee and any other documents DPL may deem necessary to properly determine lessee's compliance with conditions or covenants of the lease.

(5) Submit CNMI BGR tax filings upon filing but no later than one tax period after the filing deadline.

(h) Guarantees. The following guaranties and security are required for all public lands leases:

(1) Guarantees from all related parties to guaranty lessee's obligations under the lease and funding of the proposed development.

(2) Formal written resolutions authorizing the guarantee for each guarantor other than individual guarantors.

(3) Performance bond, completion bond, deposit, stand by letter of credit, guarantee of payment, any finance document, or a combination thereof covering 100% of development cost. The performance bond, completion bond, deposit, stand by letter of credit, or combination thereof covering 100% of the development costs must be submitted to DPL for its approval, such approval being in the sole discretion of DPL.

(i) Assignment and Subleases – Leases shall not be assigned or subleased in part or in whole without the prior written consent of the DPL, ~~which shall not be unreasonably withheld or not exceed ninety days upon submission of all required documents which standards must be clearly~~

TITLE 145: DEPARTMENT OF PUBLIC LANDS

~~provided by the DPL.~~

- (1) Proposed assignees and sublessees shall be subject to the same eligibility requirements, qualifying factors, and level of scrutiny as lessees.
- (2) Leases of less than five years from date of execution or within five years from date of expiration shall not be assignable.
- (3) In no instance shall the deposits of applicant or lessee be refunded until assignee or subtenant deposits equal or greater amounts with DPL.
- (4) Lessee and assignee or subtenant shall provide DPL a complete and accurate copy of their proposed assignment agreement and/or sublease showing the total consideration given for or in connection with the assignment or subleasing transaction.
- (5) DPL shall charge a fee of 25% of the value of the monthly/annual sublease fee or assignment fee, if any.

(j) Renewals, Extensions – DPL will consider proposals to renew or extend leases no sooner than the latter of the completion of construction or two years after the commencement date of the lease agreement, and thereafter, at least two years prior to the expiration of an existing lease. Such consideration shall be based on the lessee's performance under its existing lease.

- (1) Consideration for renewal and extension shall be based on lessee's performance on its existing lease and subject to the same eligibility requirements, qualifying factors, and level of scrutiny as new lessees. Lessees with more than three late payments within the previous 24-month period shall be ineligible for renewal or extension.
- (2) Base rent for renewals shall be based on the appraisal of the property including improvements.

(k) Mortgage.

- (1) The lessee and its permitted successors and assigns may, subject to the express prior written approval of the DPL, mortgage its lease and its interest in the property provided that no holder of any mortgage of the lease, or any one claiming by, through or under any such mortgage shall, by virtue thereof, except as otherwise specified in the lease agreement acquire any greater rights hereunder than the lessee.
- (2) No mortgage of the lease or the lessee's interest in the leased property, in whole or in part, by the lessee or the lessee's successors or assigns shall be valid, unless:
 - (i) At the time of the making of such mortgage, there shall be no default under any of the agreements, terms, covenants and conditions to be performed by the lessee under the lease;
 - (ii) The mortgage shall be subject to all the agreements, terms, covenants and conditions of the lease;
 - (iii) The mortgage shall reserve to the DPL prior right, and in the event of lessee's default under the same and after notice of the same character and duration as required to be given to Lessee, to correct the default or to purchase the same and terminate the lease.
- (3) The mortgage shall contain the following provisions: The consent by the DPL to an assignment, transfer, management contract, or subletting may be granted, denied or made subject to such conditions as the DPL finds it in the best interest of its beneficiaries.
- (4) All proceeds from the facility secured by the mortgage shall be used ~~solely~~ solely for the improvement ~~and operation~~ of the leased property.

(l) Termination, Recapture.

- (1) Notice shall be given to lessees who are in material default as follows: 1st notice with 30 days to cure, final notice with 15 days to cure, and notice of termination effective immediately. (2)

TITLE 145: DEPARTMENT OF PUBLIC LANDS

DPL may terminate a lease agreement that remains in default forty five days after the 1st notice has been delivered unless otherwise stated in these regulations for reasons including without limitation:

- (i) Failure to consistently and significantly reduce past due rents, fees, or taxes or other charges required to be paid by lessees;
- (ii) Other material defaults due to non performance including without limitation failure to complete development in accordance with the development plan and projections upon which a lease is based;
- (iii) Abandonment; and
- (iv) Use of the property other than lessee's proposed purpose and as stated in the lease.

(3) DPL may recapture all or portions of properties under lease in the event the use of the property is not consistent with the proposed development as stated in the lease or in the event of under-utilization of public lands when such lands may have a higher and better use via notice to lessee.

(m) Holdover.

(1) If a lessee fails to vacate the leased property upon the expiration, termination or cancellation of its lease, Lessee shall be deemed a holdover tenant.

(2) The fee during any holdover period shall be not less than 150% of the latest basic rent amount, and additional rent.

(3) Payment of the holdover fee shall in no way constitute a limitation upon any rights or remedies the DPL may be entitled to pursue for violation of the lease, for trespass or illegal possession or for any other cause of action arising out of the holdover tenant's failure to vacate the premises including the right to evict the holdover tenant without court action, and the cost thereof to be paid by the holdover tenant.

(4) The lessee shall be responsible, at its sole cost and expense and even after termination of the lease, for removing any person or entity, authorized or unauthorized by the lessee, from the premises who may have been on the premises prior to the termination of the lease and continues to occupy a portion of the premises thereafter. The failure of the lessee to remove the person or entity from the premises at the end of the lease constitutes a holdover.

Modified, 1 CMC § 3806(e), (f), (g).

History: Amdts Adopted 39 Com. Reg. 39605 (May 28, 2017); Amdts Proposed 39 Com. Reg. 39351 (Mar. 28, 2017); Adopted 38 Com. Reg. 37440 (Jan. 28, 2016); Emergency and Proposed 37 Com. Reg. 37247 (Nov. 28, 2015) (effective for 120 days from Nov. 28, 2015).

Commission Comment: The Commission struck the figures "(60)" from subsection (g)(1) and "(45)" from subsection (l)(2) as mere repetitions of words. The Commission removed a colon after "following" in the first paragraph; inserted periods after "etc" in subsection (d)(6) and at the ends of subsections (e)(9)(13)(i)-(iv), (g)(2), (j)(2), (k)(3), and (m)(1); changed brackets in subsection (e)(9) to parentheses; and changed "five year from" to "five years from" in subsection (i)(2).

§ 145-70-115 Lease Form

All leases shall be in a form substantially similar to that set forth in Appendix A below. ~~All leases shall be in the form set forth in Appendix A below.~~

Modified, 1 CMC § 3806(b), (d).

History: Adopted 38 Com. Reg. 37440 (Jan. 28, 2016); Emergency and Proposed 37 Com. Reg. 37247 (Nov. 28, 2015)
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Page 11 of 54