

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



COMMONWEALTH REGISTER

**VOLUME 42
NUMBER 07
JULY 28, 2020**

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COMMONWEALTH REGISTER

VOLUME 42
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No.: OAG 20-01
Subject: Can the Department of Public Lands allow
construction on public lands within 150 feet
of the shore's high water mark?

Office of the Attorney General **043867**



Commonwealth of the Northern Mariana Islands
Office of the Secretary of Public Works
2nd floor - Oleai Joeten Commercial Center
Saipan, MP 96950



James A. Ada, Secretary of Public Works
Telephone Nos.: (670) 235-9570/5818 Fax: (670) 235-6346

PUBLIC NOTICE OF CERTIFICATION AND ADOPTION TO THE
AMENDMENTS MADE TO THE BUILDING SAFETY CODE RULES AND
REGULATIONS OF THE DEPARTMENT OF PUBLIC WORKS, DIVISION OF
BUILDING SAFETY CODE

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER AS PROPOSED
REGULATIONS

Volume 42, Number 05, pp 043598-043638, of May 28, 2020

ACTION TO ADOPT PROPOSED REGULATIONS: The Commonwealth of the Northern Mariana Islands, Department of Public Works (DPW), HEREBY ADOPTS AS Regulations to its Building Safety Code Rules and Regulations which were published in the Commonwealth Registrar at the above-referenced pages, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9102(a)(1). The Department of Public Works announced that it intended to adopt them as permanent and now does so. These amendments will become effective ten days after publication of a Notice of Adoption in the Commonwealth Register, 1 CMC § 9105(b). [A true copy is attached]. I also certify by signature below that:

As published, such adopted regulations are a true, complete and correct copy of the referenced Proposed Regulations,

PRIOR PUBLICATION: The prior publication was as stated above.

MODIFICATION FROM PROPOSED REGULATIONS, IF ANY: None


AUTHORITY: These amendments to the Building Safety Code Regulations are promulgated under the authority set forth in the Commonwealth Code including, but not limited to, 1 CMC § 2404, 2 CMC § 7122(h), 2 CMC § 7153 and 2 CMC § 7132 (a)(1).

EFFECTIVE DATE: Pursuant to the APA, 1 CMC § 9105(b), these adopted regulations are effective 10 days after compliance with the APA, 1 CMC § 9102 and 1 CMC § 9104(a) or (b), which, in this instance, is 10 days after this publication in the Commonwealth Register.

COMMENTS AND AGENCY CONCISE STATEMENT: Pursuant to the APA, 1 CMC § 9104(a)(2), the Department of Public Works has considered fully all written and oral submissions respecting the Proposed Amendments to its Building Safety Code Rules and Regulations. Upon this adoption of these regulations the Department of Public Works, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of the principal reason for and against its adoption, incorporated therein and its reasons for overruling the consideration urged against its adoption. Please see the following pages for this agency's concise statement, if there are any, in response to filed comments.


I DECLARE under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 8th day of July, 2020, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and Ordered by:



ISAGANI C. SALAZAR
Acting, Building Safety Official

7/08/2020
Date



JAMES A. ADA, Secretary
Department of Public Works

7/8/20
Date

Filed and
Recorded by:



ESTHER SN. NESBITT
Commonwealth Registrar

07.13.2020
Date



Office of the Secretary
Department of Finance

P.O. Box 5234 CHRB SAIPAN, MP 96950

TEL (670) 664-1100 FAX: (670) 664-1115



Commonwealth of the Northern Mariana Islands
Department of Finance

David DLG Atalig, Secretary of Finance
P.O. Box 5234 CHRB
Dandan Commercial Center, Saipan, MP 96950
Tel: 664.1100

**PUBLIC NOTICE OF CERTIFICATION AND ADOPTION
OF REGULATIONS OF
The Department of Finance, Division of Revenue and Taxation**

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER
AS PROPOSED REGULATIONS

Volume 42, Number 02, pp 043232-043247, of February 28, 2020

Regulations of the Department of Finance: Chapter 70-40.1 Business Licensing

ACTION TO ADOPT PROPOSED REGULATIONS: The Commonwealth of the Northern Mariana Islands, Department of Finance ("DOF"), HEREBY ADOPTS AS PERMANENT the Proposed Regulations which were published in the Commonwealth Register at the above-referenced pages, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The DOF announced that it intended to adopt them as permanent, and now does so. (Id.) I also certify by signature below that:

as published, such adopted regulations are a true, complete and correct copy of the referenced Proposed Regulations,

and that they are being adopted without modification or amendment.

PRIOR PUBLICATION: The prior publication was as stated above. These regulations were adopted on January 30, 2020.

MODIFICATIONS FROM PROPOSED REGULATIONS, IF ANY: None

AUTHORITY: These regulations are promulgated under the authority set forth in the Commonwealth Code including, but not limited to, 1 CMC §§ 2553 and 2557; 4 CMC §§ 5611- 5614.

EFFECTIVE DATE: Pursuant to the APA, 1 CMC sec. 9105(b), these adopted regulations are effective 10 days after compliance with the APA, 1 CMC §§ 9102 and 9104(a) or (b), which, in this instance, is 10 days after this publication in the Commonwealth Register.

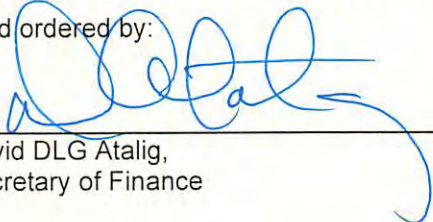
COMMENTS AND AGENCY CONCISE STATEMENT: Pursuant to the APA, 1 CMC sec. 9104(a)(2), the agency has considered fully all written and oral submissions respecting the proposed regulations. Upon this adoption of the regulations, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its

adoption. Please see the following pages for this agency's concise statement, if there are any, in response to filed comments.

ATTORNEY GENERAL APPROVAL for non-modified regulations or regulations with non-material modification: The adopted regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC sec. 2153(e) (To review and approve, as to form and legal sufficiency, all rules and regulations to be promulgated by any department, agency or instrumentality of the Commonwealth government, including public corporations, except as otherwise provided by law).

I DECLARE under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 2nd day of July, 2020, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:

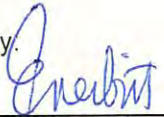


David DLG Atalig,
Secretary of Finance

7/2/2020

Date

Filed and
Recorded by:



Esther SN. Nesbitt
Commonwealth Registrar

07-07-2020

Date



Office of the Secretary
Department of Finance



P.O. Box 5234 CHR B SAIPAN, MP 96950

TEL (670) 664-1100 FAX: (670) 664-1115

Commonwealth of the Northern Mariana Islands
Department of Finance

David DLG Atalig, Secretary of Finance
P.O. Box 5234CHR B
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**PUBLIC NOTICE OF CERTIFICATION AND ADOPTION
OF REGULATIONS OF
The Department of Finance, Division of Revenue and Taxation**

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER
AS PROPOSED REGULATIONS
Volume 42, Number 02, pp 043248-043288, of February 28, 2020

Regulations of the Department of Finance: Chapter 70-40.6 Revenue and Taxation

ACTION TO ADOPT PROPOSED REGULATIONS: The Commonwealth of the Northern Mariana Islands, Department of Finance ("DOF"), HEREBY ADOPTS AS PERMANENT the Proposed Regulations which were published in the Commonwealth Register at the above-referenced pages, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The DOF announced that it intended to adopt them as permanent, and now does so. (Id.) I also certify by signature below that:

as published, such adopted regulations are a true, complete and correct copy of the referenced Proposed Regulations,

and that they are being adopted without modification or amendment.

PRIOR PUBLICATION: The prior publication was as stated above. These regulations were adopted on January 30, 2020.

MODIFICATIONS FROM PROPOSED REGULATIONS, IF ANY: None

AUTHORITY: These regulations are promulgated under the authority set forth in the Commonwealth Code including, but not limited to, 1 CMC 2553, 1 CMC 2557, 1 CMC § 25201, 4 CMC § 1104, 4 CMC § 1402, 4 CMC § 1425 and 4 CMC § 1820.

EFFECTIVE DATE: Pursuant to the APA, 1 CMC sec. 9105(b), these adopted regulations are effective 10 days after compliance with the APA, 1 CMC §§ 9102 and 9104(a) or (b), which, in this instance, is 10 days after this publication in the Commonwealth Register.

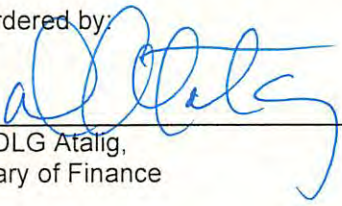
COMMENTS AND AGENCY CONCISE STATEMENT: Pursuant to the APA, 1 CMC sec. 9104(a)(2), the agency has considered fully all written and oral submissions respecting the proposed regulations. Upon this adoption of the regulations, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and

against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption. Please see the following pages for this agency's concise statement, if there are any, in response to filed comments.

ATTORNEY GENERAL APPROVAL for non-modified regulations or regulations with non-material modification: The adopted regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC sec. 2153(e) (To review and approve, as to form and legal sufficiency, all rules and regulations to be promulgated by any department, agency or instrumentality of the Commonwealth government, including public corporations, except as otherwise provided by law).

I DECLARE under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 2nd day of July, 2020, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:




David DLG Atalig,
Secretary of Finance

7/2/2020

Date

Filed and
Recorded by:



Esther SN. Nesbitt
Commonwealth Registrar

07-07-2020

Date



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

CANNABIS COMMISSION

Nadine Deleon Guerrero, Chairman
P.O. Box 500135 Saipan, MP 96950 | media@cnmicannabis.org

OFFICE OF THE
ATTORNEY GENERAL
CIVIL DIVISION
2020 JUL 14 PM 12:19

PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF PROPOSED RULES AND REGULATIONS OF CNMI Cannabis Commission Nadine Deleon Guerrero, Chairman

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER
AS PROPOSED RULES AND REGULATIONS
Volume 42, Number 03, pp 043293-043355 of March 18, 2020
and Volume 42, Number 03, pp 043356-043422

Regulations of the CNMI Cannabis Commission

ACTION TO ADOPT PROPOSED REGULATIONS: The Commonwealth of the Northern Mariana Islands Cannabis Commission (“The Commission”) HEREBY ADOPTS AS PERMANENT Regulations which were published in the Commonwealth Register at the above-referenced pages, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Commission announced that it intended to adopt them as permanent, and now does so. (Id.). I also certify by signature below that, as published, such adopted regulations are a true, complete and correct copy of the referenced Proposed Regulations, and that they are being adopted without modification or amendment, except as stated as follows:

(no changes)

PRIOR PUBLICATION: The prior publication were as stated above. The Commission adopted the regulations as final on June 23, 2020.

MODIFICATIONS FROM PROPOSED REGULATIONS, IF ANY: Modifications were made as specified above. (There were no modifications). I further request and direct that this Notice of Adoption be published in the Commonwealth Register.

AUTHORITY: The Commonwealth is required by the Legislature to adopt rules and regulations regarding those matters over which the CCC has jurisdiction, see Public Laws 20-66 and 21-05.

EFFECTIVE DATE: Pursuant to the APA, 1 CMC sec. 9105(b), these adopted regulations are effective 10 days after compliance with the APA, 1 CMC §§ 9102 and 9104(a) or (b), which, in this instance, is 10 days after this publication in the Commonwealth Register.

COMMENTS AND AGENCY CONCISE STATEMENT: Pursuant to the APA, 1 CMC sec. 9104(a)(2), the agency has considered fully all written and oral submissions respecting the proposed regulations (no written comments submitted). Attached hereto are the Commission responses to all public comments received. (none) Upon this adoption of the regulations, the

responses to all public comments received. (none) Upon this adoption of the regulations, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

ATTORNEY GENERAL APPROVAL for non-modified regulations or regulations with NON-material modification: The adopted regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC sec. 2153(e) (To review and approve, as to form and legal sufficiency, all rules and regulations to be promulgated by any department, agency or instrumentality of the Commonwealth government, including public corporations, except as otherwise provided by law).

I DECLARE under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 23rd day of June, 2020, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:



NADINE DELEON GUERRERO
Chairman, CNMI Cannabis Commission

06.23.2020

Date

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 certified final regulations, modified as indicated above from the cited proposed regulations, 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 14 day of July, 2020.



EDWARD MANIBUSAN
Attorney General

Filed and
Recorded by:



ESTHER SN. NESBITT
Commonwealth Registrar

07.15.2020

Date

TITLE 180
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
(CNMI) CANNABIS COMMISSION

CHAPTER 180-10 CNMI Cannabis Commission
Subchapter 180-10.1 CNMI Cannabis Commission Rules and Regulations
Subchapter 180-10.2 Code of Ethics

CHAPTER 180-10
CNMI CANNABIS COMMISSION

SUBCHAPTER 180-10.1
CNMI CANNABIS COMMISSION RULES AND REGULATIONS

Part 001

**ISSUANCE OF REGULATIONS;
CONSTRUCTION; DEFINITIONS**

§ 180-10.1-001 Promulgation. Amendment, modification and repeal
§ 180-10.1-005 Construction
§ 180-10.1-010 Severability
§ 180-10.1-015 Preemption
§ 180-10.1-020 Practice where Regulations Do Not Govern
§ 180-10.1-025 Suspension of Regulations
§ 180-10.1-030 Definitions, words and terms; tense, number and gender
§ 180-10.1-035 Headings
§ 180-10.1-040 Definitions
§ 180-10.1-045 Further Definitions

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ADMINISTRATION**

§ 180-10.1-101 CNMI CANNABIS COMMISSION
§ 180-10.1-105 Powers and Duties
§ 180-10.1-110 Commissioners
§ 180-10.1-115 Limitations on Powers
§ 180-10.1-120 Managing Director
§ 180-10.1-125 Delegation of Officers
§ 180-10.1-130 Commission Meetings
§ 180-10.1-135 Resolutions and Minutes
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§ 180-10.1-150 Investigative Hearings
§ 180-10.1-155 Appointment of committees
§ 180-10.1-160 Service of Notice in General
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Part 200 INFORMATION AND FILINGS:

- § 180-10.1-201 Office Mailing Address and Hours
- § 180-10.1-205 Official Records; Fees for Copies
- § 180-10.1-210 Communications/Notices to Commission
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- § 180-10.1-325 Application Review
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Part 400 LICENSEE RESPONSIBILITIES; GENERAL RESPONSIBILITIES

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- § 180-10.1-405 Licensee Responsibility
- § 180-10.1-410 Licensee Prohibitions

Part 500 LICENSE PREMISES

- § 180-10.1-501 Licensed Premises Restrictions and Requirement
- § 180-10.1-505 Signage

Part 600 MARIJUANA PRODUCERS

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- § 180-10.1-705 Retailer Operational Requirements
- § 180-10.1-710 Retailer Premises

Part 800 MARIJUANA PROCESSORS

- § 180-10.1-801 General Processor Requirements
- § 180-10.1-805 Privileges; Prohibitions
- § 180-10.1-810 Endorsements
- § 180-10.1-815 Processor Policies and Procedures
- § 180-10.1-820 Processor Training Requirements
- § 180-10.1-825 Cannabinoid Concentrate and Extract Processor Requirements
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- § 180-10.1-901 Privileges; Prohibitions
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Part 1000 MARIJUANA LOUNGE

- § 180-10.1-1001 Class 1 Lounge Privileges; Prohibitions
- § 180-10.1-1005 Class 1 Lounge Operational Requirements
- § 180-10.1-1010 Class 1 Lounge Premises
- § 180-10.1-1015 Class 2 Lounge Privileges; Prohibitions
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Part 1100 PACKAGING LABELING AND ADVERTISING

- § 180-10.1-1101 Packaging and Labeling – Definitions
- § 180-10.1-1105 Packaging for Sale to Consumer
- § 180-10.1-1110 Advertising – Restrictions
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Part 1200 LICENSEE CONDUCT, INSPECTIONS AND SUSPENSION

- § 180-10.1-1201 Prohibited Conduct
- § 180-10.1-1205 Dishonest Conduct
- § 180-10.1-1210 Inspections
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Part 1300 MEDICINAL MARIJUANA [RESERVED]

Part 1400 LABORATORY LICENSE [RESERVED]

Part 1500 MARIJUANA EVENTS [RESERVED]

SUBCHAPTER 180-10.2 CODE OF ETHICS

Part 001 CODE OF ETHICS

§180-10.2.101 Commission to follow Government Ethics Act

§180-10.2.105 Responsibilities of Public Office

§180-10.2.110 Commission Policies

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SUBCHAPTER 180-10.3 HOMEGROWN MARIJUANA REGISTRY

Part 001 HOMEGROWN MARIJUANA REGISTRY

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§180-10.3.105 Homegrown Marijuana Privileges; Prohibitions

§180-10.3.110 Maintenance of Homegrown Marijuana Registry

Part 100

CNMI CANNABIS COMMISSION: ORGANIZATION AND ADMINISTRATION

Part 001 ISSUANCE OF REGULATIONS; CONSTRUCTION; DEFINITIONS

| | |
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| § 180-10.1-001 | Promulgation. Amendment, modification and repeal |
| § 180-10.1-005 | Construction |
| § 180-10.1-010 | Severability |
| § 180-10.1-015 | Preemption |
| § 180-10.1-020 | Practice where Regulations Do Not Govern |
| § 180-10.1-025 | Suspension of Regulations |
| § 180-10.1-030 | Definitions, words and terms; tense, number and gender |
| § 180-10.1-035 | Headings |
| § 180-10.1-040 | Applicability |
| § 180-10.1-045 | Definitions |
| § 180-10.1-050 | Further Definitions |

§ 180-10.1-001 Promulgation, amendment, modification and repeal. The following regulations are issued pursuant to Public Law 20-66 and Public Law 21-05, in accordance with the procedures promulgated by the Administrative Procedures Act, 1 CMC § 9101 et seq. The Commission will, from time to time, promulgate, amend and repeal such regulations, consistent with the policy, objects and purposes of Public Law 20-66 and Public Law 21-05, as the Commission may deem necessary or desirable in carrying out the policy and provisions of the laws of the Commonwealth. These regulations supersede any other regulations previously promulgated.

§ 180-10.1-005 Construction:

- (a) Nothing contained in these regulations shall be construed as to conflict with any provision of the Act.
- (b) These rules and regulations shall be interpreted in accordance with generally accepted principles of statutory construction.
- (c) These rules and regulations shall be liberally construed to permit the Commission to effectively carry out its statutory functions and to secure a just and expeditious determination of issues properly presented to the Commission.
- (d) Nothing in these rules exempts a licensee or licensee representative from complying with any other applicable local laws.

(e) Licensure under these rules does not protect a person from possible criminal prosecution under federal law.

§ 180-10.1-010 Severability. If any clause, sentence, subparagraph, paragraph, subsection, section, chapter, or other portion of these entire rules and regulations or the application thereof to any person or circumstance shall be held to be invalid, such holding shall not affect, impair, or invalidate the remainder of these rules and regulations or the application of such portion held invalid to any other person or circumstances, but shall be confined in its operation to the clause, sentence, subparagraph, paragraph, subsection, section, chapter, or other portion thereof directly involved in such holding or to the person or circumstance therein involved.

§ 180-10.1-015 Preemption. The Commission shall have exclusive jurisdiction over all matters delegated to it or within the scope of its power under the provisions of the Act and these Regulations. These Regulations supersede any bylaws of the Commission.

§ 180-10.1-020 Practice where Regulations Do Not Govern. In any matter not governed by these Regulations, the Commission shall exercise its discretion so as to carry out the purposes of the Act.

§ 180-10.1-025 Suspension of Regulations. On its own or a party's motion, the Commission may - to expedite its decision or for other good cause - suspend any provision of these Regulations in a particular matter and order proceedings as it directs, except the Commission may not contradict any explicit requirement of the Act

§ 180-10.1-030 Definitions, words and terms; tense, number and gender. In interpreting these regulations, except when otherwise plainly declared or clearly apparent from the context: Words in the present tense include the future tense; The singular includes the plural and the plural includes the singular; and words of one gender include the other genders.

§ 180-10.1-035 Headings. The heading of a title, subtitle, chapter, subchapter, part, subpart, section or subsection does not limit or expand the meaning of a regulation.

§ 180-10.1-040 Applicability. A person may not produce, process, store, transport, sell, sample, test, or deliver marijuana for commercial recreational use without a license from the Commission or as otherwise authorized under these rules.

§ 180-10.1-045 Definitions. In this Subchapter 180-10.1 the following words have the following meanings, unless some contrary meaning is required:

- (a) "Act" means Public Law 20-66, as amended by Public Law 21-05 and as it may be amended or supplemented by subsequent legislation.
- (b) "Cannabis" means a genus of flowering plants that includes three putative varieties; cannabis sativa, cannabis indica, and cannabis ruderalis. The cannabis genus has two main species popularly known as cannabis sativa and cannabis indica:
 - (1) Cannabis sativa plants are known to stretch to extraordinary heights of up to 20 feet when grown outside, and have much longer vegetation periods. Once the plant begins

- to flower, it can take anywhere from ten to sixteen weeks to fully mature. Since vegetation periods are so long, these plants typically produce a much higher yield than indica strains (3 ounces to 1 pound per plant), but possess a lower THC percentage than indica on average (around 12–16%);
- (2) Cannabis indica are short and stout in composure (2–4 feet tall), and typically yield smaller (1.5 to 2.5 ounces per plant), higher quality crops (- 18% THC) than cannabis sativa. The plants are believed to have originated in the Middle East (Pakistan & Afghanistan), and thrive in cooler environments. Indica strains are typically darker green than sativa and have shorter, fatter leaves.
 - (3) The main active ingredient in cannabis is called delta-9 tetrahydrocannabinol, commonly known as THC. This is the part of the plant that gives the “high.” There is a wide range of THC potency between cannabis products.
 - (4) Cannabis is used in three main forms: marijuana, hashish, and hash oil. Marijuana is made from dried flowers and leaves of the cannabis plant. It is the least potent of all the cannabis products and is usually smoked or made into edible products like cookies or brownies. Hashish is made from the resin (a secreted gum) of the cannabis plant. It is dried and pressed into small blocks and smoked. It can also be added to food and eaten. Hash oil, the most potent cannabis product, is a thick oil obtained from hashish. It is also smoked.
 - (5) Cannabis is usually smoked in hand-rolled cigarettes (known as “joints”) or in special water pipes (“bongs”). These pipes or bongs can be bought or made from things such as orange juice containers, soft drink cans, or even toilet paper rolls.
- (c) “Caregiver” means a person who is 21 years of age or older who is responsible for the medical marijuana patient’s needs to the production, processing, keeping, or storage of homegrown marijuana at a household or cultivation site.*
 - (d) “Commerce” means the Department of Commerce.
 - (e) “Commission” means the Cannabis Commission.
 - (f) “Consumer” means a person who purchases, acquires, owns, holds, or uses marijuana items other than for the purpose of resale.
 - (g) “Commonwealth” or “CNMI” means the Commonwealth of the Northern Mariana Islands.
 - (h) “Cultivation site” means a site in which marijuana is produced other than a household for non-commercial purposes. A cultivation site may include, but is not limited to, a farm, ranch, land parcel, lot, greenhouse, warehouse, building, room, or container.
 - (i) “Debilitating medical condition” means:
 - (1) cancer, glaucoma, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), hepatitis C, amyotrophic lateral sclerosis, Crohn’s disease, ulcerative colitis, agitation of Alzheimer’s disease, post-traumatic stress disorder, or the treatment of these conditions;
 - (2) a chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: stroke, diabetes, Parkinson’s disease, Wilson’s disease, traumatic brain injury, ADD/ADHD, muscular dystrophy (MD), cerebral palsy, asthma, and other types of immunomodulated inflammatory diseases, cachexia or wasting syndrome; severe, debilitating pain; severe nausea; seizures; or severe and persistent muscle spasms, including, but not limited to, those characteristic of multiple sclerosis; or

- (3) any other serious medical condition or its treatment provided for by the Commission regulation in consultation with the Commonwealth Healthcare Corporation (CHCC) or other medical professionals.
- (j) “Division of Agriculture” means the Department of Lands and Natural Resources Division of Agriculture.
- (k) “Controlled substance” means a drug or its immediate precursor classified in Schedules I through V by 6 CMC §§ 2111–2123. The term “controlled substance,” as used in the Commonwealth Code does not include marijuana.
- (l) “Financial consideration,” except as provided in of this subsection, means value that is given or received directly or indirectly through sales, barter, trade, fees, charges, dues, contributions, or donations.
- (1) “Financial consideration” does not mean any of the following:
- i. Homegrown marijuana made by another person.
 - ii. Homemade marijuana products made by another person.
- (m) “Hemp” means the plant of the genus cannabis and any part of the plant, whether growing or not, with a delta9-tetrahydrocannabinol concentration that does not exceed three tenths percent (0.3%) on a dry weight basis for any part of the plant cannabis, or per volume or weight of marijuana product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant cannabis regardless of moisture content.
- (n) “Homegrown” or “homemade” means grown or made by a person 21 years of age or older for non-commercial purposes.
- (o) “Homegrown marijuana registry” means a record maintained by the Commission of the names and addresses of persons who are 21 years of age or older or medical marijuana patients authorized to produce, process, keep, or store homegrown marijuana at a household or a cultivation site for non-commercial purposes.
- (p) “Homegrown marijuana registry card” means a card issued by the Commission to a person who is 21 years of age or older or a medical marijuana patient that is authorized to produce, process, keep, or store homegrown marijuana at a household or a cultivation site for non-commercial purposes.
- (q) “Household” means a housing unit, and includes any place in or around the housing unit at which the occupants of the housing unit are producing, processing, keeping, or storing marijuana, marijuana products, or marijuana extracts, whether homemade or purchased.
- (r) “Housing unit” means a house, an apartment, a mobile home, a group of rooms, or a single room that is occupied as separate living quarters, in which the occupants live and eat separately from any other persons in the building and which have direct access from the outside of the building or through a common hall.
- (s) “Immature marijuana plant” means a marijuana plant with no observable flowers or buds.
- (t) “Licensee” means any person holding a license issued under this chapter, or any person holding a license or permit issued under any regulation promulgated pursuant to this chapter.
- (u) “Licensee representative” means an owner, director, officer, manager, employee, agent, or other representative of a licensee, to the extent such person acts in such representative capacity.
- (v) “Marijuana” means all parts of the plant of the genus cannabis, the seeds thereof, and every compound, manufacture, salt derivative, mixture, or preparation of the plant and its

seeds whether growing or not, regardless of moisture content, other than marijuana extracts. "Marijuana" does not include hemp, nor does it include fiber produced from the stalks, oil or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

- (w) "Marijuana establishment" means an entity licensed by the Commission as a marijuana producer, marijuana lounge, marijuana testing facility, marijuana processor, a marijuana retailer, or a marijuana wholesaler.
- (x) "Marijuana extract" or "Marijuana concentrate" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than water or vegetable glycerin, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide: which is produced only by a licensed marijuana establishment.
- (y) (1) "Marijuana flowers" means the flowers of the plant cannabis family Moraceae.
(2) "Marijuana flowers" does not include any part of the plant other than the flowers.
- (z) "Marijuana items" means marijuana, marijuana products, and marijuana extracts.
(1) "Marijuana leaves" means the leaves of the plant Cannabis family Moraceae.
(2) "Marijuana leaves" does not include any part of the plant other than the leaves.
- (aa) "Marijuana Lounge" means an entity licensed by the Commission to sell and/or allow for the on-site consumption of marijuana items.
(1) "Class 1" means an entity licensed to sell marijuana items for on-site consumption.
(2) "Class 2" means an entity licensed to allow for the on-site consumption of marijuana items, but for which the sale of marijuana items is prohibited.
- (bb) "Marijuana processor" means a person who processes marijuana items in this Commonwealth.
- (cc) "Marijuana producer" means a person who produces marijuana in this Commonwealth.
- (dd) (1) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for consumption, that include, but are not limited to, being edible, drinkable, or topical.
(2) "Marijuana products" does not mean:
 - (i) Marijuana, by itself; or
 - (ii) A marijuana extract, by itself.
- (ee) "Marijuana retailer" means a person who sells marijuana items to a consumer in this Commonwealth.
- (ff) "Marijuana testing facility" means an entity licensed by the Commission to analyze and certify the safety and potency of marijuana items.
- (gg) "Marijuana wholesaler" means a person who purchases marijuana items in this Commonwealth for resale to a person other than a consumer in this Commonwealth, such as a licensed marijuana establishment.
- (hh) "Mature marijuana plant" means any marijuana plant that is not an immature marijuana plant. A mature marijuana plant has observable flowers or buds.
- (ii) "Medical marijuana" or "medicinal marijuana" means marijuana used by a person for medical or medicinal purposes.
- (jj) "Medical marijuana patient" means a person who uses marijuana as recommended by a doctor or other medical authority in the treatment of a debilitating medical condition or any other medical condition.

- (kk) “Micro producer” means a person with a micro production license to produce marijuana in this Commonwealth.
- (ll) “Minor” means a person under the age of 21 years old for purposes of this chapter.
- (mm) “Non-commercial” means not dependent or conditioned upon the provision or receipt of financial consideration.
- (nn) “Person” means any natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, joint venture, or any other legal entity.
- (oo) “Premises” or “licensed premises” or “marijuana establishment” means a location licensed under this chapter and includes:
- (1) All enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms, and storerooms, including all public and private areas;
 - (2) All areas outside of a building that the Commission has specifically licensed for the consumption, production, processing, wholesale sale, or retail sale of marijuana items; and
 - (3) For a location that the Commission has specifically licensed for the production of marijuana outside of a building, the entire lot or parcel, that the licensee owns, leases, or has a right to occupy.
- (pp) (1) “Processes” means:
- (i) The processing, compounding, or conversion of marijuana into marijuana products or marijuana extracts;
 - (ii) The processing, compounding, or conversion of marijuana, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis;
 - (iii) The packaging or repackaging of marijuana items; or
 - (iv) The labeling or relabeling of any package or container of marijuana items.
- (2) “Processes” does not include:
- (i) The drying of marijuana by a marijuana producer, if the marijuana producer is not otherwise processing marijuana; or
 - (ii) The packaging and labeling of marijuana by a marijuana producer in preparation for delivery to a marijuana processor, marijuana retailer, marijuana wholesaler, or marijuana lounge.
- (qq) (1) “Produces” means the manufacture, planting, cultivation, growing, or harvesting of marijuana.
- (2) “Produces” does not include:
- (i) The drying of marijuana by a marijuana processor, if the marijuana processor is not otherwise producing marijuana; or
 - (ii) The cultivation and growing of an immature marijuana plant by a marijuana processor, marijuana lounge, marijuana wholesaler, or marijuana retailer if the marijuana processor, marijuana lounge, marijuana wholesaler, or marijuana retailer purchased or otherwise received the plant from a licensed marijuana producer.

- (rr) “Public place” or “public property” means a place to which the general public has access and includes, but is not limited to, beaches, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds, and premises used in connection with public passenger transportation or any property owned by the CNMI or Department of Public Lands (DPL).
- (ss) “Sale” or “sold” means:
- (1) Any transfer, exchange, or barter, in any manner or by any means, for a consideration, and includes and means all sales made by any person. It includes a gift by a person engaged in the business of selling marijuana, for advertising, as a means of evading this chapter, or for any other purpose.
 - (2) If a marijuana producer also holds one or more processor licenses, one or more wholesale licenses, one or more marijuana lounge licenses, or one or more retail licenses, a sale of marijuana flowers, marijuana leaves, or immature marijuana plants will be deemed to occur if and when the marijuana producer processes or takes any other action with respect to such marijuana flowers, marijuana leaves, or immature marijuana plants for which a processor license, wholesale license, marijuana lounge license, or retail license is required, regardless of whether the marijuana producer continues to own or possess the marijuana flowers, marijuana leaves, or immature marijuana plants.
- (tt) “Single Serving” of marijuana is defined as containing 10 mg of delta-9 tetrahydrocannabinol
- (uu) (1) “Useable marijuana” means the dried leaves and flowers of marijuana.
- (2) “Useable marijuana” does not include:
- (i) Marijuana seeds;
 - (ii) The stalks and roots of marijuana; or
 - (iii) Waste material that is by-product of producing or processing marijuana.

§ 180-10.1-050 Further Definitions. [RESERVED]

PART 100. CNMI CANNABIS COMMISSION: ORGANIZATION AND ADMINISTRATION

- § 180-10.1-101 CNMI CANNABIS COMMISSION
- § 180-10.1-105 Powers and Duties
- § 180-10.1-110 Commissioners
- § 180-10.1-115 Limitations on Powers
- § 180-10.1-120 Managing Director
- § 180-10.1-125 Delegation of Officers
- § 180-10.1-130 Commission Meetings
- § 180-10.1-135 Resolutions and Minutes
- § 180-10.1-140 Appearances
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- § 180-10.1-150 Investigative Hearings
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- § 180-10.1-165 Subpoenas
- § 180-10.1-170 Employment and termination of employees

PART 100. CNMI CANNABIS COMMISSION: ORGANIZATION AND ADMINISTRATION

§ 180-10.1-101 CNMI CANNABIS COMMISSION:

- (a) Commonwealth of the Northern Mariana Islands (CNMI) Cannabis Commission herein thereafter referred to as “The Commission.”
- (b) The Commission was established pursuant to Public Law 20-66, and as amended in Public Law 21-5, herein thereafter referred to as “The Act.”

§ 180-10.1-105 Powers and Duties. The Commission shall have all the powers and authority necessary to carry out the purposes of The Act, including, without limitation, the responsibility:

- a) To conduct hearings pertaining to the violation of the Act or regulations promulgated thereto; including hearings for the purpose of approving marijuana or hemp licenses and other business allowed under the Act.
- b) To promulgate such rules and regulations, as may be necessary to fulfill the intent, policies and purposes of this chapter. The Commission may use such rules and regulations to interpret, enlarge upon, except provisions defining the authority and powers of the Commission, or define, or any provision of this chapter to the extent that such provision is not specifically defined by the Act. The rules and regulations, at a minimum, provide for the following:
 - 1. A code of ethics for the members of the Commission and its officers and employees.
 - 2. Supervision, monitoring and investigation or other means to ensure suitability and compliance with the legal, statutory and contractual obligations of owners, operators, and employees of the marijuana or hemp businesses and other persons licensed under this title.
 - 3. The examination, supervision and monitoring of the continuing fiscal and financial capability and transactions of marijuana or hemp business owners, operators, concessionaires and other parties with any direct relation to the marijuana or hemp business operators and to protect the public in the event that such capability is significantly diminished.
 - 4. To collaborate in the definition, coordination and execution of the social, environmental and economic policies for the operations of the marijuana and hemp businesses.
 - 5. To authorize and certify all the equipment, facilities, and tools or utensils used by the operations of marijuana or hemp businesses.
 - 6. To issue licenses for marijuana and hemp businesses and other authorized activities under the Act.

7. To examine, supervise and monitor the eligibility of all authorized and licensed marijuana and hemp businesses or activities authorized under this title; including their partners and principal employees.
 8. To investigate and penalize any administrative infractions practiced according to the appropriate substantial and procedural legislations.
 9. To ensure that the relationship of the licenses marijuana and hemp businesses and individuals or entities authorized for personal or medicinal use of marijuana with the government and the public is in compliance with the Commission's regulations and provides the highest interest to the CNMI.
 10. The exclusion and removal of undesirable persons from the marijuana and hemp businesses
 11. Civil penalties for the violation of provisions or regulations imposed under The Act.
 12. Penalties for the late payment of applicable fines, or fees.
- c) To levy fines and penalties for the violation of provisions of The Act and the regulation promulgated by the Commission.
 - d) To require and demand access to and inspect, examine, photocopy, and audit all papers, books and records of the license marijuana and hemp businesses on its premises or elsewhere as practical, including inspecting the gross income produced by the marijuana and hemp businesses and verification of their income, and all other matters affecting the enforcement of the Commission's policy or as required pursuant to The Act.
 - e) For the types of licenses or permits to be covered by the marijuana and hemp license and their structure.
 - f) The Commission shall regulate fees.
 - g) To regulate the purchase, sale, production, processing, transportation, and delivery of marijuana items in accordance with the provisions of the Act.
 - h) To grant, refuse, suspend or cancel licenses for the sale, processing, or production of marijuana items, or other licenses in regard to marijuana items, and to permit, in its discretion, the transfer of a license of any person.
 - i) To investigate and aid in the prosecution of every violation of CNMI statutes relating to marijuana items, and cooperating in the prosecution of offenders before the Superior Court for the CNMI.
 - j) To adopt such regulations as necessary and feasible for carrying out the intent and provisions of The Act and to amend or repeal such regulations. When such regulations are adopted they shall have the full force and effect of law.
 - k) To exercise all powers incidental, convenient or necessary to enable it to administer or carry out any of the provisions of The Act.
 - l) To regulate and prohibit any advertising by manufacturers, processors, wholesalers or retailers of marijuana items by the medium of newspapers, letters, billboards, radio, online social media platforms, or otherwise.
 - m) To regulate the use of marijuana items for scientific, pharmaceutical, manufacturing, mechanical, industrial and other purposes.
 - n) To adopt separate regulations as are necessary and feasible for the development of a medical marijuana program.
 - o) To adopt separate regulations as are necessary and feasible for the development of a hemp program for strains of cannabis that do not exceed three tenths percent (0.3%) on a

dry weight basis of any part of the plant cannabis, or per volume or weight of marijuana product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant cannabis regardless of moisture content.

- p) To conduct an annual summit with the Commonwealth Healthcare Corporation, the Department of Public Safety, the Department of Lands and Natural Resources and other stakeholders in the government and private sectors to discuss the regulation of cannabis in the Commonwealth.
- q) Develop an educational curriculum piece for Homegrown Registry applicants to enroll in prior to issuance of licenses by the Commission.
- r) Update such curriculum as necessary to meet with population demands.
- s) Monitor and study federal laws, regulations and policies regarding cannabis
- t) Determine if the limitation of licenses is necessary for the viability of the industry.

§ 180-10.1-110 Commissioners. Pursuant to The Act, the composition of the Commission will be as follows:

- a) The Commission is an autonomous public agency of the government of the Commonwealth of the Northern Mariana Islands and shall consist of five (5) Commissioners:
 - 1. The Governor shall appoint from the Third Senatorial District three (3) members to the Commission, subject to the advice and consent of the Saipan and Northern Islands Legislative Delegation, provided that one of the three members appointed by the Governor shall be a voter from the Northern Islands and selected by the Northern Islands' mayor.
 - 2. The Mayor of Rota shall appoint from the First Senatorial District one (1) member to the Commission, subject to the advice and consent of the Rota Legislative Delegation.
 - 3. The Mayor of Tinian shall appoint from the Second Senatorial District one (1) member to the Commission, subject to the advice and consent of the Tinian and Aguiguan Legislative Delegation.

(b) Terms of Office

- 1. Each member shall serve for a term of four (4) years, except that of the members first appointed, two (2) shall serve a term of two (2) years, and three (3) shall serve a term of four (4) years, however, each member shall serve no more than two (2) terms.
- 2. A term of a member is defined as the time a member serves as a Commissioner regardless of duration.
- 3. The Terms of all the members first appointed shall begin from September 12, 2019, regardless of the actual date of appointment.
- 4. Any vacancy shall be filled in the same manner as the original appointment and for the unexpired term thereof.
- 5. A member removed from the Commission for cause shall not be re-appointed to the Commission.

(c) Removal of a Commissioner: For Cause Only

1. The Governor may, for cause only, suspend or remove any Commission member, without regard to who appointed said member, subject to judicial review by the Superior Court, which may stay such removal or suspension pending such review.
 2. Membership on the Commission shall be automatically forfeited upon violation of subsection (e) of Article V, upon conviction of a felony, or upon conviction of any crime or offense involving moral turpitude.
 3. The Commission shall not be considered an agency of the local government for purposes of Article VI, Section 8, of the Constitution.
- (d) Members of the Commission shall each be compensated pursuant to law.
- (e) The members of the Commission are not employees of the Commission or the CNMI government.
- (f) The minimum number of members needed to constitute a quorum for the conduct of Commission business shall be three (3) members; provided at least one member of the Senatorial District of Tinian or Rota is counted in the quorum. A member who appears at a meeting telephonically or via videoconference shall be deemed present to constitute a quorum.

§ 180-10.1-115 Limitations on Powers. The Commission itself has no power to purchase, own, sell, or possess any marijuana items.

§ 180-10.1-120 Managing Director. The Commission shall hire a Managing Director who will be responsible for the overall administration of the Commission and the supervision of the marijuana and hemp licensees and others pursuant to the Act.

- a) **Qualifications of the Managing Director**
 The Managing Director shall possess the following minimum qualifications:
1. A bachelor's degree from a United States accredited educational institution; and
 2. Five years' work experience in professional, administrative, or management in government or private sectors; and
 3. Good ethical and moral character; and
 4. The Commission shall not hire any person for the Managing Director's position who has been convicted of a crime in any jurisdiction of the United States, or any foreign country carrying a minimum sentence of imprisonment of more than six months, excepting traffic offenses.
 5. The Managing Director shall not have any interest, directly or indirectly, in any business under the jurisdiction of the Commission.
- b) The Managing Director shall be the head of the administration of the Commission, and subject to the general oversight and direction of the Commission, shall organize the work of the Commission in a manner that will ensure its efficient and effective operation and, subject to the budgetary authority, the Managing Director may hire and terminate such staff necessary to carry out the purpose of the Commission. Such staff shall be exempt from the civil service. The Managing Director shall obtain such equipment, rent or build such additional office space, and generally make such regular office expenditure and acquisitions as necessary to establish and maintain a working office suitable for the Commission to effectively function pursuant to the Act.

- c) The Managing Director shall have such other duties as may be assigned or delegated by the Commission.
- d) The Managing Director serves at the pleasure of the Commission.
- e) The Managing Director's annual salary shall be established by the Commission, not to exceed seventy thousand dollars (\$70,000.00) per year.
- f) The Managing Director shall be reimbursed for actual, necessary, and reasonable expenses incurred in the performance of his or her duties as allowed by the Commission, but in event not to exceed Twenty-Five Thousand Dollars (\$25,000.00) in reimbursements per calendar year. All travel will be subject to 1 CMC § 7407.

§ 180-10.1-125 Delegation of Officers.

a) Delegation to Chair

- 1. The Commission hereby delegates to the Chairman the authority to issue preliminary rulings on scheduling, procedural, and evidentiary matters, and other matters provided by these Regulations, that may be presented to the Commission during the course of conducting a meeting, or that may arise when the Commission is not meeting.
- 2. The Commission may, upon a majority vote in a specific case, temporarily abrogate the general delegation granted pursuant to subsection (a) of this section.
- 3. Any specific ruling or decision of the Chairman pursuant to subsection (a) of this section is subject to consideration by the entire Commission upon request of any Commissioner, or upon timely motion of a person affected by the ruling or decision.
- 4. The Commission shall be deemed to have ratified an action of the Chairman taken pursuant to subsection (a), under the following circumstances:
 - i. If the Chairman's action occurred at the time other than during a meeting, the Chairman's action is ratified if the Commission does not overturn or address the action at that meeting.
 - ii. If the Chairman's action occurred at a time other than during a meeting, if the Commission does not overturn or address the Chairman's action at the next meeting concerning that particular matter.
- 5. The Chairman may sign all orders on behalf of the Commission.
- 6. Where the Commission is a party to civil litigation, the Chairman may give guidance regarding the course of the litigation to the attorney for the Commonwealth.
- 7. The Chair will preside over CCC meetings. In case of a scheduled absence of both the Chair and Vice-chair, the Chair will select another member to preside over that upcoming meeting.
- 8. The Chair will be the Expenditure Authority for the Commission and may delegate this authority as necessary.

(b) Delegation to Vice-chair

- 1. The Vice-chair has all the rights, duties and responsibilities of a regular Commissioner, including the right to introduce motions and proposals, as well as to speak and vote on issues before the board.

2. The Vice-chair will act for the Chair in the Chair's absence.
3. The Vice-chair will assist the Chair in performing Commission duties as delegated by the Chair.

(c) Delegation to Treasurer. The Treasurer of the Commission has primary responsibility for the financial well-being of the corporation but does not take day-to-day responsibility, included in the board treasurer's duties are:

1. Creates and maintains the Commission's annual budget for each fiscal (financial) year. This responsibility includes presenting the budget to the Commission for approval.
2. Creates, implements and reviews financial policies for the Commission.
3. Reviews the investment activities of the Commission.
4. Oversees the annual financial audit of the Commission (if public) and other audits of Commission records and finances.
5. Chairs the Board's Finance Committee.
6. Represents Commission on legislative meetings involving budgetary appropriations.

(d) Delegation to Secretary

1. Records minutes and circulates to commissioners for review; all minutes should be provided to commission members prior to commission's next meeting in preparation for adoption on subsequent agenda.
2. Stores all pertinent meeting minutes for shared access by all commissioners; this information should be readily available for the Commission to review at any time.
3. Solicits meeting agendas for draft review by the Commission and garners final approval by Chairperson for circulation to the rest of the Commission.
4. Keeps all records in a safe place for sharing with commissioners or in preparation of audits, if needed.

§ 180-10.1-130 Commission Meetings

- a) Regular meetings of the Commission shall be held at least once per month in the CNMI, on such dates and at such times as the Commission shall establish. All public meetings must conform to the Open Government Act as stated on 1 CMC Section 9901.
- b) Special meetings of the Commission will be held from time to time on such dates and at such times and places as the Commission may deem convenient.
- c) Except as otherwise specifically provided by these regulations, any member of the Commission may place an item on a Commission agenda for consideration by the entire Commission.
- d) The Chairman may alter the order in which matters on the Commission agenda are heard.
- e) Requests for special meetings will be granted only upon a showing of exceptional circumstances. The Commission may require that a person requesting a special meeting pay the costs associated with such meeting, in addition to those costs usually assessed against an applicant.
- f) In the absence of incapacity of the Chairman, the Vice-chairman may call a special meeting. In the absence or incapacity of both, any two (2) members of the Commission may call a special meeting.

- g) Unless otherwise ordered by the Chairman, requests for continuances of any matter on the Commission agenda must be in writing, must set forth in detail the reasons a continuance is necessary, and must be received by the Secretary no later than two (2) calendar days before the meeting.
- h) Unless otherwise ordered by the Chairman, the original of any documentation supplementing an application as required by the Commission must be received by the Secretary no later than eight (8) calendar days before the meeting. Documentation not timely received will not be considered by the Commission unless the Commission, in its discretion, otherwise consents.
- i) The Chairman may defer to another meeting any matter with respect to which documentation has not been timely submitted. The applicant and its enrolled attorney or agent, if any, must appear at the meeting to which the matter is deferred, unless the Chairman waives their appearances.

§ 180-10.1-135 Resolutions and Minutes

- a) The records of the Commission shall include a minute book and a resolution book which may be stored electronically. The vote on any matter before the Commission shall be set forth in the minutes in substantial compliance with requirements of (b) below, unless the Chairman or the Commission determines otherwise. If the Commission determines to memorialize the vote on a particular matter by the preparation of a formal resolution, the resolution shall be prepared in substantial compliance with the requirements of (c) below and shall be recorded in the resolution book.
- b) Every vote of the Commission recorded in the minutes shall include the following information:
 - 1. The substance of the matter considered;
 - 2. The vote of the Commission, including the names of any Commissioner dissenting or abstaining;
 - 3. If appropriate, reference to the existence of a formal resolution concerning the matter; and
 - 4. Certification by the Secretary of the Commission.
- c) Every formal resolution of the Commission shall include the following information:
 - 1. A concise statement of the issues presented and the relevant procedural history;
 - 2. The statutory authority for the action taken;
 - 3. A precise statement of the action taken by the Commission, including any terms or conditions attached thereof; and
 - 4. Certification by the Secretary of the Commission.
- d) The failure to substantially comply with the requirements of (a), (b), or (c) above shall not invalidate the vote of the Commission.

§ 180-10.1-140 Appearances

- a) Except as provided in § 180-10.1-140(b) or unless an appearance is waived by the Chairman, all persons, and their enrolled attorneys and agents, if any, must appear at the Commission meeting at which their matter is to be heard. Requests for waivers of appearances must be in writing, must be received by the Secretary no later than eight (8) business days before the meeting, and must explain in detail the reasons for requesting the waiver. If at the time of its meeting the Commission has any questions of an applicant

who has been granted a waiver and is not present, the matter may be deferred to another meeting of the Commission.

- b) Unless the Commission otherwise instructs, the following persons, and their enrolled attorneys and agents, are hereby granted a waiver of appearance for the Commission meeting:
 - 1. Applicants who have received unanimous recommendation of approval from the Commission;
 - 2. Licensees and Commission counsel on stipulations between the licensees and the Commission, where the stipulations fully resolve petitions for redeterminations, claims for refunds or other issues.
 - 3. Where the Commission is to consider a stipulation between the Managing Director and a licensee settling a disciplinary action and revoking, suspending or conditioning a license, the licensee shall be prepared to respond on the record to questions regarding the terms of the stipulation and the licensee's voluntariness in entering into the stipulation

§ 180-10.1-145 Recessed meetings

- a) Any meeting of the Commission may be recessed to consider matters which were duly noticed as items on the agenda of that meeting and must not exceed a time period of more than 24 hours.
- b) Notice of a recessed meeting to consider matters which were duly noticed as items on the agenda may be given by announcement at the meeting, but where any other matters are to be considered at a recessed meeting, such matters must be duly noticed as required by these Regulations or as otherwise required by statute.

§ 180-10.1-150 Investigative Hearings. Investigative hearings may be conducted by one (1) or more members of the Commission with the concurrence of a majority of the Commission at such times and places, within the Commonwealth, as the member or members may deem convenient.

§ 180-10.1-155 Appointment of committees. The Chairman may at his or her discretion appoint committees to study and report to the Commission any matter appropriate to the Commission's administration of The Act or these regulations, subject to objection by majority vote by the Commission.

§ 180-10.1-160 Service of Notice in General

- a. Each licensee and applicant shall provide an electronic mail address to the Commission for the purposes of sending notices and other communications from the Commission. Each licensee and applicant shall update this electronic mail address immediately as often as it is otherwise necessary. The original provision and subsequent updates of electronic mail addresses shall be made to the Commission's custodian of records by means designated by the Chairman. The Applicant or Licensee is accountable for the monitoring and the function of their email addresses provided to the Commission.
- b. Except as otherwise provided by law or in these regulations, notices and other communications may be sent to an applicant or licensee by electronic mail at the electronic mail address of the establishment as provided to the Commission for the

purpose of sending notices and other communications. Except as otherwise provided by law or in these regulations, notices and other communications sent by electronic mail shall satisfy any requirement to mail a notice or other communication.

- c. Notices shall be deemed to have been served on the date the Commission sent such notices to the electronic mail address provided to the Commission by a licensee or applicant, and the time specified in any such notice shall commence to run from the date of such mailing.
- d. Any applicant or licensee who desires to have notices or other communications mailed to a physical address shall file with the Commission a specific request for that purpose, and notices and other communications will, in such case, be sent to the applicant or licensee at such address, but the Commission may charge a fee therefore.
- e. An applicant or licensee will be addressed under the name or style designation in the application or license, and separate notices or communications will not be sent to individuals named in such application or license unless a specific request for that purpose is filed with the Commission. In the absence of such specific request, a notice addressed under the name or style designated in the application or license shall be deemed to be notice to all individuals named in such application or license.

§ 180-10.1-165 Subpoenas.

[RESERVED]

§ 180-10.1-170 Employment and termination of employees. The Managing Director shall be responsible for the employment and termination of Commission employees. Members of the Commission are responsible only for the employment of the Managing Director and shall not interfere with the Managing Director's employment decisions. The Managing Director shall create, and from time to time, update, an employee handbook or manual which reflect the Commission's personnel policies. At a minimum, the handbook or manual shall provide for the hiring, discipline (up to and including termination), and appeal processes governing employment with the Commission.

Part 200 INFORMATION AND FILINGS:

- § 180-10.1-201 Office Mailing Address and Hours
- § 180-10.1-205 Official Records; Fees for Copies
- § 180-10.1-210 Communications/Notices to Commission
- § 180-10.1-215 Public Information Office
- § 180-10.1-220 Filing of Petitions and Applications
- § 180-10.1-225 Petitions for Rulemaking

§ 180-10.1-201 Office Mailing Address and Hours. Office Mailing Address and Hours
The main mailing address of the Commission is:

CNMI Cannabis Commission

P.O. Box 500135
Saipan, MP 96950

The normal office hours of the Commission are:
8:00 am to 5:00 pm, Monday through Friday, unless otherwise authorized by the Commission.

The office of the Commission is closed to **the** public on legal holidays authorized by the CNMI government. The Commission may maintain work schedules for Commission employees during any hour of any day.

§ 180-10.1-205 Official Records; Fees for Copies

- a) No original official record of the Commission shall be released from the custody of the Commission unless upon the express direction of the Chairman or Managing Director or upon the order of a court of competent jurisdiction.
- b) Copies of the official records of the Commission which are required by law to be made available for public inspection will be made available during the hours provided for in Article XXVI, and upon the payment of appropriate fees.
- c) No person shall, directly or indirectly, procure or attempt to procure from the records of the Commission or from other sources, information of any kind which is not made available by proper authority.
- d) No application, petition, notice, report, document, or other paper will be accepted for filing by the Commission and no request for copies of any forms, pamphlets, records, documents, or other papers will be granted by the Commission, unless such papers or requests are accompanied by the required fees, charges, or deposits.
- e) The cost of copies of official records of the Commission which are required by law to be made available for public inspection where copies are provided shall be One Dollar (\$1.00) per page. Where copies are not provided, the cost for the mere inspection of documents is seventy cents (\$0.70) per minute of the Commission's legal counsel's time reviewing, redacting and copying the inspected documents.
- f) All payments of taxes, fees, deposits, and charges which are to be made to the Commonwealth Treasury shall be made by check payable to the order of the Commonwealth Treasurer and mailed to the Department of Finance with an original receipt delivered to the main office of the Commission or posted by certified mail to the mailing address of the Commission.
- g) The Commission may provide for payment by wire transfer.

§ 180-10.1-210 Communications/Notices to Commission

- a) Except as otherwise provided, all papers, process, or correspondence other than fees deposits or charges, relating to the Commission should be addressed to or served upon the Commonwealth Cannabis Commission main office.
- b) All such papers, process, or correspondence shall be deemed to have been received or served when delivered to the main office of the Commission but a Commissioner or such individual members of the Commission's staff as the Chairman may designate, may in his or her discretion receive papers or correspondence or accept service of process.

§ 180-10.1-215 Public Information Office. Requests for information regarding the Commission may be sent to:

CNMI Cannabis Commission
Attn: Managing Director
Caller Box 10007
Saipan, MP 96950

The official spokesperson for the Commission shall be the Chairperson, Managing Director or their designated appointee.

§ 180-10.1-220 Filing of Petitions and Applications. Petitions for formal action by the Commission shall be addressed to the Chairman of the Commission and should be certified mailed or delivered to:

CNMI Cannabis Commission
Attn: Chairman
Caller Box 10007
Saipan, MP 96950

§ 180-10.1-225 Petitions for Rulemaking

- a) Any interested person may file a petition with the Commission for the adoption, amendment, or repeal of any rule, pursuant to Commission regulation. Such petition shall be in writing, be signed by the petitioner, and include the following information:
 1. The name and address of the petitioner;
 2. The substance or nature of the requested rulemaking;
 3. The reasons for the request;
 4. The specific legal rights, duties, obligations, privileges, benefits, or other specific legal relations of the interested persons which are affected by the requested rulemaking; and
 5. Reference to the statutory authority under which the Commission may take the requested action; and
- b) A petition for rulemaking shall be scheduled for consideration at a public meeting of the Commission. The petitioner shall be given an opportunity to make a statement in support of the requested rulemaking.
- c) Within thirty (30) days of receipt of a petition which is in compliance with this section, the Commission shall mail to the petitioner a notice of action on the petition, which shall include the nature or substance of the Commission's action upon the petition and a brief statement of reasons for the Commission's actions.
- d) Commission action on a petition for rulemaking may include:
 1. Approval or denial of the petition;
 2. Filing a notice of proposed rule; or
 3. Referral of the matter for further deliberations, the nature of which will be specified, and which conclude upon a specified date. The results of these further deliberations shall be mailed to the petitioner.

Part 300

LICENSE AND REGISTRATION REQUIREMENTS:

- § 180-10.1-301 Receipt
- § 180-10.1-305 Filing
- § 180-10.1-310 Processing
- § 180-10.1-315 True name on application
- § 180-10.1-320 Fees
- § 180-10.1-325 Application Review
- § 180-10.1-330 Approval of Application and Issuance of License
- § 180-10.1-335 Denial of Application
- § 180-10.1-340 Public Inspection of Information
- § 180-10.1-345 Amendment
- § 180-10.1-350 Withdrawal
- § 180-10.1-355 Limitation on number of licenses

§ 180-10.1-301 Receipt. All application papers, unless otherwise directed by the Commission or these Regulations, shall initially be submitted to and received by the Managing Director, or such members of the Commission staff, or partnering government entities as the Managing Director may designate.

§ 180-10.1-305 Filing

- a) The Managing Director, or such members of the Commission staff as the Managing Director may designate, shall determine the date of filing as to each application received and shall issue cause to be endorsed thereon the date of such filing. No application shall be deemed filed until the applicant satisfies all appropriate requirements, to wit:
 - 1. That all papers presented conform to all requirements relating to format, signature, oath or affirmation, attorney certification, and copies;
 - 2. That all appropriate application, business entity disclosure forms, personal history disclosure forms, and supplemental to personal history disclosure forms have been properly completed and presented;
 - 3. That all required consents, waivers, photographs or handwriting exemplars have been properly presented;
 - 4. That all other information, documentation, assurances, and other materials required or requested at that preliminary stage pertaining to qualifications have been properly presented; and
 - 5. That all required fees have been properly paid and all required bonds have been properly furnished.

§ 180-10.1-310 Processing

- a) A person may submit an application to the Commission, on a form prescribed by the Commission, for a marijuana producer, processor, wholesaler, retail, lounge, research certificates, or laboratory license.

- b) An application for a license and all documentation required in the application instructions and in subsection §180-10.1-310(c) of this provision must be submitted in a manner specified by the Commission. The application fee specified in 4 CMC § 53036 must also be paid in a manner specified by the Commission.
- c) An individual or legal entity are applicants if any individual or legal entity that has an ownership interest in the business proposed to be licensed.
- d) If a legal entity is an applicant, the following individuals within a legal entity are also applicants:
 - 1. All general partners in a limited partnership;
 - 2. Limited partners whose investment commitment is ten percent or more of the total investment commitment;
 - 3. All members in a limited liability company or partnership whose investment commitment or membership interest is ten percent or more;
 - 4. All directors who own or control three percent or more of the voting stock
 - 5. Principal officers of corporate applicants and;
 - 6. All natural person stockholders owning or controlling ten percent or more of the voting stock of a corporate entity.
- e) Applicants must submit the following:
 - 1. Information for individual applicants and individuals within a legal entity who have been identified as applicants;
 - 2. Any forms required by the Commission and any information identified in the form that is required to be submitted;
 - 3. A map or sketch of the premises proposed for licensure, including the defined boundaries of the premises and the location of any primary residence located on the same lot as the licensed premises;
 - 4. A scaled floor or plot plan sketch of all enclosed areas with clear identification of walls, partitions, counters, windows, all areas of ingress and egress, and all limited access areas;
 - 5. Proof of right to occupy the premises proposed for licensure;
 - 6. An operating plan that demonstrates at a minimum, how the applicant's proposed premises and business will comply with the applicable laws and rules regarding:
 - i. Security;
 - ii. Employee qualifications and training;
 - iii. Transportation of product;
 - iv. Prevention of minors from entering the licensed premises;
 - v. Preventing minors from obtaining or attempting to obtain marijuana items; and
 - vi. Disposal of marijuana waste plan
 - 7. For producers:
 - i. The proposed canopy size and tier as described in 4 CMC § 53036 and a designation of the canopy area within the license premises.
 - ii. A report describing the applicant's electricity and water usage, on a form prescribed by the Commission.
 - 1. For initial licensure and renewal, the report must describe the estimated electricity and water usage taking into account all

portions of the premises and expected requirements of the operation for the next twelve months.

2. In addition to requirements of §180-10.1-310(f)(7)(ii)(1), for renewal, the report must describe the actual electricity and water usage for the previous year taking into account all portions of the premises.
 - iii. A description of the growing operation including growing media, a description of equipment to be used in the production, and whether production will be indoor, outdoor or both.
 - iv. Proof of a legal source of water as evidenced by a statement that water is supplied from a public or private water provider.
8. For processors:
 - i. On a form prescribed by the Commission, the proposed endorsements as described in these regulations.
 - ii. A description of the type of products to be processed, a description of equipment to be used, including any solvents, gases, chemicals or other compounds used to create extracts or concentrates.
9. For lounges:
 - i. On form prescribed by the Commission, applicants shall submit in addition to the requirements under 180-10.1-310 (f)(1-6):
 1. A description or rendering of the interior design schematics;
 2. Hours of operation
 - ii. If the proposed lounge will be providing food intended to be consumed, the applicant shall submit the necessary permits from the CNMI Bureau of Environmental Health and must maintain compliance and good standing with the standards set by the Bureau of Environmental Health
- f) In addition to submitting the application form and the items described in §180-10.1-310 (e), the Commission may require the following to be submitted:
 - i. Any forms required by the Commission and any information identified in the form that is required to be submitted.
 - ii. Any additional information if there is a reason to believe that the information is needed to determine the merits of the license application.
- g) The Commission must review an application to determine if it is complete. An application will be considered incomplete if an application form is not complete, the full application fee has not been paid, or some or all of the additional information required under these rules is not submitted.
- h) An applicant may submit a written request for reconsideration of a decision that an application is incomplete. Such request must be received by the Commission within ten (10) days of the date the incomplete notice was mailed to the applicant. The Commission shall give the applicants the opportunity to be heard if an application is rejected. A hearing under this subsection will be held within the standards set by Commission regulations.
- i) If, prior to an application being acted upon by the Commission, there is a change with regard to who is an applicant or who is a person with a financial interest in the proposed business, the new applicant or person with a financial interest must submit a form, prescribed by the Commission, that:

1. Identified the individual or person;
 2. Describes the individual's or person's financial interest in the business proposed for licensure; and
 3. Includes any additional information required by the Commission, including but not limited to information required for a criminal background check.
- j) Failure to comply with §180-10.1-310 (j) may result in an application being denied.

§ 180-10.1-315 True name on application

- a) True name on application. An application for a license must specify the real and true names of all individuals and legal entities that have an ownership interest in the business proposed to be licensed by identifying all such persons and legal entities as applicants.
- b) License privileges. License privileges are available only to applicants identified in the application and their authorized representatives and only for the premises designated by the licenses.
- c) Ownership interest. The Commission may refuse to issue a license if the applicant is not the owner of the business proposed to be licensed, a person with an ownership interest is not identified as an applicant, or an undisclosed ownership interest exists. For the purposes of this provision, an "ownership interest, is indicated by the following behaviors, benefits or obligations:
 - a. Any person or legal entity, other than an employee acting under the direction of the owner, that exercises control over, or is entitled to exercise control over, the business;
 - b. Any person or legal entity, other than an employee acting under the direction of the owner, that incurs, or is entitled to incur, debt or similar obligations on behalf of the business;
 - c. Any person or legal entity, other than an employee acting under the direction of the owner, that enters into, or is entitled to enter into, a contract or similar obligations on behalf of the business; or
 - d. Any person or legal entity identified as the lessee of the premises proposed to be licensed.

§ 180-10.1-320 Fees

- a) If the Commission approves an application and grants an annual license, the following fees must be paid:
 1. Producers:
 - i. Micro Production
 1. \$250 Application Fee
 2. \$500 License Fee
 - ii. Class 1 – Less than 750 square feet under cultivation
 1. \$500 Application Fee
 2. \$1000 License Fee
 - iii. Class 2 – 750 to 2,999 square feet under cultivation
 1. \$750 Application Fee
 2. \$3,700 License Fee
 - iv. Class 3 – 3,000 to 5,000 square feet under cultivation
 1. \$1,000 Application Fee

2. \$6,500 License Fee
 2. Processor License
 - i. \$1,000 Application Fee
 - ii. \$4,500 License Fee
 3. Wholesale License
 - i. \$250 Application Fee
 - ii. \$2,000 License Fee
 4. Retail License
 - i. \$1,000 Application Fee
 - ii. \$6,000 License Fee
 5. Marijuana Lounge License
 - i. Class 1
 1. \$1,500 Application Fee
 2. \$5,000 License Fee
 - ii. Class 2
 1. \$1,500 Application Fee
 2. \$3,500 License Fee
 6. Marijuana Testing Facility License
 - i. \$1,500 Application Fee
 - ii. \$4,500 License Fee
 7. Transfer of Ownership
 - i. \$500 Application Fee
- b) If the Commission approves an application and grants a research certificate, the fee is \$4,000 for a three-year term with an application fee of \$500.
 - c) Applicants must pay the non-refundable application fee at the time of license or certificate application renewal.
 - d) If the Commission approves a renewal application the renewal license or certificate fees must be paid in the amounts specified in subsection (a)(1-6) of this provision.
 - e) The Commission shall charge the following fees:
 1. Transfer of location of premises review: \$1,000 per license
 2. Packaging preapproval: \$100
 3. Labeling preapproval: \$100
 4. Change to previously approved package or label: \$25

§ 180-10.1-325 Application Review

- a) Once the Commission has determined that an application is complete it must review the application to determine compliance with the Act and these regulations.
- b) The Commission:
 - 1) Must, prior to acting on an application for a new license, a change to a larger producer canopy designation, a change to producer cultivation method designation or change in processor endorsement type, receive the appropriate zoning authorizations (if applicable) for the applicant's proposed premises is located.
 - 2) May, in its discretion, prior to acting on an application:
 - i) Contact any applicant or individual with a financial interest and request additional documentation or information; and
 - ii) Verify any information submitted by the applicant.

- c) The requirements of §180-10.1-325 (b)(1) of this rule do not apply to applicants for a producer license if the applicant demonstrates in a form and manner specified by the Commission that:
 - 1) The applicant is applying for a license at a location where a marijuana grow site registered under 4 CMC § 53021 is located; or
 - 2) The location is within the municipalities of Rota, or Tinian;
- d) The Commission must inspect the proposed premises prior to issuing a license.
- e) If during an inspection the Commission determines the applicant is not in compliance with these rules, the applicant will be provided with a notice of the failed inspection and the requirements that have not been met.
 - 1) An applicant that fails an inspection will have 15 calendar days from the date the notice was sent to submit a written response that demonstrates the deficiencies have been corrected.
 - 2) An applicant may request in writing one extension of the 15-day time limit in §180-10.1-325 (d)(1) of this provision, not to exceed 30 days.
- f) If an applicant does not submit a timely plan of correction or if the plan of correction does not correct the deficiencies in a manner that would bring the applicant into compliance, the Commission may deny the application.
- g) If the plan of correction appears, on its face, to correct the deficiencies, the Commission will schedule another inspection.
- h) If an applicant fails a second inspection, the Commission may deny the application unless the applicant shows good cause for the Commission to perform additional inspections.

§ 180-10.1-330 Approval of Application and Issuance of License

- a) If, after the application review and inspection, the Commission determines that an applicant is in compliance with these regulations the Commission must notify the applicant in writing that the application has been approved and after payment by the applicant of the license fee, provide the applicant with proof of licensure that includes a unique license number, the effective date of the license, date of expiration, and a description of premises for which the license was issued. If the applicant paid the license fee with a check the Commission will not issue a license until it has confirmation that the check has cleared.
- b) A licensee:
 - 1) May not operate until on or after the effective date of the license.
 - 2) Must display proof of licensure in a prominent place on the premises.
 - 3) May not use the Commission name or logo on any signs at the premises, on the business' website, or in any advertising or social media, except to the extent that information is contained on the proof of licensure or is contained in part of warnings, signage or other documents required by these rules.
- c) Licensure is only valid for the premises indicated on the license and is only issued to the individuals or entities listed on the application or subsequently approved by the Commission.

§ 180-10.1-335 Denial of Application

- a) The Commission must deny an initial or renewal application if:
 - 1. An applicant is under the age of 21.
 - 2. The applicant's location is within an area that is determined to be prohibited in the applicable zone, if a zoning permit is required.
 - 3. The proposed licensed premises is located:

- i. On federal property.
 - ii. CNMI Public Lands, with the exemption provided under 4 CMC § 53074
 - iii. At the same location or address, as a retail, processor or wholesale license, unless all of the licenses at the address or location are held or sought by identical applicants.
 - iv. The location proposed to be licensed is prohibited under 4 CMC § 53021.
 - v. The proposed licensed premises of a producer is located on the same lot, as a site registered with the Commission for the production of industrial hemp, unless the applicant submits and the Commission approves a control plan describing how the registered site will be separated from the premises proposed to be licensed and how the applicant will prevent transfer of industrial hemp to the licensed premises.
 - vi. The proposed licensed premises of a processor who has applied for an endorsement to process extracts is located in an area that is zoned exclusively for residential use.
 - vii. The proposed licensed premises of a retail applicant is located at the time the license is issued:
 - 1. Within 500 feet of:
 - a. A public or private school;
 - b. Any church, hospital, medical clinic;
 - c. Daycare center;
 - d. Youth center; or
 - e. In an area that is outside of the approved location for marijuana retail establishments.
 - 4. The proposed licensed premises of a wholesaler applicant is in an area zoned exclusively for residential use.
- b) The Commission may deny an initial or renewal application, unless the applicant shows good cause to overcome the denial criteria, if it has reasonable cause to believe that:
- 1. The applicant:
 - i. Has made false statements to the Commission.
 - ii. Is incompetent or physically unable to carry on the management of the establishment proposed to be licensed.
 - iii. Is not of good repute and moral character.
 - iv. Does not have a good record of compliance with this Act to, or these regulations, prior to or after licensure including but not limited to:
 - 1. The giving away of marijuana items as a prize, premium or consideration for a lottery, contest, game of chance or skill, or competition of any kind, in violation of 4 CMC § 53046;
 - 2. Providing marijuana items to an individual without checking that the individual is 21 or older;
 - 3. Unlicensed transfer of marijuana items for financial consideration; or
 - 4. Violations of Commonwealth law adopted, pending or adjudicated by the Commonwealth government
 - v. Does not have a good record of compliance with this Act or any regulations adopted thereunder.

- vi. Is not possessed of or has not demonstrated financial responsibility sufficient to adequately meet the requirements of the business proposed to be licensed.
 - vii. Is unable to understand the laws of the Commonwealth relating to marijuana or these Regulations. Inability to understand laws and rules of the Commonwealth related to marijuana may be demonstrated by violations documented by the Commission.
2. Any individual listed on the application has been convicted of violating CNMI law or law of another state, or of violating a federal law, if the conviction is substantially related to the fitness and ability of the applicant to lawfully carry out activities under the license, except as specified in 4 CMC § 53037(c).
 3. Any applicant is not the legitimate owner of the business proposed to be licensed, or other persons have an ownership interest in the business have not been disclosed to the Commission.
 4. The proposed licensed premises of a producer applicant is on the same lot, as another producer licensee under common ownership.
 5. The proposed licensed premises of a producer applicant is on the same lot, as another producer licensee under diverse ownership if the Commission reasonably believes that the presence of multiple producers on the same lot creates a compliance risk or other risk to public health and safety.
- c) The Commission may refuse to issue a license to any license applicant or refuse to renew the license of any licensee when conditions exist in relation to any person having a financial interest in the business or in the place of business which would constitute grounds for refusing to issue a license or for revocation or suspension of a license if such person were the license applicant or licensee.
 - d) If the Commission denies an application because an applicant submitted false or misleading information to the Commission, the Commission may prohibit the applicant from re-applying for five years.
 - e) A notice of denial must be issued in accordance with § 180-10.1-160.
 - f) Notwithstanding § 180-10.1-335(b), in determining whether the Commission may refuse to license an applicant, the Commission may not consider the prior conviction of the applicant or any owner, director, officer, manager, employee, agent, or other representative of the applicant for:
 1. (1) The manufacture of marijuana, if:
 - i. The date of the conviction is more than ten years before the date of the application; and
 - ii. The person has not been convicted more than once for the manufacture or delivery of marijuana;
 2. The delivery of marijuana to a person 21 years of age or older, if:
 - i. The date of the conviction is more than ten years before the date of the application; and
 - ii. The person has not been convicted more than once for the manufacture or delivery of marijuana; or
 3. The possession of marijuana.

§ 180-10.1-340 Public Inspection of Information. No information in the possession of the Commission relating to any application shall be made available for public inspection prior to the time that the said application shall be accepted for filing and docketed in accordance with the rules and regulations. Thereafter, the Commission may release information to the public on its own initiative or upon proper request as may be required by law.

§ 180-10.1-345 Amendment. It shall be the duty of each applicant to promptly file with the Commission, or such members of the Commission staff as the Managing Director shall designate, a written amendment to the application explaining any changed facts or circumstances whenever any material or significant change of facts or circumstances shall occur with respect to any matter set forth in the application or other papers relating thereto. Any applicant may be permitted by the Managing Director or designee to file any other amendment to the application at any time prior to final action made by the Commission.

§ 180-10.1-350 Withdrawal

- a) Except as otherwise provided in § 180-10.1-350 (b), a written notice of withdrawal of application may be filed by any applicant at any time prior to final Commission action. No application shall be permitted to be withdrawn, however, unless the applicant shall have first established to the satisfaction of the Commission that withdrawal of the application would be consistent with the public interest and policies of the Act. Unless the Commission shall otherwise direct, no fee or other payment relating to any application shall become refundable in whole or in part by reason of withdrawal of the application. The Commission shall not direct the refunding, in whole or in part, of any fee or other payment relating to any application unless the Commission determines that the refunding of the fee is in the best interest of the Commonwealth.
- b) Where a hearing on an application has been requested by a party or directed by the Commission, the Commission shall not permit withdrawal of said application after:
 1. The application matter has been assigned to any other hearing examiner authorized by law or these Regulations to hear such matter; or
 2. The Commission has made a determination to hear the application matter directly.
 3. Notwithstanding the foregoing, the Commission may accept and consider written notice of withdrawal after the time specified herein if extraordinary circumstances so warrant.

§ 180-10.1-355 Limitation on number of licenses. By resolution of the Commission, the number of available licenses may be limited. Once the number of approved licenses is reached, the Commission shall not receive additional applications until such time limitations are increased or removed.

Part 400 LICENSEE RESPONSIBILITIES; GENERAL RESPONSIBILITIES

- § 180-10.1-401 Financial and Business Records
- § 180-10.1-405 Licensee Responsibility
- § 180-10.1-410 Licensee Prohibitions

§ 180-10.1-401 Financial and Business Records. In addition to any other recordkeeping requirements in these rules, a licensee must have and maintain records that clearly reflect all financial transactions and the financial condition of the business. The following records may be kept in either paper or electronic form and must be maintained for a three-year period and must be made available for inspection if requested by an employee of the Commission:

- a) Purchase invoices and supporting documents for items and services purchased for use in the production, processing, research, testing and sale of marijuana items that include from whom the items were purchased and the date of purchase;
- a) Bank statements for any accounts relating to the licensed business;
- b) Accounting and tax records related to the licensed business;
- c) Audited Financial Statements
- d) Documentation of all financial transactions related to the licensed business, including contracts and agreements for services performed or received that relate to the licensed business; and
- e) All employee records, including training.

§ 180-10.1-405 Licensee Responsibility. A licensee is responsible for:

- a) The violation of any administrative rule of the Commission; any provision of affecting the licensee's license privileges.
- b) Any act or omission of a licensee representative in violation of any administrative rule of the Commission or any provision of the regulations or Commonwealth law affecting the licensee's license privileges.

§ 180-10.1-410 Licensee Prohibitions

- a) A licensee may not:
 - 1. Import into the Commonwealth or export from the Commonwealth any marijuana items unless permitted by the Commission;
 - 2. Give marijuana items as a prize, premium or consideration for a lottery, contest, game of chance or game of skill, or competition of any kind;
 - 3. Sell, give or otherwise make available any marijuana items to any person who is visibly intoxicated;
 - 4. Make false representations or statements to the Commission in order to induce or prevent action by the Commission;
 - 5. Maintain a noisy, disorderly or unsanitary establishment or supply adulterated marijuana items;
 - 6. Misrepresent any marijuana item to a customer or to the public;
 - 7. Sell any marijuana item through a drive-up window;
 - 8. Deliver marijuana to any consumer off the licensed premises except as permitted by [the provision regarding the delivery of marijuana items by retailers];
 - 9. Sell or offer to sell a marijuana item that does not comply with the minimum standards prescribed by the laws of the Commonwealth; or
 - 10. Use or allow the use of a mark or label on the container of a marijuana item that is kept for sale if the container does not precisely and clearly indicate the nature of

the container's contents or in any way might deceive a customer as to the nature, composition, quantity, age or quality of the marijuana item.

11. Sell any marijuana items during elections.

12. Sell a whole marijuana plant [Addition]

b) No licensee or licensee representative may be under the influence of intoxicants while on duty.

1. For purposes of this rule "on duty" means:

- i. The beginning of a work shift that involves the handling or sale of marijuana items, checking identification or controlling conduct on the licensed premises, to the end of the shift including all breaks;
- ii. For an individual working outside a scheduled work shift, the performance of acts on behalf of the licensee that involve the handling or sale of marijuana items, checking identification or controlling conduct on the licensed premises, if the individual has the authority to put himself or herself on duty; or
- iii. A work shift that includes supervising those who handle or sell marijuana items, check identification or control the licensed premises.
- iv. Whether a person is paid or scheduled for work is not determinative of whether the person is considered "on duty" under this subsection

Part 500

LICENSE PREMISES

§ 180-10.1-501 Licensed Premises Restrictions and Requirement

§ 180-10.1-505 Signage

§ 180-10.1-501 Licensed Premises Restrictions and Requirement.

- a) A licensed premises may not be located:
 1. On federal property; or
 2. CNMI Public Lands, with the exemption provided under 4 CMC § 53074
- b) The licensed premises of a producer applicant may not be on:
 1. Public land, with the exemption provided under 4 CMC § 53074; or
 2. The same lot as another producer licensee under common ownership.
- c) The licensed premises of a retailer may not be located:
 1. Within 500 feet of:
 - i. A public or private school;
 - ii. Any church, hospital, medical clinic;
 - iii. Daycare center;
 - iv. Youth center; or
 - v. In an area that is outside of the approved location for marijuana retail establishments.
- d) The licensed premises of a processor who has an endorsement to process extracts may not be located in an area that is zoned exclusively for residential use.

- e) The licensed premises of a processor, wholesaler, laboratory, research certificate holder, and retailer must be enclosed on all sides by permanent walls and doors.
- f) A licensee may not permit:
 - 1. Any minor on a licensed premises except as described in § 180-10.1-501 (g) and (h); or
 - 2. On-site consumption of a marijuana item, by any individual, except if the premises is licensed under 4 CMC § 53026.
- g) Notwithstanding § 180-10.1-501 (f)(1), a minor, other than a licensee's employee, who has a legitimate business purpose for being on the licensed premises, may be on the premises for a limited period of time in order to accomplish the legitimate business purpose. For example, a minor plumber may be on the premises in order to make a repair.
- h) Notwithstanding § 180-10.1-501 (f)(1), a minor who resides on the lot where a marijuana producer is licensed may be present on those portions of a producer's licensed premises that do not contain usable marijuana or cut and drying marijuana plants or have marijuana items in view or accessible range of the minor.
- i) A licensee must clearly identify all limited access areas in accordance with § 180-10.1-501 (e)
- j) All employees, contractors and licensee representatives present on the licensed premises must wear clothing or a badge issued by the licensee that easily identifies the individual as an employee, contractor or licensee representative.
 - 1. A licensee must record the name of every current employee and license representative.
 - 2. The licensee must record the name and date of birth for that individual.
- k) The general public is not permitted in limited access areas on a licensed premises, except for the consumer sales area of a retailer and as provided by § 180-10.1-501 (n). In addition to licensee representatives, the following visitors are permitted to be present in limited access areas on a licensed premises, subject to the requirements in § 180-10.1-501 (l) and (m):
 - 1. Laboratory personnel, if the laboratory is licensed by the Commission;
 - 2. A contractor, vendor or service provider authorized by a licensee representative to be on the licensed premises;
 - 3. Another licensee or that licensee's representative;
 - 4. Invited guests subject to requirements of § 180-10.1-501 (l); or
 - 5. Tour groups as permitted under § 180-10.1-501 (n) .
- l) Prior to entering a licensed premises all visitors permitted by § 180-10.1-501 (k) must be documented and issued a visitor identification badge from a licensee representative that must remain visible while on the licensed premises. A visitor badge is not required for government officials. All visitors described in § 180-10.1-501 (k) must be accompanied by a licensee representative at all times.
- m) A licensee must maintain a log of all visitor activity allowed under § 180-10.1-501 (k). The log must contain the first and last name and date of birth of every visitor and the date they visited. A licensee is not required to record the date of birth for government officials.
- n) A marijuana producer or research certificate holder may offer tours of the licensed premises, including limited access areas, to the general public if the licensee submits a control plan in writing and the plan is approved by the Commission.

1. The plan must describe how conduct of the individuals on the tour will be monitored, how access to usable marijuana will be limited, and what steps the licensee will take to ensure that no minors are permitted on the licensed premises.
 2. The Commission may withdraw approval of the control plan if the Commission finds there is poor compliance with the plan. Poor compliance may be indicated by, for example, individuals on the tour not being adequately supervised, an individual on the tour obtaining a marijuana item while on the tour, a minor being part of a tour, or the tours creating a public nuisance.
- o) Nothing in this rule is intended to prevent or prohibit Commission employees or contractors, or other government officials that have jurisdiction over some aspect of the licensed premises or licensee from being on the licensed premises.
 - p) A licensee may not sublet any portion of a licensed premises unless approved by the Commission.
 - q) A licensed premises may receive marijuana items only from a marijuana producer, marijuana processor, or marijuana wholesaler for whom a premises has been licensed by the Commission or as otherwise provided by these regulations.
 - r) Notwithstanding § 180-10.1-501 (f)(1) of this rule, a minor may pass through the licensed area of an outdoor producer in order to reach an unlicensed area, so long as the minor does not have access to areas that contain marijuana items.

§ 180-10.1-505 Signage

- a) A licensee must post:
 1. At every licensed premises signs that read:
 - i. “No Minors Permitted Anywhere on This Premises”; and
 - ii. “No On-Site Consumption of Marijuana” if the location is not licensed under 4 CMC § 53026 [lounge area]; and
 2. At all areas of ingress or egress to a limited access area a sign that reads: “Do Not Enter – Limited Access Area – Access Limited to Licensed Personnel and Escorted Visitors.”
- b) All signs required by § 180-10.1-505 (a) must be:
 1. Legible, not less than 12 inches wide and 12 inches long, composed of letters not less than one-half inch in height;
 2. In English; and
 3. Posted in a conspicuous location where the signs can be easily read by individuals on the license premises

Part 600

MARIJUANA PRODUCERS

§ 180-10.1-601 Privileges; Prohibitions

§ 180-10.1-605 Operating Procedures

§ 180-10.1-610 Start-up Inventory

§ 180-10.1-615 Micro Producers

§ 180-10.1-620 Record Keeping

§ 180-10.1-601 Privileges; Prohibitions

- a) A producer may:

1. Plant, cultivate, grow, harvest and dry marijuana in the manner approved by the Commission and consistent with 4 CMC § 53022 and these regulations;
 2. Engage in indoor or outdoor production of marijuana, or a combination of the two;
 3. Sell or transport:
 - i. Usable marijuana to the licensed premises of a marijuana processor, wholesaler, retailer, marijuana lounge, laboratory, or research certificate holder;
 - ii. Whole, non-living marijuana plants that have been entirely removed from any growing medium to the licensed premises of a marijuana processor, wholesaler, , or research certificate holder;
 - iii. Immature marijuana plants and seeds to the licensed premises of a marijuana producer, wholesaler, retailer or research certificate holder;
 - iv. Marijuana waste to a producer, processor, wholesaler, or research certificate holder, an approved waste disposal service.
 4. Purchase and receive:
 - i. Immature marijuana plants and seeds from a producer, wholesaler, or research certificate holder;
 - ii. Marijuana waste from a producer, processor, wholesaler, retailer, laboratory, or research certificate holder; and
 5. Allow a laboratory licensee to obtain samples for purposes of performing testing as provided in these rules.
- b) A producer may not sell, deliver, purchase, or receive any marijuana item other than as provided in § 180-10.1-601 (a).

§ 180-10.1-605 Operating Procedures

- a) A producer must:
1. Establish written standard operating procedures for the production of marijuana. The standard operating procedures must, at a minimum, include when, and the manner in which, all pesticide and or other chemicals are to be applied during the production process; and
 2. Maintain a copy of all standard operating procedures on the licensed premises.
- b) If a producer makes a material change to its standard operating procedures it must document the change and revise its standard operating procedures accordingly. Records detailing the material change must be maintained on the licensed premises by the producer.

§ 180-10.1-610 Start-up Inventory

- a) Marijuana producers may not receive immature marijuana plants or seeds from any source other than from another licensee, except:
1. Between January 1, 2020 and January 1, 2021 a marijuana producer may receive immature marijuana plants and seeds from any source within the Commonwealth for up to one year following initial licensure by the Commission;
- b) The marijuana producer shall report receipt of the number of immature marijuana plants or seeds received under this section within 24 hours of the plants or seeds arriving at the

licensed premises. A producer does not have to document the source of the immature plants or seeds during the one-year start-up period.

- c) Failure to comply with this rule is a violation and could result in license revocation.

§ 180-10.1-615 Micro Producers

- a) A micro producer may:
1. Possess no more than twenty-five (25) mature marijuana plants;
 2. Harvest and dry marijuana in the manner approved by the Commission and consistent with 4 CMC § 53022 and these regulations;
 3. Engage in indoor or outdoor production of marijuana, or a combination of the two if the micro producer has entered into an agreement with a licensed marijuana wholesaler;
 4. Sell or transport:
 - i. Usable marijuana to the licensed premises of a licensed wholesaler in which the micro producer has an existing and valid agreement;
 - ii. Whole, non-living marijuana plants that have been entirely removed from any growing medium to the licensed premises of a marijuana wholesaler in which the micro producer has an existing and valid agreement;
 - iii. Marijuana waste to a producer, processor, wholesaler, or research certificate holder, an approved waste disposal service.
 5. Purchase and receive:
 - i. Immature marijuana plants and seeds from a producer, wholesaler, or research certificate holder;
 - ii. Marijuana waste from a producer, processor, wholesaler, retailer, laboratory, or research certificate holder; and
 6. Allow a laboratory licensee to obtain samples for purposes of performing testing as provided in these rules.
- b) A micro producer may not sell, deliver, purchase, or receive any marijuana item other than as provided in § 180-10.1-615 (a).
- c) Valid agreements between micro producers and wholesaler must contain:
1. the type of marijuana item to be produced by the micro producer;
 2. the location and license information of the wholesaler; and
 3. terms in which the wholesaler will purchase marijuana items from the micro producer
- d) Micro producers must adhere to the requirements listed in § 180-10.1-610.

§ 180-10.1-620 Record Keeping. Every marijuana producer shall keep a complete and accurate record of all sales of marijuana flowers, marijuana leaves, and immature marijuana plants, and a complete and accurate record of the number of ounces of marijuana flowers produced, the number of ounces of marijuana leaves produced, the number of immature marijuana plants produced, and the dates of production. The producers shall submit a report to the Commission on the last Wednesday of each month reporting the total quantity of marijuana items sold, the date of sale, the type of marijuana product, the purchaser of the product, a copy of the transaction invoice, and the total cost of the sale.

Part 700

MARIJUANA RETAILERS

§ 180-10.1-701 Retailer Privileges; Prohibitions

§ 180-10.1-705 Retailer Operational Requirements

§ 180-10.1-710 Retailer Premises

§ 180-10.1-701 Retailer Privileges; Prohibitions

a) A retailer may:

1. Between the hours of 7:00 AM and 10:00 PM local time, sell marijuana items from the licensed premises to a consumer 21 years of age or older;
2. Sell:
 - i. Marijuana items to a consumer 21 years of age or older within a licensed premises.
 - ii. Marijuana waste to a producer, processor, wholesaler, or research certificate holder.
 - iii. Returned marijuana items to a producer, processor or wholesaler who transferred the item to the retailer.
3. Deliver:
 - i. Marijuana waste to a producer, processor, wholesaler, or research certificate holder.
 - ii. Returned marijuana items to a producer, processor or wholesaler who transferred the item to the retailer.
4. Purchase and receive:
 - i. Usable marijuana, immature marijuana plants, and seeds from a producer or from a research certificate holder;
 - ii. Cannabinoid concentrates, extracts, and products from a processor or from a research certificate holder;
 - iii. Any marijuana item, except for whole, non-living marijuana plants, from a wholesaler; and
 - iv. Any marijuana item from a laboratory.
5. Refuse to sell marijuana items to a consumer;
6. Allow a laboratory licensee to obtain samples for purposes of performing testing as provided in these regulations;
7. Accept returned marijuana items that the retailer sold to a consumer and provide a refund or exchange with a product of equal or lesser value;
8. Sell marijuana items that have not been tested in a marijuana testing facility so long as the marijuana item marks or labels the product with a disclaimer that clearly reads "UNTESTED PRODUCT"; and
9. May sell immature marijuana plants and seeds to consumers, provided that the consumer presents valid homegrown marijuana registry information as determined by the Commission, and that the retailer maintains adequate records of sale.

b) A retailer may not:

1. Sell more than the following amounts to an individual at any [*one time transaction*]:
 - i. 1 ounce of usable marijuana to recreational consumers;
 - ii. 16 ounces of a cannabinoid product in solid form;
 - iii. 72 ounces of a cannabinoid product in liquid form;
 - iv. Five grams of cannabinoid extracts or concentrates, whether sold alone or contained in an inhalant delivery system; and
 - v. Ten marijuana seeds.
2. Sell more than six immature marijuana plants to a single Homegrown Registry permit holder within a 90-day period.
3. Provide free marijuana items to a recreational consumer.
4. Sell or give away pressurized containers of butane or other materials that could be used in the home production of marijuana extracts.
5. Discount a marijuana item if the retail sale of the marijuana is made in conjunction with the retail sale of any other items, including other marijuana items.
6. Sell a marijuana item at a nominal price for promotional purposes.
7. Permit consumers to be present on the licensed premises or sell to a consumer between the hours of 10:00 p.m. and 6:59 a.m. local time the following day.
8. Sell an product that contains cannabinoids and is intended for human consumption, unless that product has been labeled and packaged in accordance with the applicable sections of these rules.
9. Sell or transfer a returned marijuana item where the original package has been altered, opened, damaged, or tampered to another consumer.
10. Sell, transfer, deliver, purchase, or receive any marijuana item other than as provided in § 180-10.1-701 (a) of this rule.
11. Permit a consumer to open or alter a package containing a marijuana item or otherwise remove a marijuana item from packaging required by these rules within the licensed premises or in an area that the licensee controls;
12. Sell a marijuana item whose container does not precisely and clearly indicate the nature of its contents or in any way might deceive any customer as to the nature, composition, quantity, age or quality of such marijuana items.
13. Permit a consumer to bring marijuana items onto the licensed premises except for marijuana items being returned for refund or exchange as allowed by this rule.

§ 180-10.1-705 Retailer Operational Requirements

- a) Prior to completing the sale of a marijuana item to a consumer, a retailer must verify that the consumer has a valid, unexpired government-issued photo identification and must verify that the consumer is 21 years of age or older by viewing the consumer's:
 1. Passport;
 2. Driver license, whether issued in this state or by any other state, as long as the license has a picture of the person;
 3. United States military identification card; or

4. Any other identification card issued by a state that bears a picture of the person, the name of the person, the person's date of birth and a physical description of the person.
- b) Marijuana items offered for sale by a retailer must be stored in such a manner that the items are only accessible to authorized representatives until such time as the final sale to the consumer is completed.

§ 180-10.1-710 Retailer Premises

- a) The licensed premises of a retailer:
 1. May not be located in an area that is outside of the approved location for marijuana retail establishments.
 2. May not be located within 500 feet of:
 - i. A public or private school;
 - ii. Any church, hospital, medical clinic;
 - iii. Daycare center; or
 - iv. Youth center;
 3. Must be enclosed on all sides by permanent walls and doors.
- b) A retailer must post in a prominent place signs that read:
 1. "No Minors Permitted Anywhere on the Premises";
 2. "No On-Site Consumption"; and
 3. Exit from the licensed premises that reads: "Marijuana or Marijuana Infused Products May Not Be Consumed In Public".
- c) A retailer must designate a consumer sales area on the licensed premises where consumers are permitted. The area shall include the portion of the premises where marijuana items are displayed for sale to the consumer and sold and may include other contiguous areas such as a lobby or a restroom. The consumer sales area is the sole area of the licensed premises where consumers are permitted.
- d) All inventory must be stored on the licensed premises.
- e) For purposes of determining the distance between a retailer and a school referenced in § 180-10.1-710 (a)(2), "within 500 feet" means a straight line measurement in a radius extending for 500 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising a school to the closest point of the licensed premises of a retailer. If any portion of the licensed premises is within 500 feet of a school as described § 180-10.1-710 (a)(2) an applicant will not be licensed.

Part 800 MARIJUANA PROCESSORS

- § 180-10.1-801 General Processor Requirements
- § 180-10.1-805 Privileges; Prohibitions
- § 180-10.1-810 Endorsements
- § 180-10.1-815 Processor Policies and Procedures
- § 180-10.1-820 Processor Training Requirements
- § 180-10.1-825 Cannabinoid Concentrate and Extract Processor Requirements

§ 180-10.1-830 Recordkeeping

§ 180-10.1-801 General Processor Requirements

- a) A processor must:
 - 1. Use equipment, counters and surfaces for processing that are food-grade and do not react adversely with any solvent being used.
 - 2. Have counters and surface areas that are constructed in a manner that reduce the potential for development of microbials, molds and fungi and that can be easily cleaned.
 - 3. Maintain the licensed premises in a manner that is free from conditions which may result in contamination and that is suitable to facilitate safe and sanitary operations for product preparation purposes.
 - 4. Store all marijuana items not in use in a locked area, including products that require refrigeration in accordance with plans submitted in § 180-10.1-310(f).
- b) A processor may not process, transfer or sell a marijuana item:
 - 1. That by its shape, design or flavor is likely to appeal to minors, including but not limited to:
 - i. Products that are modeled after non-cannabis products primarily consumed by and marketed to children; or
 - ii. Products in the shape of an animal, vehicle, person or character.
 - 2. That is made by applying cannabinoid concentrates or extracts to commercially available candy or snack food items.
 - 3. That contains Dimethyl sulfoxide (DMSO).
- c) A processor may not treat or otherwise adulterate a cannabinoid product, concentrate or extract with any non-cannabinoid additive that would increase potency, toxicity or addictive potential, or that would create an unsafe combination with other psychoactive substances. Prohibited additives include but are not limited to nicotine, caffeine, chemicals that increase carcinogenicity or cardiac effects.

§ 180-10.1-805 Privileges; Prohibitions

- a) A processor may:
 - 1. Transfer, sell or transport:
 - i. Cannabinoid concentrates, extracts, and products for which the processor has an endorsement to a processor, class 1 lounge, wholesaler, retailer, or research certificate holder; and
 - ii. Marijuana waste to a producer, processor, wholesaler, or research certificate holder.
 - 2. Purchase and receive:
 - i. Whole, non-living marijuana plants that have been entirely removed from any growing medium from a producer, wholesaler, or from a research certificate holder;
 - ii. Usable marijuana from a producer, wholesaler, or from a research certificate holder;

- iii. Cannabinoid concentrates, extracts and products from a processor with an endorsement to manufacture the type of product received, or from a research certificate holder;
 - iv. Marijuana waste from a producer, processor, wholesaler, retailer, laboratory, or research certificate holder; and
 - v. Cannabinoid concentrates, extracts, and products produced by the licensee that have been held in bailment by a licensed wholesaler.
3. Allow a laboratory licensee to obtain samples for purposes of performing testing as provided in these regulations.
- b) A processor may not transfer, sell transport, purchase, or receive any marijuana item other than as provided in § 180-10.1-805 (a).

§ 180-10.1-810 Endorsements

- a) A marijuana processor may only process and sell cannabinoid products, concentrates or extracts if the processor has received an endorsement from the Commission for that type of processing activity. Endorsements types are:
 - 1. Cannabinoid edible processor;
 - 2. Cannabinoid topical processor;
 - 3. Cannabinoid concentrate processor; and
 - 4. Cannabinoid extract processor.
- b) An applicant must request an endorsement upon submission of an initial application but may also request an endorsement at any time following licensure.
- c) In order to apply for an endorsement an applicant or processor licensee must submit a form prescribed by the Commission that includes a description of the type of products to be processed, a description of equipment to be used, and any solvents, gases, chemicals or other compounds proposed to be used to create extracts or concentrates.
- d) Only one application and license fee is required regardless of how many endorsements an applicant or licensee requests or at what time the request is made.
- e) An individual processor licensee may hold multiple endorsements.
- f) For the purposes of endorsements any cannabinoid product that is intended to be consumed or ingested orally or applied in the mouth is considered a cannabinoid edible.
- g) If a processor is no longer going to process the product for which the processor is endorsed the processor must notify the Commission in writing and provide the date on which the processing of that product will cease.
- h) The Commission may deny a processor's request for an endorsement if the processor cannot or does not meet the requirements stated in these regulations for the endorsement that is requested.

§ 180-10.1-815 Processor Policies and Procedures. A processor must create and maintain written, detailed standard policies and procedures that include but are not limited to:

- a) Instructions for making each cannabinoid concentrate, extract or product.
- b) The ingredients and the amount of each ingredient for each process lot;
- c) The process for making each product;
- d) The number of servings in a process lot;
- e) The intended amount of THC per serving and in a unit of sale of the product;
- f) The process for making each process lot homogenous;

- g) If processing a cannabinoid concentrate or extract:
 - 1. Conducting necessary safety checks prior to commencing processing;
 - 2. Purging any solvent or other unwanted components from a cannabinoid concentrate or extract;
- h) Procedures for cleaning all equipment, counters and surfaces thoroughly;
- i) Procedures for preventing growth of pathogenic organisms and toxin formation;
- j) Proper handling and storage of any solvent, gas or other chemical used in processing or on the licensed premises in accordance with material safety data sheets and any other applicable laws;
- k) Proper disposal of any waste produced during processing in accordance with all applicable local, state and federal laws, rules and regulations;
- l) Quality control procedures designed to maximize safety and minimize potential product contamination;
- m) Appropriate use of any necessary safety or sanitary equipment; and
- n) Emergency procedures to be followed in case of a fire, chemical spill or other emergency.

§ 180-10.1-820 Processor Training Requirements

- a) A processor must have a comprehensive training program that includes, at a minimum, the following topics:
 - 1. The standard operating policies and procedures;
 - 2. The hazards presented by all solvents or other chemicals used in processing and on the licensed premises as described in the material safety data sheet for each solvent or chemical; and
 - 3. Applicable Commission statutes and rules.
- b) At the time of hire and prior to engaging in any processing, and once yearly thereafter, each employee involved in the processing of a cannabinoid concentrate, extract or product must be trained in accordance with the processor's training program.

§ 180-10.1-825 Cannabinoid Concentrate and Extract Processor Requirements

- a) Cannabinoid Concentrates or Extracts. A processor with a cannabinoid concentrate or extract endorsement:
 - 1. May not use Class I solvents as those are classified in the Federal Drug Administration Guidance, Table I, published in the Federal Register on December 24, 1997 (62 CFR 67377).
 - 2. Must:
 - i. Only use a hydrocarbon-based solvent that is at least 99 percent purity.
 - ii. Only use a non-hydrocarbon-based solvent that is food-grade.
 - iii. Work in an environment with proper ventilation, controlling all sources of ignition where a flammable atmosphere is or may be present.
 - iv. Use only potable water and ice made from potable water in processing.
 - v. If making a concentrate or extract that will be used in a cannabinoid edible, be endorsed as a cannabinoid edible processor and comply with [above provision on edible processor requirements].
- b) Cannabinoid Extracts. A processor with an endorsement to make cannabinoid extracts:

1. May not use pressurized canned flammable fuel, including but not limited to butane and other fuels intended for use in camp stoves, handheld torch devices, refillable cigarette lighters and similar consumer products.
2. Must:
 - i. Process in a:
 1. Fully enclosed room clearly designated on the current floorplan of the licensed premises.
 2. Room and with equipment, including all electrical installations that meet the requirements of the CNMI Department of Public Work's building code, and the CNMI Fire Code.
 - ii. Use a professional grade closed loop extraction system designed to recover the solvents and built to codes of recognized and generally accepted good engineering standards, such as those of:
 1. American National Standards Institute (ANSI);
 2. Underwriters Laboratories (UL); or
 3. The American Society for Testing and Materials (ASTM).
 - iii. If using carbon dioxide in processing, use a professional grade closed loop carbon dioxide gas extraction system where every vessel is rated to a minimum of six hundred pounds per square inch.
 - iv. Have equipment and facilities used in processing approved for use by the CNMI Department of Fire and Emergency Services.
 - v. For extraction system engineering services, including but not limited to consultation on and design of extraction systems or components of extraction systems, use the services of a professional engineer registered with the CNMI Board of Professional Licensing.
 - vi. Have an emergency eye-wash station in any room in which cannabinoid extract is being processed.
 - vii. Have all applicable material safety data sheets readily available to personnel working for the processor.

§ 180-10.1-830 Recordkeeping

- a) A processor must keep records documenting the following:
 1. How much marijuana is in each process lot;
 2. If a product is returned by a licensee, how much product is returned and why;
 3. If a defective product was reprocessed, how the defective product was reprocessed; and
 4. Each training provided in accordance with § 180-10.1-820, the names of employees who participated in the training, and a summary of the information provided in the training.
- b) A processor must obtain a material safety data sheet for each solvent used or stored on the licensed premises and maintain a current copy of the material safety data sheet and a receipt of purchase for all solvents used or to be used in an extraction process on the licensed premises.

- c) If the Commission requires a processor to submit or produce documents to the Commission that the processor believes falls within the definition of a trade secret, the processor must mark each document “confidential” or “trade secret”.

Part 900 MARIJUANA WHOLESALER

§ 180-10.1-901 Privileges; Prohibitions
§ 180-10.1-905 Marijuana Reserve Requirements

§ 180-10.1-901 Privileges; Prohibitions

- a) A wholesale licensee may:
1. Sell, including sale by auction, transfer and or transport:
 - i. Any type of marijuana item to a retailer, wholesaler, Class 1 lounge, or research certificate holder, except that whole, non-living marijuana plants may not be transferred to a retailer;
 - ii. Immature marijuana plants and seeds to a producer, or retailer;
 - iii. Usable marijuana to a producer that the wholesaler has stored on the producer’s behalf;
 - iv. Usable marijuana, cannabinoid extracts and concentrates to a processor licensee, or retailer; and
 - v. Marijuana waste to a producer, processor, wholesaler, research certificate holder, or an approved waste disposal service.
 2. Purchase or receive:
 - i. Any type of marijuana item from a wholesaler;
 - ii. Cannabinoid concentrates, extracts, and products from a processor with an endorsement to manufacture the type of product received;
 - iii. Seeds, immature plants or usable marijuana from a producer, or wholesaler;
 - iv. Whole, non-living marijuana plants that have been entirely removed from any growing medium from a producer; and
 - v. Marijuana waste from a producer, processor, wholesaler, retailer, laboratory, or research certificate holder.
 3. Transport and store marijuana items received from other licensees, pursuant to the requirements of [transport and storage provisions below]
 4. Allow a laboratory licensee to obtain samples for purposes of performing testing as provided in these regulations.
- b) A wholesale licensee may not sell, deliver, purchase, or receive any marijuana item other than as provided in section (a) of this rule.
- c) For purposes of this rule, “marijuana item” does not include a mature marijuana plant.

§ 180-10.1-905 Marijuana Wholesaler Reserve Requirements. [RESERVED]

Part 1000 MARIJUANA LOUNGE

- § 180-10.1-1001 Class 1 Lounge Privileges; Prohibitions
- § 180-10.1-1005 Class 1 Lounge Operational Requirements
- § 180-10.1-1010 Class 1 Lounge Premises
- § 180-10.1-1015 Class 2 Lounge Privileges; Prohibitions
- § 180-10.1-1020 Class 2 Lounge Operational Requirements
- § 180-10.1-1025 Class 2 Lounge Premises

§ 180-10.1-1001 Class 1 Lounge Privileges; Prohibitions

a) A Class 1 Lounge may:

1. Between the hours of 7:00 AM and 2:00 AM local time, sell marijuana items from the licensed premises to a consumer 21 years of age or older;
2. Sell:
 - i. Marijuana items to a consumer 21 years of age or older within a licensed premises.
 - ii. Marijuana waste to a producer, processor, wholesaler, retailer, or research certificate holder.
 - iii. Returned marijuana items to a producer, processor or wholesaler who transferred the item to the Class 1 Lounge.
3. Deliver:
 - i. Marijuana waste to a producer, processor, wholesaler, retailer, or research certificate holder.
 - ii. Returned marijuana items to a producer, processor or wholesaler who transferred the item to the retailer.
4. Purchase and receive:
 - i. Usable marijuana from a producer, wholesaler, processor, retailer or from a research certificate holder;
 - ii. Cannabinoid concentrates, extracts, and products from a processor, retailer or from a research certificate holder;
 - iii. Any marijuana item, except for whole, non-living marijuana plants, from a wholesaler; and
 - iv. Any marijuana item from a laboratory.
5. Refuse to sell marijuana items to a consumer;
6. Allow a laboratory licensee to obtain samples for purposes of performing testing as provided in these regulations;
7. Allow for the on-site consumption of marijuana, marijuana extracts, or marijuana products within the licensed premises;
8. Sell marijuana items that have not been tested in a marijuana testing facility so long as the marijuana item is sold to a consumer with a disclaimer that clearly reads "UNTESTED PRODUCT"; and

b) A Class 1 lounge may not:

1. Sell a product that contains cannabinoids and is intended for human consumption, unless that product has been labeled and packaged in accordance with the applicable sections of these rules.
2. Sell edible marijuana items intended for human consumption to a consumer if the premises have not received the necessary food handler's certifications from the CNMI Bureau of Environmental Health.
3. Sell or transfer a returned marijuana item where the original package has been altered, opened, damaged, or tampered to another consumer.
4. Sell, transfer, deliver, purchase, or receive any marijuana item other than as provided in section (a) of this rule.
5. Sell, serve, distribute or allow the consumption of alcohol on the marijuana lounge premises;
6. Permit a consumer under the age of 21 to enter the licensed premises unless that individual meets the requirements of 4 CMC § 53026(f).
7. Permit a consumer to bring marijuana items onto the licensed premises.

§ 180-10.1-1005 Class 1 Lounge Operational Requirements

- a) Prior to completing the sale of a marijuana item to a consumer, a Class 1 Lounge licensee must verify that the consumer has a valid, unexpired government-issued photo identification and must verify that the consumer is 21 years of age or older by viewing the consumer's:
 1. Passport;
 2. Driver license, whether issued in this state or by any other state, as long as the license has a picture of the person;
 3. United States military identification card; or
 4. Any other identification card issued by a state or country that bears a picture of the person, the name of the person, the person's date of birth and a physical description of the person.

§ 180-10.1-1010 Class 1 Lounge Premises

- a) The licensed premises of a Class 1 Lounge:
 1. May not be located in an area that is outside of the approved location for Class 1 Lounge establishments.
 2. May not be located within 500 feet of:
 - i. A public or private school;
 - ii. Any church, hospital, medical clinic;
 - iii. Daycare center; or
 - iv. Youth center;
 3. Must be enclosed on all sides by walls and doors.
- b) A Class 1 Lounge must post in a prominent place signs that read:
 1. "No Minors Permitted Anywhere on the Premises";
 2. Exit from the licensed premises that reads: "Marijuana or Marijuana Infused Products May Not Be Consumed In Public".

- c) A Class 1 Lounge must designate a consumer consumption area on the licensed premises where consumers are permitted to consume marijuana, marijuana extracts, or marijuana products
- d) All inventory must be stored on the licensed premises.
- e) For purposes of determining the distance between a Class 1 Lounge and a school referenced in subsection (a)(2) of this rule, "within 500 feet" means a straight line measurement in a radius extending for 500 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising a school to the closest point of the licensed premises of a Class 1 Lounge. If any portion of the licensed premises is within 500 feet of a school as described subsection (a)(2) of this rule an applicant will not be licensed.

§ 180-10.1-1015 Class 2 Lounge Privileges; Prohibitions

- a) A Class 2 Lounge may:
 - 1. Deliver:
 - i. Marijuana waste to a producer, processor, wholesaler, retailer, or research certificate holder.
 - 2. Refuse to entry into a Class 2 lounge to a consumer;
 - 3. Allow for the on-site consumption of marijuana, marijuana extracts, or marijuana products within the licensed premises;
 - 4. Permit a consumer to bring marijuana items onto the licensed premises.

- b) A Class 2 lounge may not:
 - 1. Sell:
 - i. Marijuana items to consumers within a licensed premise.
 - 2. Purchase and receive:
 - i. Usable marijuana, immature marijuana plants, and seeds from a producer, retailer or from a research certificate holder;
 - ii. Cannabinoid concentrates, extracts, and products from a processor, retailer or from a research certificate holder;
 - iii. Any marijuana item, except for whole, non-living marijuana plants, from a wholesaler; and
 - iv. Any marijuana item from a laboratory.
 - 3. Sell a product that contains cannabinoids and is intended for human consumption.
 - 4. Allow the consumption of alcohol on the marijuana lounge premises;
 - 5. Permit a consumer under the age of 21 to enter the licensed premises unless that individual meets the requirements of 4 CMC § 53026(f);
 - 6. Permit the commercial sale of marijuana items on the license premises.

§ 180-10.1-1020 Class 2 Lounge Operational Requirements

- a) Prior to allowing entry into the licensed premises, a Class 2 Lounge licensee must verify that the consumer has a valid, unexpired government-issued photo identification and must verify that the consumer is 21 years of age or older by viewing the consumer's:
 1. Passport;
 2. Driver license, whether issued in this state or by any other state, as long as the license has a picture of the person;
 3. United States military identification card; or
 4. Any other identification card issued by a state that bears a picture of the person, the name of the person, the person's date of birth and a physical description of the person.

§ 180-10.1-1025 Class 2 Lounge Premises

- a) The licensed premises of a Class 2 Lounge:
 1. May not be located within 500 feet of:
 - i. A public or private school;
 - ii. Any church, hospital, medical clinic;
 - iii. Daycare center; or
 - iv. Youth center;
 2. Must be enclosed on all sides by permanent walls and doors.
- b) A Class 2 Lounge must post in a prominent place signs that read:
 1. "No Minors Permitted Anywhere on the Premises";
 2. Exit from the licensed premises that reads: "Marijuana or Marijuana Infused Products May Not Be Consumed In Public".
- c) The consumer consumption area is the sole area of the licensed premises where consumers are permitted.
- d) For purposes of determining the distance between a Class 2 Lounge and a school referenced in § 180-10.1-1025 (a)(2), "within 500 feet" means a straight line measurement in a radius extending for 500 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising a school to the closest point of the licensed premises of a Class 2 Lounge. If any portion of the licensed premises is within 500 feet of a school as described § 180-10.1-1025 (a)(2) an applicant will not be licensed.

Part 1100 PACKAGING LABELING AND ADVERTISING

§ 180-10.1-1101 Packaging and Labeling – Definitions

§ 180-10.1-1105 Packaging for Sale to Consumer

§ 180-10.1-1110 Advertising – Restrictions

§ 180-10.1-1115 Advertising Media, Coupons, and Promotions

§ 180-10.1-1101 Packaging and Labeling – Definitions. For the purposes of these regulations:

- a) "Attractive to minors" means packaging, labeling and marketing that features:

1. Cartoons;
 2. A design, brand or name that resembles a non-cannabis consumer product of the type that is typically marketed to minors;
 3. Symbols or celebrities that are commonly used to market products to minors;
 4. Images of minors; and
 5. Words that refer to products that are commonly associated with minors or marketed by minors.
- b) "Cannabinoid" means any of the chemical compounds that are the active constituents of marijuana.
 - c) "Cannabinoid concentrate or extract" means a substance obtained by separating cannabinoids from marijuana by a mechanical, chemical or other process.
 - d) "Cannabinoid edible" means food or potable liquid into which a cannabinoid concentrate or extract or the dried leaves or flowers of marijuana have been incorporated.
 - e) "Cannabinoid product" means a cannabinoid edible or any other product intended for human consumption or use, including a product intended to be applied to a person's skin or hair, that contains cannabinoids or the dried leaves or flowers of marijuana.
 - f) "Cannabinoid product" does not include:
 1. Usable marijuana by itself;
 2. A cannabinoid concentrate or extract by itself; or
 3. Industrial hemp.
 - g) "Cartoon" means any drawing or other depiction of an object, person, animal, creature or any similar caricature that satisfies any of the following criteria:
 1. The use of comically exaggerated features;
 2. The attribution of human characteristics to animals, plants or other objects, or the similar use of anthropomorphic technique; or
 3. The attribution of unnatural or extra-human abilities, such as imperviousness to pain or injury, X-ray vision, tunneling at very high speeds or transformation.
 - h) "Child resistant" means designed or constructed to be significantly difficult for children under five years of age to open and not difficult for adults to use properly.
 - i) "Container" means a sealed, hard or soft-bodied receptacle in which a marijuana item is placed prior to being sold to a consumer.
 - j) "Exit Package" means a sealed container provided at the retail point of sale in which any marijuana items already within a container are placed.

§ 180-10.1-1105 Packaging, Labeling for Sale to Consumer. The purpose of this provision is to set the minimum standards for the packaging of marijuana items that are sold to the consumer, applicable to a licensee

- a) Containers or packaging for marijuana items must protect a marijuana item from contamination and must not impart any toxic or deleterious substance to the marijuana item.
- b) No licensee shall use or allow the use of any mark or label on the container of any marijuana items which are kept for sale, if the container does not precisely and clearly indicate the nature of its contents or in any way might deceive any customer as to the nature, composition, quantity, age, or quality of such marijuana items. Marijuana items that have been tested and satisfactorily complied with the minimum standards set forth by

the Commission shall bear a label that reads: "CERTIFIED"; and whereas, in the absence of a marijuana testing facility or in the absence of testing a marijuana item, marijuana establishments are required to mark or label the marijuana item with a disclaimer that clearly reads: "UNTESTED PRODUCT." All marijuana items which are kept for sale shall bear a label that reads: "This product has not been evaluated by the FDA."

- c) Marijuana items for ultimate sale to a consumer, except for immature plants and seeds, must:
 - 1. Not be packaged or labeled in a manner that is attractive to minors; and
 - 2. Marijuana items for sale must have the following label and container standards:
 - i. The length of time it typically takes for a product to take effect;
 - ii. The amount of marijuana the product is considered the equivalent to;
 - iii. Ingredients and possible allergens;
 - iv. A nutritional fact panel;
 - v. Opaque, child resistant packaging, which must be designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use properly as defined by 16 C.F.R. 1700.20 (1995);
 - vi. Marijuana products must be clearly identifiable, when practicable, with a standard symbol indicating that it contains marijuana
 - vii. Label must state the number of servings contained within a container
- d) Packaging may not contain any text that makes an untruthful or misleading statement.
- e) Nothing in this rule:
 - 1. Prevents the re-use of packaging that is capable of continuing to be child-resistant, as permitted by rules established by the Commission; or
 - 2. Prohibits the Commission from imposing additional packaging requirements in their respective rules governing licensees.

§ 180-10.1-1110 Advertising – Restrictions

- a) Marijuana advertising may not:
 - 1. Contain statements that are deceptive, false, or misleading;
 - 2. Contain any content that can reasonably be considered to target individuals under the age of 21, including but not limited to images of minors, cartoon characters, toys, or similar images and items typically marketed towards minors, or references to products that are commonly associated with minors or marketed by minors;
 - 3. Specifically encourages the transportation of marijuana items across state lines;
 - 4. Assert that marijuana items are safe because they are regulated by the Commission or have been tested by a certified laboratory or otherwise make claims that any government agency endorses or supports marijuana;
 - 5. Make claims that recreational marijuana has curative or therapeutic effects;
 - 6. Display consumption of marijuana items;
 - 7. Contain material that encourages the use of marijuana because of its intoxicating effect; or
 - 8. Contain material that encourages excessive or rapid consumption.

- b) A licensee may not make any deceptive, false, or misleading assertions or statements on any informational material, any sign, or any document provided to a consumer.
- c) A licensee must include the following statement on all print, billboard, television, radio and internet advertising in font size legible to the viewer:
 - 1. "Do not operate a vehicle or machinery under the influence of this drug".
 - 2. "For use only by adults twenty-one years of age and older."
 - 3. "Keep out of the reach of children."

§ 180-10.1-1115 Advertising Media, Coupons, and Promotions

- a) The Commission prohibits advertising through handbills that are posted or passed out in public areas such as parking lots and publicly owned property.
- b) A licensee who advertises via web page must utilize appropriate measures to ensure that individuals visiting the web page are over 21 years of age.

Part 1200 LICENSEE CONDUCT, INSPECTIONS AND SUSPENSION

- § 180-10.1-1201 Prohibited Conduct
- § 180-10.1-1205 Dishonest Conduct
- § 180-10.1-1210 Inspections
- § 180-10.1-1215 Suspended Licenses

§ 180-10.1-1201 Prohibited Conduct

- a) Sale to a Minor. A licensee may not sell, deliver, transfer or make available any marijuana item to a person under 21 years of age.
 - 1. Violation of this section for an intentional sale to a minor by a licensee, permittee or license representative will result in a penalty to the licensee.
- b) Identification. A licensee or license representative must require a person to produce identification before selling or providing a marijuana item to that person as required by 4 CMC § 53019.
- c) Access to Premises.
 - 1. A licensee may not:
 - i. During regular business hours for the licensed premises, refuse to admit or fail to promptly admit a Commission regulatory employee who identifies him or herself and who enters or wants to enter a licensed premises to conduct an inspection to ensure compliance with the Act affecting the licensed privileges; or these regulations;
 - ii. Outside of regular business hours or when the premises appear closed, refuse to admit or fail to promptly admit a Commission regulatory employee who identifies him or herself and requests entry on the basis that there is a reason to believe a violation of the Act affecting the licensed privileges; or these regulations is occurring; or
 - iii. Once a regulatory employee is on the licensed premises, ask the regulatory employee to leave until the employee has had an opportunity to conduct an

inspection to ensure compliance with the Act affecting the licensed privileges; or these rules

- d) Use or Consumption of Intoxicants on Duty and Under the Influence on Duty.
1. No licensee, or licensee representative may consume any intoxicating substances while on duty, except for employees as permitted under regulations.
 2. No licensee, licensee representative, or permittee may be under the influence of intoxicating substances while on duty.
 3. Whether a person is paid or scheduled for a work shift is not determinative of whether the person is considered "on duty."
 4. As used in this section:
 - i. "On duty" means:
 1. From the beginning to the end of a work shift for the licensed business, including any and all coffee, rest or meal breaks; or
 2. Performing any acts on behalf of the licensee or the licensed business outside of a work shift if the individual has the authority to put himself or herself on duty.
 - ii. "Intoxicants" means any substance that is known to have or does have intoxicating effects, and includes alcohol, marijuana, or any other controlled substances.
- e) Permitting Use of Marijuana at Licensed Premises. A licensee may not permit the use or consumption of marijuana, or any other intoxicating substance, anywhere in or on the licensed premises, or in surrounding areas under the control of the licensee, except for [those licensed under 4 CMC 53026.
- f) Import and Export. A licensee may not import marijuana items into the Commonwealth or export marijuana items out of the Commonwealth unless authorized by the Commission.
- g) Permitting, Disorderly or Unlawful Conduct. A licensee may not permit disorderly activity or activity that is unlawful under Commonwealth law on the licensed premises or in areas adjacent to or outside the licensed premises under the control of the licensee.
1. If the prohibited activity under this section results in death or serious physical injury, or involves unlawful use or attempted use of a deadly weapon against another person, or results in a sexual offense which is a Class A felony such as first degree rape, sodomy, or unlawful sexual penetration, the violation could result in license revocation.
 2. If the prohibited activity under this section involves use of a dangerous weapon against another person with intent to cause death or serious physical injury, it is a punishable violation.
 3. As used in this section:
 - i. "Disorderly activities" means activities that harass, threaten or physically harm oneself or another person.
 - ii. "Unlawful activity" means activities that violate the laws of the Commonwealth, including but not limited to any activity that violates a Commonwealth's criminal statute.
 4. The Commission does not require a conviction to establish a violation of this section.

- h) Marijuana as a Prize, Premium or Consideration. No licensee may give or permit the giving of any marijuana item as a prize, premium, or consideration for any lottery, contest, game of chance or skill, exhibition, or any competition of any kind on the licensed premise.
- i) Visibly Intoxicated Persons. No licensee may sell, give, or otherwise make available any marijuana item to any person who is visibly intoxicated.
- j) Additional Prohibitions. A licensee may not:
 - 1. Sell or deliver any marijuana item through a drive-up window.
 - 2. Use any device or machine that both verifies the age of the consumer and delivers marijuana to the consumer; or
 - 3. Deliver marijuana to a consumer off the licensed premises

§ 180-10.1-1205 Dishonest Conduct

- a) False Statements. A licensee may not:
 - 1. Make a false statement or representation to the Commission or law enforcement in order to induce or prevent action or investigation by the Commission or law enforcement.
 - 2. If the Commission finds that the false statement or representation was intentional, the Commission may charge a violation and could result in license revocation.
- b) Marijuana Item Misrepresentations.
 - 1. A licensee may not misrepresent any marijuana item to a consumer, licensee, or the public, including:
 - i. Misrepresenting the contents of a marijuana item;
 - ii. Misrepresenting the testing results of a marijuana item;
 - iii. Misrepresenting the potency of a marijuana item; or
 - iv. Making representations or claims that the marijuana item has curative or therapeutic effects.
 - 2. A licensee may not treat or otherwise adulterate usable marijuana with any chemical, biologically active drug, plant, substance, including nicotine, or other compound that has the effect or intent of altering the usable marijuana's color, appearance, weight or smell or that has the effect or intent of increasing potency, toxicity or addictiveness.
 - 3. A knowing or intentional violation of this section could result in license revocation.
- c) Supply of Adulterated Marijuana Items.
 - 1. A licensee may not supply adulterated marijuana items.
 - 2. Violation of this section could result in license revocation.
- d) Evidence. A licensee may not:
 - 1. Intentionally destroy, damage, alter, remove or conceal potential evidence, or attempt to do so, or ask or encourage another person to do so. Violation of this subsection could result in license revocation.
 - 2. Destroy, damage, alter, remove or conceal potential evidence, or attempt to do so, or ask or encourage another person to do so, in any manner other than intentional.
 - 3. Refuse to give, or fail to promptly give, a Commission regulatory employees or law enforcement officer evidence when lawfully requested to do so.

§ 180-10.1-1210 Inspections

- a) The Commission may conduct:
 - 1. A complaint inspection at any time following the receipt of a complaint that alleges a licensee is in violation of 4 CMC § 53001 et seq or these regulations;
 - 2. A random inspection at any time in order to determine compliance with 4 CMC § 53001 et seq or these regulations; or
 - 3. Compliance transactions in order to determine whether a licensee is complying with 4 CMC § 53001 et seq or these regulations.
- b) A licensee, or licensee representative must cooperate with the Commission during an inspection.

If licensee or licensee representative fails to permit the Commission to conduct an inspection the Commission may seek an investigative subpoena to inspect the premises and gather books, payrolls, accounts, papers, documents or records

§ 180-10.1-1215 Suspended Licenses

- a) Before 7:00 a.m. on the date a license suspension goes into effect, and until the suspension is completed, Commission staff must ensure that a suspension notice sign is posted on each outside entrance or door to the licensed premises.
- b) The suspension notice sign must be posted in a way that allows any person entering the premises to read it. Licensees must use the suspension notice sign provided by the Commission. The sign will state that the license has been suspended by order of the Commission due to violations of the Commonwealth laws (statutes or administrative rules). If there are multiple licenses at the location, the sign will specify which license privileges have been suspended.
- c) During the period of license suspension, the licensee is responsible for ensuring:
 - a. Compliance with all applicable laws and rules; and
 - b. That the suspension notice sign is not removed, altered, or covered.
- d) A licensee or licensee representative may not allow the sale, delivery to or from, or receipt of marijuana items at the licensed premises during the period of time that the license is under suspension. During a period of time that the license is under suspension, a marijuana licensee may operate the business provided there is no sale, delivery to or from, or receipt of a marijuana item.

Part 1300 MEDICINAL MARIJUANA [RESERVED]

Part 1400 LABORATORY LICENSE [RESERVED]

Part 1500 MARIJUANA EVENTS [RESERVED]

**SUBCHAPTER 180-10.2
COMMONWEALTH CODE OF ETHICS**

Part 001 CODE OF ETHICS

§180-10.2.101 Commission to follow Government Ethics Act
§180-10.2.105 Responsibilities of Public Office
§180-10.2.110 Commission Policies
§180-10.2.115 Conflict of Interest
§180-10.2.120 Political Activity
§180-10.2.125 Non-discrimination Policy

§ 180-10.2-101 Commission to follow government Ethics Act. The Commission and its employees shall be subject to and follow the Government Ethics Act found in 1 CMC § 8501 et. seq.

§ 180-10.2-105 Responsibilities of Public Office. Individuals appointed to the Commission are agents of the public and serve for the benefit of the public. They shall uphold and act in accordance with the Constitution of the United States of America, the Constitution of the Commonwealth of the Northern Mariana Islands, and the rules, Regulations and policies pursuant to the Act and the Government Ethics Act.

§ 180-10.2-110 Commission Policies. Commissioners and staff shall comply fully with the policies and standard procedures approved by the Commission.

§ 180-10.2-115 Conflict of Interest. There is a public trust to be protected from the danger of conflict of interest.

(a) A conflict occurs when an official's responsibilities, duties or activities conflict with the official's private interests, whether they are of a business, family, social or other nature.

(b) A Commissioner has an automatic conflict of interest in matters affecting a Commissioner's spouse, children and siblings. A Commissioner must automatically refrain on voting or engaging in any discussions relating to such family members.

(c) Commissioners and Commission staff shall comply with the following Conflict of Interest restrictions:

1. Shall not use their office/staff to seek employment or conduct business.
2. Shall not use their position to obtain private gain or advantage for themselves, a relative or an entity in which they have a present or potential financial interest.
3. Shall not disclose or use confidential information that is not generally available to the public for his/her own or another person's financial benefit.
4. Shall not participate in transactions that they may influence if they know that a spouse, child, or sibling has a substantial financial interest.
5. Shall not use public funds, time or equipment for their own private gain, unless authorized by law.

6. Shall not participate in, vote on, influence or attempt to influence an official decision if they, or the business they are associated with, have a financial interest or can potentially benefit from the matter, unless the interest or benefit is incidental to their position or would normally accrue to them in their profession, occupation or class.

7. Shall not participate or engage in any conduct or activity that is prohibited by the Ethics Act

§ 180-10.2-120 Political Activity. Each Commissioner, Managing Director and Commission staff must be aware of the rules that limit permissible political activity. The following is intended to highlight the kind of activities that can and cannot be engaged in.

(a) Permissible Activities:

1. Voting for the candidate of his/her choice.
2. Expressing opinions on all political subjects and candidates.
3. Membership in any political party, organization or club.
4. Making voluntary contributions to a political organization for its general expenditures.
5. Lobbying and supporting public, Legislative or other Constitutional amendments.

(b) Prohibited Activities:

1. Use of Commission funds, time, personnel or equipment for political
2. Activity unless that use is authorized by law or is incidental to a legally authorized or required activity.
3. Engaging in the discharge, promotion, demotion or changing of the status or compensation of any other official of employee or promising or threatening to do so.
4. Handing over to the other officials or staff any money or other thing of value to promote any political objective.
5. Use of their office or the Commission or influence to interfere with an election, or affect its results, or coerce the political action of any person or party.
6. Being obliged to contribute to any political fund, render any political service or be removed for refusing to do so.
7. Pressuring or coercing staff to participate in political activities or to support political parties or candidates under threat of losing one's employment.
8. Soliciting or receiving political contributions from anyone while on Commission time or on Commission or government property.
9. Campaigning for any candidate for public office during official working hours.
10. Promoting or opposing legislation relating to programs of departments on behalf of the Commission in contravention of Commission authority.

§ 180-10.2-125 Non-discrimination Policy

(a) It is the policy of the Commission that discrimination, for or against any employee, because of race, creed, color, gender (including sexual harassment), sexual orientation, national origin, age, religion, political affiliation, organizational membership, veterans status, disability, or genetic information is prohibited and will not be tolerated. No adverse action or

hiring decision shall be made on the basis of any of the above factors except that veterans' status may be considered positively as permitted by law.

(b) The Commission shall maintain every workplace free from unlawful harassment, including sexual harassment. Any employee or official who engages in any act of discrimination or harassment on the basis of any of the above factors violates Commission policy, and such misconduct will subject the employee to corrective action ranging from counseling to disciplinary action up to and including termination. Such harassment by a non-employee (for example, a client or contractor) is also prohibited.

(c) The Commission shall not tolerate any such outside harassment and shall take necessary action to prevent its continuation or recurrence.

(d) Any employee who feels that he or she has been discriminated against on the basis of any of the above factors, or sexually harassed, should immediately report such incidents to a supervisor at any level without fear of reprisal. Confidentiality will be maintained to the extent permitted by the circumstances.

(e) An employer who receives a claim of discrimination or harassment in violation of this policy shall take such complaint seriously and immediately advise the Managing Director or the Commonwealth Equal Employment Opportunity (EEO) Coordinator of the situation. The Managing Director, with the assistance of the EEO Coordinator, if sought, will ensure that it is investigated promptly, privately, and with as much confidentiality as possible, consistent with the need to determine the facts. The investigation will be documented by an investigative report that will be retained in a confidential file by the Managing Director or EEO Coordinator. Any person accused of a violation shall be allowed the opportunity to rebut the charges.

(e) After determining the facts through the investigation, the Managing Director shall take corrective action as required by the circumstances. This may include counseling any employee, whether or not a violation has occurred; imposing an appropriate sanction, including disciplinary action; making sure that this policy is reiterated to all employees or any group. An employer, or any supervisory staff, who does not take appropriate action also violates this policy and exposes the Commonwealth government to liability.

SUBCHAPTER 180-10.3 HOMEGROWN MARIJUANA REGISTRY

Part 001 HOMEGROWN MARIJUANA REGISTRY

- §180-10.3.101 Establishment of Homegrown Marijuana Registry
- §180-10.3.105 Homegrown Marijuana Privileges; Prohibitions
- §180-10.3.110 Maintenance of Homegrown Marijuana Registry

§180-10.3.101 Establishment of Homegrown Marijuana Registry

- a. Any individual producing, processing, keeping, or storing marijuana at their household or cultivation site for non-commercial purposes must first register to receive a Homegrown Marijuana Registry Card issued by the Commission.
- b. To register, individuals must provide to the Commission:
 1. Names and information of all individuals located in the household;
 2. Any forms required by the Commission and any information identified in the form that is required to be submitted;
 3. A map or sketch of the premises, including the defined boundaries of the premises and the village, street and relative location of the household or cultivation site;
 4. A description of the growing operation including growing media, a description of equipment to be used in the production, and whether production will be indoor, outdoor or both.
 5. Proof of right to occupy the premises;
 - i. If the household is a rental unit, provide:
 1. Agreement from the landlord or owner permitting the growing of marijuana on the premise
 2. Signed rental agreement with the landlord or owner
 6. Description of measures taken to ensure:
 - i. The plants are secure from access by a person under the age of 21 and unauthorized access. For purposes of illustration and not limitation, cultivating marijuana in an enclosed, locked space that persons under 21 years of age do not possess a key to constitutes reasonable precautions; and
 - ii. Marijuana plants are cultivated in a location where the plants are not subject to public view without the use of binoculars, aircraft, or other optical aids.
- c. An individual is ineligible to produce, process, keep or store marijuana in their household if they are under 21 years of age or are not otherwise authorized under CNMI law.
- d. A Homegrown Marijuana Registry cardholder shall:
 1. Submit an amended registration notifying the Commission of any change concerning the registry identification cardholder's:
 - i. Name
 - ii. Location of residence
 - iii. Description of the growing operation used in the production
- e. The Commission shall:
 1. On the date on which the Commission receives an application described in subsection (2) of this section, issue a Homegrown Marijuana Registry card to the applicant verifying that the authority received the complete registration information under subsection of this section and that the information provided meets the requirements listed under 4 CMC § 53012; and
 2. Update the Homegrown Marijuana Registry following the issuance of the Homegrown Marijuana Registry card.

§180-10.3.105 Homegrown Marijuana Privileges; Prohibitions

- a. Individuals registered under the Homegrown Marijuana Registry and in possession of a Homegrown Marijuana Registry Card may:
1. Produce, process, keep or store homegrown marijuana at a household for non-commercial purposes by one or more persons 21 years of age and older, if
 - i. the total of homegrown marijuana at the household or cultivation site does not exceed six (6) mature marijuana plants and no more than twelve (12) immature plants at any time.
 2. Produce, process, keep or store useable marijuana at a household for non-commercial purposes by one or more persons 21 years of age or older, if:
 - i. The total amount of usable marijuana at the household or cultivation site does not exceed eight (8) ounces of useable marijuana at any time.
 3. Produce, process, keep or store homegrown marijuana at a household for non-commercial purposes by a medical marijuana patient or the patient's caregiver who may exceed the six (6) mature marijuana plant limit but not more than twelve (12) mature plants and twenty four (24) immature plants should the patient's physician deem it necessary and practical for the effective treatment of the medical marijuana patient; provided that any additional marijuana produced by the person's marijuana plants in excess of one (1) ounce of marijuana or eight (8) ounces of useable marijuana must remain in the same secure location where the marijuana was cultivated or secured at a person's household and such person holds a homegrown marijuana registry card issued by the Commission, and a document with a physician statement recommending the use of marijuana for medicinal use showing the name of the patient or the caregiver.
 4. Make, process, keep or store marijuana products at a household by one or more persons 21 years of age and older, that are properly identified and properly secured to ensure in an enclosed, locked space that persons under 21 years of age do not possess a key.
 5. Deliver, possess, transport or gift not more than one (1) ounce of any usable marijuana at any given time by a person 21 years of age and older to another person 21 years of age or older for non-commercial purposes.
 6. Deliver, possess, transport or gift not more than sixteen (16) ounces of any marijuana products in solid form at any given time by a person 21 years of age or older to another person 21 years of age or older for non-commercial purposes.
 7. Deliver, possess, transport or gift not more than seventy-two (72) ounces of any marijuana products in liquid form at any given time by a person 21 years of age or older to another person 21 years of age or older for non-commercial purposes.
 8. Deliver, possess, transport or gift not more than five (5) grams of marijuana extracts at any given time by a person 21 years of age or older to another person 21 years of age or older for non-commercial purposes.
 9. Deliver, possess, transport or gift not more than six (6) immature marijuana plants at any given time by a person 21 years of age or older to another person 21 years of age or older for non-commercial purposes.
 10. Transport any amount of harvested homegrown marijuana from a person's cultivation site being directly transported to the person's household at any given time by one or more persons 21 years of age or older, where the harvested homegrown marijuana will be secured at the person's household.

11. Make, process, keep or store homemade marijuana extracts or marijuana concentrates at a household by one or more persons 21 years of age and older if the marijuana extracts or concentrates were produced using only water or vegetable glycerin solvents or other forms of non-solvent extraction processing methods, as described in 4 CMC § 53057(a) in addition to other restrictions in the statute.
- b. Individuals registered under the Homegrown Marijuana Registry and in possession of a Homegrown Marijuana Registry Card may not:
 1. Make, process, keep or store homemade marijuana for commercial purposes
 2. Make, process, keep, store, use, or possess homemade marijuana in the presence of a person under 21 years of age, with exemptions and penalties provided under 4 CMC § 53030.
 3. Deliver, possess, transport or gift any quantity of marijuana, useable marijuana, marijuana extracts, mature or immature marijuana plants, marijuana extracts or marijuana concentrates in the presence of a person under 21 years of age, with exemptions provided under 4 CMC § 53030.

§180-10.3.110 Maintenance of Homegrown Marijuana Registry. The Commission shall maintain a ongoing database of Homegrown Marijuana Registrants.



NORTHERN MARIANAS HOUSING CORPORATION

P.O. BOX 500514, Saipan, MP 96950-0514

Email: nmhc@nmhc.gov.mp

Website: <http://www.nmhc.gov.net>

PUBLIC NOTICE

OF PROPOSED AMENDMENTS TO THE HOMEOWNERSHIP INVESTMENT PARTNERSHIPS (HOME) PROGRAM POLICIES AND PROCEDURES FOR HOMEBUYER ACTIVITIES AND HOMEOWNER REHABILITATION OF THE NORTHERN MARIANAS HOUSING CORPORATION

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Notice of Intended Action: The Board of Directors of the Northern Marianas Housing Corporation proposes the following amendments to NMHC's Homeownership Investment Partnerships (HOME) Program Policies and Procedures for Homebuyer Activities and Homeowner Rehabilitation pursuant to the Administrative Procedure Act, 1 CMC § 9104(a). If adopted, these regulations will become effective ten (10) calendar days after publication of a Notice of Adoption in the Commonwealth Register after compliance with 1 CMC §§ 9102, 9104(a), and 9105(b).

Authority: These amendments are promulgated under the authority of the Board of Directors, through its Chairperson, to promulgate rules and regulations pursuant to 2 CMC § 4433(i), which lists the responsibilities of the Board of the NMHC.

Terms and Substance: These proposed regulations seek to amend the current Homeownership Investment Partnerships (HOME) Program Policies and Procedures for Homebuyer Activities and Homeowner Rehabilitation. The purpose of the amendments is to reflect changes and/or updates to the CNMI Housing market as it pertains to the new construction, purchase and/or repair, and rehabilitation of single family housing units; as well as, certain updates to sections on program eligibility, maximum loan limits, terms, subsidy assistance, affordability restrictions, underwriting clarification and new guideline sections, and construction and contractor requirements.



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Fax. (670) 532-9441

Tinian Field Office: Tel. (670) 433-9213
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CDBG-DR OFFICE
TEL: (670) 233-9447/9448/9449

Citation of Related and/or Affected Statutes, Rules and Regulations. The proposed amendments were formulated to amend the Homeownership Investment Partnerships (HOME) Program Policies and Procedures for Homebuyer Activities and Homeowner Rehabilitation as affected through Title II of the Cranston-Gonzalez/National Affordable Housing Act of 1990, and 24 CFR part 92.

Directions for Filing and Publication: These proposed amendments to the Homeownership Investment Partnerships (HOME) Program Policies and Procedures for Homebuyer Activities and Homeowner Rehabilitation shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and 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)).

Comments: Interested parties may submit written comments on the proposed amendments to Jesse S. Palacios, Corporate Director, NMHC, to the following address, fax or email address, with the subject line “Proposed Amendments to the NMHC Homeownership Investment Partnerships (HOME) Program Policies and Procedures for Homebuyer Activities and Homeowner Rehabilitation.”

NORTHERN MARIANAS HOUSING CORPORATION

PO Box 500514

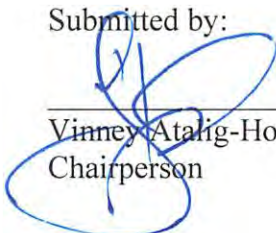
Saipan, MP 96950

Fax: 234-9021

Email address: jspalacios@nmhcgov.net

Comments, data, views, or arguments are due within thirty (30) calendar days from the date of publication of this notice. 1 CMC § 9104(a)(2). If you have any questions, you may reach NMHC at telephone nos. 234-6866/234-9447, 234-7689.


Submitted by:



Vinney Atalig-Hocog
Chairperson

Date: 6/25/2020

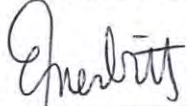
Received by:



Ms. Matilde A. Rosario
Special Assistant for Administration

Date: 07/16/2020

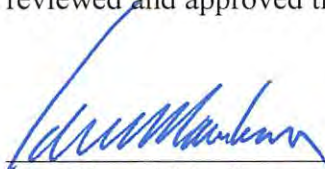
Filed and Recorded by:



Ms. Esther SN. Nesbitt
Commonwealth Registrar

Date: 07.22.2020

I certify, pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3), that I have reviewed and approved these regulations as to form and legal sufficiency.



Mr. Edward Manibusan
Attorney General

Date: 7/20/2020



NORTHERN MARIANAS HOUSING CORPORATION

P.O. BOX 500514, Saipan, MP 96950-0514

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Website: <http://www.nmhc.gov.net>

NUTISIAN PUPBLIKU

Tels: (670) 234-6866

234-9447

234-7689

234-7670

Fax: (670) 234-9021

233-6870

PUT I MANMAPROPONI NA AMENDA SIHA PARA I HOMEOWNERSHIP INVESTMENT PARTNERSHIPS (HOME) PROGRAM POLICIES YAN I MANERA PARA AKTIBIDÁT HOMEOWNER SIHA YAN HOMEOWNER REHABILITATION GI NORTHERN MARIANAS HOUSING CORPORATION

NUTISIAN I AKSION NI MA INTENSIONA: I Kuetpun Direktot siha gi Northern Marianas Housing Corporation ha proponi i mantinattiyi na amenda siha para i NMHC's Homeownership Investment Partnership (HOME) Program Policies yan i Maneran Aktibidát Homebuyer yan Homeowner Rehabilitation sigun para i Áktun Administrative Procedure, 1 CMC § 9104(a). Komu ma'adápata, esti na regulasion siha para u ifektibu gi halum dies (10) dihas ni mafetcha dispues di publikasion i Nutisian i Adáptasion gi halum i Rehistran Commonwealth dispues di compliance yan i CMC §§ 9102 yan 9104 (a), yan 9105(b).

ÁTURIDÁT: Esti na amenda siha manmacho'gui gi pápa' i aturidát i Kuepun Direktot siha, ginin Kabesiyun-niha, para u macho'gui i areklamentu yan regulasion siha sigun para i 2 CMC § 4433 (i), ni malista i risponsibilidát i Kuepu siha gi NMHC.

I TEMA YAN SUSTANSIAN I PALÁBRA SIHA: Esti i manmaproponi na regulasion siha ma'aligao para u amenda i presentu na Homeownership Investment Partnerships (HOME) Program Policies yan i Maneran Aktibidát Homebuyer yan Homeowner Rehabilitation. I rason i amenda siha para u riflekta i tinilaika yan /pat "updates" para i CNMI Housing market komu inaplika gi nuebu na kunstruksion, fináhan yan /pat areklu, yan rehabilitation i single family housing units; kuntodu komu, manfitmi na "updates" para seksiona siha gi kuálifikasion, "maximum loan limits," tema, asistensian "subsidy," restriksion i "affordability, underwriting clarification" yan nuebu na seksionan "guideline", yan dimándan kunstruksion yan kontraktor siha.

SITASION I ASOSIÁT YAN/PAT I MANINA FEKTA NA STATUTES, AREKLAMENTU YAN REGULASION SIHA: I maproponi na amenda siha manmafotma para u amenda i Homeownership Investment Partnership (HOME) Program Policies yan i Maneran Aktibidát Homebuyer yan Homeowner Rehabilitation komu ifektibu ginin Titulu II nu i Cranston-Gonzalez/Áktun i National Affordable Housing nu 1990, yan 24 CFR pátti 92.



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CDBG-DR OFFICE
TEL: (670) 233-9447/9448/9449


DIREKSION SIHA PARA U MAPO'LU YAN PUPBLIKASION: Esti i Maproponi na Amenda para i Homeownership Investment Partnerships (HOME) Program Policies yan i Maneran Aktibidât Homebuyer siha yan Homeowner Rehabilitation debi na u mapupblika gi halum i Rehiistran Commonwealth gi halum i maproponi na seksiona yan nuebu na ma'adâpta na regulasion siha (1 CMC § 9102(a)(1)) yan u mapega gi halum i kumbinienti na lugât gi halum i Civic Center yan gi halum ufisinan gubietnamentu siha gi kada distritun senadot, parehu Inglis yan i dos na lingguâhi natibu (1 CMC § 9104(a)(1)).

UPIÑON SIHA: I intirisao na pättida siña muna'halum tinigi' upiñon put i manmaproponi na amenda siha guatu as Jesse S. Palacios, Corporate Director, NMHC gi tinattiya na address, fax, pat email address, yan i râyan suhetu "Maproponi na Amenda siha para i NMHC Homeownership Investment Partnerships (HOME) Program Policies yan I Maneran Aktibidât Homebuyer yan Homeowner Rehabilitation."

NORTHERN MARIANAS HOUSING CORPORATION
P.O. BOX 500514
Saipan, MP 96950
Fax 234-9021
Email address: jspalacios@nmhc.gov.net

I upiñon, infotmasion yan kunistasion siha debi na u fanhâlum gi halum trenta (30) dihas ginin i kalendâriu publikasion esti na nutisia. Yanggin guaha maseha katkuet na kuestion-mu, siña un hâgan i NMHC gi numerun tilifon gi 234-6866/234-9447, 234-7689.

Nina'halum as:



Vinney Atalig-Hocog
Kabesityu

Fetcha:

06/25/2020

Rinisibi as:

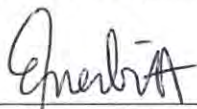


Ms. Matilde A. Rosario
Ispisiât Na Ayudânti Para I Atministrasion

Fetcha:

07/16/2020

Pine'lu yan
Ninota as:



Ms. Esther SN. Nesbitt
Rehiistran Commonwealth

Fetcha:

07.22.2020

Hu sitifikão, sigun para i 1 CMC § 2153(e) yan 1 CMC § 9104(a)(3), na hu ribisa yan aprueba esti siha na regulasion kumu para u fotma yan ligât na sufisienti.



EDWARD MANIBUSAN
Abugãdu Henerãt

Fecha: 7/20/2020



NORTHERN MARIANAS HOUSING CORPORATION

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233-6870

ARONGORONGOL TOULAP

REEL POMMWOL LIIWEL NGÁLI HOMEOWNERSHIP INVESTMENT PARTNERSHIP (HOME) PROGRAM POLICIES ME PROCEDURES NGÁLI MWÓGHUTUGHUT

HOMEBUYER ME HOMEOWNER REHABILITATION-IL NORTHERN MARIANAS HOUSING CORPORATION

Arongorongol Mángemángil Mwóghut: Board-il Directors sáangi Northern Marianas Housing Corporation re pommw reel liiwel ikka e amwirimwiritiw ngáli aar NMHC Homeownership Investment Partnership (HOME) Program Policies me Mwóghutughut ngáli Mwóghutughutúl Homebuyer me Homeowner Rehabilitation sáangi Administrative Procedure Act, 1 CMC § 9104(a). Ngáre re adóptááli, ebwe bwunguló mwóghutughut kkal llól seigh ráál (10) mwiril aal akkatééwowul Arongorongol Adóptaa me llól Commonwealth Register mwiril aal angíngi fengál me 1 CMC §§ 9102, 9104(a), me 9105(b).

Bwángil: Aa arongowow liiwel kkal faal bwángil Board-il Directors, sáangi layúr Chairperson, reel rebwe arongawow allégh me mwóghutughut sáangi 2 CMC § 4433(i), iye e amwirimwiritiw lemelemil Board-il NMHC.

Kkapasal me Aweewel: Pommwol liiwel kkal ebwe attabweey ngáli liiwel ikka e lo bwe Homeownership Investment Partnership (HOME) Program Policies me Procedures ngáli Mwóghutughutúl Homebuyer me Homeowner Rehabilitation. Bwulul liiwel kkal nge ebwe yoor siiwel me/ngáre fféer ikka e ffé ngáli CNMI Housing market igha e ssúl ngáli ffél kkayu, amééwal me/ngáre aghatchúw, me rehabilitation-il “single family housing units”; me bwal, akkáaw “updates” ngáli táil wóol “program eligibility”, “maximum loan limits”, kkapasal, “subsidy assistance”, “affordability restrictions”, “underwriting clarification” me ffél “guideline sections”, me “contruction and contractor requirements”.

Citation reel Milikka e Schuu me/ngáre “Affected Statues”, Allégh me Mwóghutughut: Eyoor ammwelil pommwol liiwel kkal reel ebwe liiweli Homeownership Investment Partnership (HOME) Program Policies me Procedures ngáli Mwóghutughutúl Homebuyer me Homeowner Rehabilitation iye e afekktai sáangi Title II reel Cranston-Gonzalez/National Affordable Housing Act-il 1990, me 24 CFR part 92.



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TEL: (670) 233-9447/9448/9449

Afal reel Ammwelil me Akkatéewowul: Pommwol liiwel ngáli Homeownership Investment Partnership (HOME) Program Policies me Procedures ngáli Homebuyer Activities me Homeowner Rehabilitation ebwe akkatéewow me llól Commonwealth Register llól táilil pommwol me ffél mwóghutughut ikka ra adóptáali (1 CMC § 9102(a)(1)) me ebwe appaschetá llól civic center me bwal llól bwulasiyol gobetnameento llól senatorial district, fengál reel English me mwaliyaasch. (1 CMC § 9104(a)(1)).

Kkupas: Schóó kka re tipáli rebwe isiisilong ischil mángemáng wóól pommwol liiwel kkal rebwe isch ngáli Jesse S. Palacios, Corporate Director, NMHC, ngáli féléfél, fax ngáre email address, fengál me subject line “Proposed Amendments to the NMHC Homeownership Investment Partnership (HOME) Program Policies and Procedures for Homebuyer Activities and Homwowner Rehabilitation.”

NORTHERN MARIANAS HOUSING CORPORATION

PO Box 500514

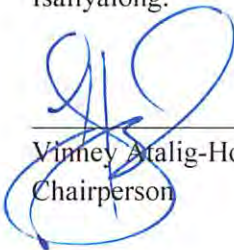
Saipan, MP 96950

Fax: 234-9021

Email address: jspalacios@nmhc.gov.net

Comments, data, views, ngáre angiingi ebwe toolong llól eliigh (30) calendar ráal sáangi ráalil akkatéewowul arongorong yeel. 1 CMC § 9104(a)(2). Ngáre eyoor yóómw aiyegh, faingiló NMHC me 234-6866/234-9447, 234-7689.


Isáliyalong:



Vinney Atalig-Hocog
Chairperson

Ráal: 06/25/2020

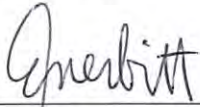
Bwughiyal:



Ms. Mathilda A. Rosario
Special Assistant ngáli Administration

Ráal: 07/16/2020

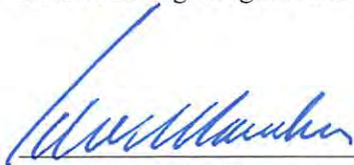
Ammwelil:



Ms. Esther SN. Nesbitt
Commonwealth Registrar

Ráál: 07.22.2020

I alúghúlúgh, sáangi 1 CMC § 2153(e) me 1 CMC § 9104(a)(3), bwe I ya takkal amwuri fischiiy me átirowa mwóghutughut kkal bwe aa ffil reel fféerúl me legal sufficiency.



Mr. Edward Manibusan
Soulemelemil Allégh Lapalap

Ráál: 7/20/2020

**HOME POLICIES AND PROCEDURES
HOMEBUYER ACTIVITIES
FOR AMENDMENT NMAIC TITLE 100.1**

TITLE 100: NORTHERN MARIANAS HOUSING

CORPORATION

SUBCHAPTER 100-100.1

POLICIES AND PROCEDURES FOR HOMEBUYER ACTIVITIES

| | | | |
|-----------------|--|------------------|--|
| Part 001 | General Provisions | § 100-100.1-710 | Interest-Bearing Loans or Advances |
| § 100-100.1-001 | Introduction | § 100-100.1-715 | Deferred Loans: |
| § 100-100.1-005 | Public Announcement | | Forgivable or Repayable |
| | | § 100-100.1-720 | Interest Subsidies |
| Part 100 | Application | § 100-100.1-725 | Loan Guarantees |
| § 100-100.1-101 | Formal Application | § 100-100.1-730 | Repayment Period |
| § 100-100.1-105 | Supplemental Information | § 100-100.1-735 | After-Construction Property Value |
| | | § 100-100.1-740 | Security |
| Part 200 | Eligibility | § 100-100.1-745 | Late Charge |
| § 100-100.1-201 | Eligibility Requirements | § 100-100.1-750 | Prepayment of Loan |
| | | Part 800 | Distressed Homebuyer(s) |
| Part 300 | Affordability Restrictions | § 100-100.1-801 | Distressed Homebuyer(s) |
| § 100-100.1-301 | Long Term Affordability | | |
| § 100-100.1-305 | Right of First Refusal | Part 900 | Assistance |
| § 100-100.1-315 | Recapture | § 100-100.1-901 | Types of Assistance |
| | | Part 1000 | <u>Mitigation to Foreclosure</u> |
| Part 400 | Homebuyer Costs | § 100-100.1-1001 | Items Needed to Cancel Foreclosure and Reinstate Account |
| § 100-100.1-401 | Eligible Costs | | |
| Part 500 | Notification to Applicants | Part 1100 | Performing New Construction Work |
| § 100-100.1-501 | Notification of Eligibility or Ineligibility | § 100-100.1-1101 | Performing New Construction Work |
| Part 600 | Loan Processing | | |
| § 100-100.1-601 | Selection | Part 1200 | <u>Homebuyer Underwriting</u> |
| § 100-100.1-605 | Administration Approval; Appeals Process | 100-100.1-1201 | <u>Guidelines and Referenced Sections</u> |
| | | § 100-100.1-1205 | <u>Subsidy Layering</u> |
| Part 700 | Terms and Conditions of Loan | § 100-100.1-1210 | <u>Acronyms Reference Section</u> |
| § 100-100.1-701 | Maximum Homebuyer Programs Loan Amount | | |
| § 100-100.1-705 | Minimum Homebuyer Programs Loan Amount | | |

Part 001 - General Provisions

§ 100-100.1-001 Introduction

(a) The Homeownership Investment Partnerships (HOME) program was established under the National Affordable Housing Act of 1990 (NAHA). The main objectives for the creation of the HOME program were to encourage, promote, and expand the supply of decent, safe, sanitary, and affordable housing, as well as to increase homeownership opportunities for low and very low-income families.

(b) Funds will be made available for eligible projects and to eligible beneficiaries through the following forms of financial assistance or subsidy:

- (1) Interest bearing loans or advances;
- (2) Non-interest bearing loans or advances;
- (3) Forgivable deferred loans; and
- (4) Non-interest subsidies.

(c) Due to the limited availability of HOME funds allocated each fiscal year to the Commonwealth of the Northern Mariana Islands (CNMI) from the U.S. Department of Housing and Urban Development (HUD), financial assistance will be limited to qualified low and very low-income homebuyers. One hundred percent of HOME funds will be used to assist families with income levels at or below 80 percent of the area median income. These families' income eligibility is based on their annual income. Annual income for this purpose is the gross amount of income anticipated by all adults in a family during the 12 months following the effective date of the determination. The determination of income and allowances as a criterion to qualify these homebuyers shall be guided by 24 CFR Part 5 (Part 5 annual income).

(d) The Northern Marianas Housing Corporation (NMHC), on behalf of the CNMI, has been tasked with the responsibility and administration of the CNMI HOME program for the benefit of low and very-low income families. NMHC's Mortgage and Credit Division (MCD) will be responsible for the day-to-day administration of the program. Support services will be provided by NMHC's Fiscal Division with respect to disbursement of funds and collection of payments, accounting, and maintenance of financial records. NMHC's Property Manager will provide technical assistance with respect to reasonableness of cost estimates, dwelling unit inspections, and other related matters. Overall, the NMHC Corporate Director will assume ultimate responsibility for the efficient and proper administration of the HOME program in accordance with federal and local statutory and regulatory requirements.

(e) With these policies and procedures, NMHC will strive to accomplish the following objectives:

- (1) Provide for the efficient and effective administration of the HOME program wherein eligible beneficiaries can avail the financial assistance provided for the construction of their principal residence;

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

- (2) Foster positive working relationships among NMHC, homebuyers assisted with HOME monies, and Minority and Women-Owned Businesses (MBE/WBE); as well as, prospective developers.
 - (3) Enforce the current building code adopted by the CNMI Department of Public Works and HUD-prescribed residential building standards; and
 - (4) Preserve and improve the general housing stock of the CNMI.
- (f) These policies and procedures shall govern; however, in situations in which these policies and procedures are silent, the HOME Program federal regulations shall apply and supplemented by NMHC's general standard loans policies/procedures to address these situations in the administration of the HOME Program.

§ 100-100.1-005 Public Announcement

- (a) Publicity.
 - (1) Upon notification from HUD of the approval of additional HOME funds, NMHC shall publish such approval within thirty calendar days from the date of the approval. General information of the CNMI HOME Program shall be published in the print media of the widest local circulation and other suitable means available. HOME program information shall also be posted in public and private bulletin boards where announcements are commonly posted. Loan applications may be submitted after a thirty calendar day period to be stated in the public notice, has expired.
 - (2) Note: When it is determined that HOME funds have been exhausted, the application intake may be closed until funding is once again available. Those applicants who did not submit their loan applications when HOME funds were available may do so once NMHC is notified by HUD of the availability of funds and after such notice is published.
- (b) Contents. Program announcements shall inform interested applicants on how and where they may obtain an application and additional information on the type of HOME Program activity being administered in the CNMI. Such announcements shall further contain the following information:
 - (1) Brief overview of the HOME program;
 - (2) General list of eligible activities available;
 - (3) Amount of funds available;
 - (4) General eligibility requirements to qualify for financial assistance;
 - (5) Homebuyer selection process;
 - (6) Fair Housing logo and Equal Opportunity language; and
 - (7) Opening date for acceptance of applications; and any proposals from prospective developers for housing projects.
- (c) Special Outreach. To ensure that all persons are effectively and adequately informed about the HOME Program and the availability of funds, brochures or HOME Program information notices shall be provided and distributed or posted in the following locations and shall contain the

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

information described in subsection (b). Brochures and/or HOME program information notices shall be made available at the following public and private areas:

- (1) U.S. Post Offices;
- (2) Major shopping centers;
- (3) Public health centers;
- (4) Places of worship;
- (5) Government office buildings;
- (6) The Nutrition Assistance Program (Food Stamp) office(s); and
- (7) U.S. Social Security Administration office(s).

Part 100 - Application

§ 100-100.1-101 Formal Application

Applicants may obtain a Uniform Residential Loan Application form along with a checklist of required documents in order to complete the application submission. Such application form shall be in accordance with loan applications widely used by financial lending institutions. Those applicants who are initially determined eligible shall be notified to provide additional documents to further process their applications. Proper completion of the formal application and submission of supplemental information shall be in accordance with HOME program and NMHC loan processing procedures. Loan applications shall be completed and signed by applicant(s) requesting assistance and such signature(s) shall certify to the truth of all statements contained therein. No formal application shall be officially received prior to the completion of the thirty-day announcement period

§ 100-100.1-105 Supplemental Information

(a) Completed applications shall be submitted together with the following supporting information which shall be used solely for the purpose of determining applicant eligibility for financial assistance:

- (1) Prior year's income tax return and/or W-2 Tax Form;
- (2) Recent check stubs for the past two months prior to applying for HOME program financial assistance of all household members that are 18 years old or older;
- (3) Other forms of documentation of income (i.e., Social Security payments, SSI, retirement income, etc.), if any;
- (4) Proof of land ownership or lease agreement for principal residence;
- (5) Property map for principal residence;
- (6) Preliminary Title Report (PTR) showing clear title to property;
- (7) Savings and checking account(s) information, if any; and
- (8) Private life insurance policies, if any.

(b) A checklist of the above described supplemental information shall be provided with each formal application obtained. Additional information may be requested if deemed necessary by

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

NMHC to ensure the eligibility of each applicant. NMHC must complete the Borrower's income eligibility within six months before the homebuyer(s) acquires the property.

(c) To substantiate eligibility, supplemental information submitted with each loan application shall be verified in writing, from a reliable third party and such verification shall be considered valid for a period of one hundred eighty calendar days from the date the verification was completed. Prior to verifying any applicant information, NMHC shall obtain written authorization from the applicants.

(d) If a written third party verification is not used, notarized statements or signed affidavits by the applicants shall be an acceptable form of verification, but only in situations where a more acceptable form of verification cannot be obtained.

Part 200 - Eligibility

§ 100-100.1-201 Eligibility Requirements

(a) Household Income.

(1) Homebuyer(s) must qualify as a low-income household as defined in the HOME program. Their income eligibility is determined based on their annual income. Combined anticipated gross household income of adults 18 years old or older, must not exceed 80% of the median income for the area (adjusted for family size), as prescribed by HUD (see § 100-100.1201(a)(2)).

(2) NMHC shall use HUD's Section 8 of Part 5 Technical Guidelines as the basis in calculating annual gross household income. NMHC will verify their income using at least two months of source documentation such as wage statements, interest statements, and SSI documents to determine if program applicants are income-eligible.

(3) HOME Program Underwriting Guidelines and Subsidy Layering is further outlined herein under Part 1200, § 100-100.1-1201

(b) Determination of Repayment Ability.

(1) NMHC shall use forty-five percent (45%) (or most current ratio) of the gross monthly income of both applicant and co-applicant (homebuyers) combined, to determine the amount of available debt-service or repayment ability. Any remaining debt-service or repayment ability after existing monthly obligations (long- and short-term combined) is/are subtracted from the total available debt-service (not to exceed thirty-five percent (35%) of gross monthly income for loan mortgage payment), shall be used to determine if homebuyers/applicants can afford to repay the entire loan amount needed.

(2) On a case-by-case basis, NMHC may provide an exception to exceed the 45% debt-to-income ratio, but not more than 55%, upon NMHC's determination that the applicant(s) can meet repayment responsibilities. This provision is also applicable in determining and providing financial hardship assistance.

- (c) Property Ownership. Interested applicants must provide proof of ownership such as fee simple title to the property. Ownership also includes leases of 40 years or more provided that the applicant must have at least a minimum of thirty (30) years leasehold interest remaining on the property to be improved, or ownership of a condominium.

- (d) Principal Residence and Annual Recertification.
 - (1) Homebuyers/Applicants approved to receive financial assistance must occupy the property as their **principal** residence immediately upon completion of all HOME-funded activities. An annual recertification for principal residency notice and form shall be sent to homebuyers/borrowers to complete, sign, and submit to NMHC in order to confirm and have on file that they are continually occupying the mortgaged property and housing. The following stipulations apply for a principal residence:
 - (i) A deed restriction or covenant running with the land shall incorporate this requirement; (ii) The loan documents between the homeowner and NMHC shall also incorporate this requirement;
 - (iii) Temporary subleases are not allowed.
 - (2) Annual recertifications shall be required for all HOME homebuyer-assisted borrowers. This is conducted in order for homeowners to maintain compliance with the affordability restrictions.
 - (3) Annual recertifications through field visits may be conducted if the required completed form has not been provided, or if the account status is pending probate, or the account has been accelerated to the collection attorney for foreclosure proceedings. The Loan Specialist shall verify the borrower(s) principal residence and, as necessary, to take photos and document the status of the residential unit.

- (e) Loan Cancellation. NMHC reserves the right to cancel any loan if in its opinion the homebuyer(s)/applicant(s) have not substantially complied with all the terms and conditions herein.

Part 300 - Affordability Restrictions

§ 100-100.1-301 Long Term Affordability

- (a) HOME rules require that assisted properties remain affordable for a specific period of time, depending on the level of HOME funds invested in the property and the nature of the activity funded.

- (b) For interest bearing loans, non-interest bearing loans, and **existing** repayable deferred loans, the affordability schedule is as follows:

| HOME Invested per Unit | Minimum Length of the Affordability Period |
|------------------------|--|
| Less than \$15,000 | 5 years |

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| | |
|--------------------|----------|
| \$15,000-\$40,000 | 10 years |
| More than \$40,000 | 15 years |

- (c) For forgivable deferred loans, which are HOME-funded loans that fall within the 35% loan payment ratio or payment-to-income (PTI) ratio, the affordability schedule is as follows:

| HOME Invested per Unit | Minimum Length of the Affordability Period |
|---|--|
| Less than \$15,000 | 10 years |
| \$15,000-\$30,000 | 15 years |
| More than \$30,000 <u>to Maximum Loan Limit</u> | 20 years |

Additional HOME subsidies used to supplement excess costs associated with the construction, purchase, or the acquisition and repair of a principal residence and exceeds the 35% loan payment ratio, shall incur additional years/time to the affordability period as indicated by the following schedule:

| <u>Supplemental HOME Subsidies</u> | <u>Additional Years Added to the Affordability Period</u> |
|------------------------------------|---|
| <u>\$1.00 - \$50,000</u> | <u>5 years</u> |
| <u>More than \$50,000</u> | <u>10 years</u> |

- (d) The affordability requirements are to be imposed by deed restrictions, covenants running with the land, or other mechanisms approved by HUD, except that the affordability restrictions may terminate upon transfer in lieu of foreclosure. NMHC may use its right of first refusal, as set forth in the loan documents, to purchase the housing before the transfer in lieu of foreclosure to preserve affordability.
- (e) The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the termination event, or any entity that includes the former owner or those whom, the former owner has or had family or business ties, obtains an ownership interest in the project or property. If a home purchased with HOME assistance is sold during the affordability period, recapture provisions apply to ensure the continued provision of affordable homeownership. Loan payoffs do not end the affordability period.

§ 100-100.1-305 Right of First Refusal

During the affordability period, the homeowner(s) agrees not to sell or assign the residence hereby purchased to any persons or persons unless and until homeowner(s) proposes to sell same to NMHC, its successors or assigns, on terms consistent with preserving affordability and allows then sixty (60) days' time within which to purchase said residence.

§ 100-100.1-315 Recapture

(a) Recapture. NMHC will ensure that it recoups all or a portion of the HOME loan assistance provided to the homebuyer(s), if the housing unit ceases to be the principal residence of the homebuyer(s) for the duration of the period of affordability. All subsidy amounts (in the form of loans) that directly benefited the property owner (i.e., through down payment and/or closing cost assistance, deferred payment loans, interest rate buy-downs, property discount, etc.) are also subject to recapture. Recapture is capped at what is available out of net proceeds for agreements after November 2004. Net proceeds are defined as the sales price less superior non HOME debt (if any) less closing costs. NMHC will utilize the following recapture options:

(1) Recapture entire amount. NMHC may recapture the entire amount of the loan and/or subsidy from the homebuyer(s) if the sale of the property occurs within halfway into the given affordability period. For example, a homebuyer was approved for a \$50,000 HOME loan to construct a home. The affordability period is therefore, fifteen years. On the seventh year, the borrower sells the house for \$60,000. Since the borrower failed to comply with the minimum seven and one half (7 ½) years of the fifteen-year affordability period, the recaptured amount is \$50,000.

(2) Forgiveness. NMHC may reduce the loan amount and/or subsidy to be recaptured on a pro rata basis for the period the homebuyer(s) has/have owned and occupied the housing unit measured against the required affordability period; however, homebuyer(s) must occupy the housing unit at a minimum of ten years or at least halfway into the affordability period, whichever is greater, in order to qualify for this recapture option. For example, if the HOME subsidy is \$60,000 with 15-year affordability and the owner sells the property in the 12th year of ownership the recapture amount will equal \$12,000. ($\$60,000/15$ years affordability period x 3 years remaining = \$12,000 recapture.)

(3) Buyer's recovery of initial investment. The homebuyer(s) investment (down payment and capital improvements made by the owner since purchase) may be repaid in full before any HOME funds are recaptured, provided that the homebuyer(s) occupied the housing unit at a minimum of ten years before the sale of the property and the homebuyer's household income level is at or below 50% of the area median income in order to qualify for this recapture option. (4) Shared appreciation. In the case where net proceeds exceed the amount necessary to repay both the homebuyer(s)' investment and the HOME assistance, the excess proceeds may be shared proportionately (i.e., percentage of investment provided) by both parties.

(b) Note: The HOME Interim Rule on November 22, 2004 clarifies that when the recapture requirement is triggered due to a voluntary or involuntary sale during the period of affordability and there are no net proceeds or the net proceeds are insufficient to repay the HOME investment due, NMHC may recapture an amount less than or equal to the net proceeds available.

(c) Circumstances Under Which Recapture Will Apply. Recapture restrictions must be used in cases where interest bearing loans or advances, non-interest bearing loans or advances, deferred

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loans (repayable), interest subsidies, or loan guarantees were provided to the homebuyer(s) in order to subsidize the purchase of the property to cover the down payment or closing costs.

(d) Legal Instrument to Enforce Recapture. NMHC must use deed restrictions, land covenants, or other similar legal documents to enforce these recapture restrictions.

Part 400 - Homebuyer Costs

§ 100-100.1-401 Eligible Costs

- (a) Hard costs include:
- (1) Acquisition of land and existing structures;
 - (2) Site preparation or improvement, including demolition;
 - (3) Securing buildings; and
 - (4) Construction materials and labor.
- (b) Soft costs include:
- (1) Credit reports;
 - (2) Title binders and insurance;
 - (3) Recordation fees;
 - (4) Legal & accounting fees;
 - (5) Appraisals;
 - (6) Architectural/engineering fees, including specifications and job progress inspections;
 - (7) Environmental investigations, which shall be addressed in the commitment letter as a condition before any Homebuyer activity is to be committed or funded;
 - (8) Builders' or developers' fees;
 - (9) Affirmative marketing and marketing costs where applicable and as indicated in NMHC's impending affirmative marketing plan; absent of this affirmative marketing plan, NMHC shall defer to its Section 8 Administrative Plan where applicable;
 - (10) Homebuyer counseling provided to purchasers of HOME-assisted housing; (11) Management fees; and
 - (12) Direct project costs incurred by the PJ.
- (c) Relocation costs include:
- (1) Replacement housing, moving costs, and out-of-pocket expenses;
 - (2) Advisory services; and
 - (3) Staff and overhead related to relocation assistance and services.
- (d) Loan closing fees and related costs:

NMHC shall charge \$3,364.00 (more or less, depending on current costs) to the borrower(s) for certain loan closing fees and other related costs such as the following:

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- a. \$14.00 ---- Credit Report
 - b. \$200.00 ---- Preliminary Title Report (PTR)
 - c. \$600.00 ---- Appraisal Report
 - d. \$150.00 ---- Recordation of Mortgage Documents
 - e. \$500.00 ---- First Annual Premium for Hazard Insurance
 - f. \$500.00 ---- Initial Utility Connection
 - g. \$1,400.00 ---- Title Policy
-
- \$3,364.00 Total

Loan closing fees and associated hard and soft costs may be bundled into the total approved loan amount. For example, a borrower who is approved for a \$120,000 loan may use a portion of the loan to pay for the loan closing costs and soft costs. In this case, the \$3,364.00 incurred closing costs shall be subtracted from the total approved loan of \$120,000 and the resulting net amount of \$116,636.00 shall then be used for the construction, purchase and/or rehabilitation of their principal residence.

(e) If the homebuyer(s) opt to have a private inspector perform unit inspection, the first/initial unit inspection fee may be covered by NMHC, subject to any conditions set by NMHC. Any cost associated with any subsequent inspection shall be the responsibility of the homebuyer client(s).

Part 500 - Notification to Applicants

§ 100-100.1-501 Notification of Eligibility or Ineligibility

(a) Eligible Applicants. NMHC shall send written notifications to all applicants determined eligible for financial assistance. Such notification shall be mailed no later than five working days after the determination, and shall contain a listing of additional information to be submitted for completion of loan file. Eligible applicant(s) shall be given thirty calendar days to submit the additional information requested. Applicant(s) that do not submit all pending information before the thirty (30) calendar day deadline, shall have their applications file placed in the inactive files.

(b) Ineligible Homebuyers/Applicants. All ineligible applicants shall be notified in writing of their ineligibility. Such notification shall be mailed no later than five working days after the determination of ineligibility and shall include a description/reason of such determination.

Part 600 - Loan Processing

§ 100-100.1-601 Selection

(a) Financial assistance shall be based on available HOME Program funds and such assistance shall be awarded to eligible applicants on a first-come, first-served basis. The application will have the date and time stamped when received; however, to be considered received, the application must be completely filled-out and the applicant has submitted all additional information requested by NMHC to perform an eligibility review.

(b) In the event that there are more applicants than available funds, NMHC shall establish and maintain an applicant waiting list. Applicants placed on the waiting list shall be assisted in the event that funds available are not entirely used up or committed by the homebuyers/applicants initially awarded financial assistance. Those applicants unable to be assisted with remaining funds shall be given first priority if and when additional funds are available.

§ 100-100.1-605 Administration; Approval; Appeals Process

(a) Program Administration.

(1) The MCD Manager shall be responsible for HOME program implementation and management of related tasks. The MCD Manager shall supervise division staff in loan and grant origination, underwriting and closings under the HOME program.

(2) The MCD Manager shall review each submitted application, ensure all supportive documentation is in place and make any necessary recommendations to the Corporate Director prior to the Corporate Director making the final decision on the loan or grant application.

(b) Loan Review and Approval.

(1) Under the direction of the MCD Manager, a Loan Specialist shall review and verify all applicants' credit, income, assets, liabilities, title reports, and any other requested reports and documentation. Upon completion of the review process, the Loan Specialist shall prepare a loan write-up containing his/her recommendations.

(2) The MCD Manager shall review the loan write-up for concurrence before submitting the same to the Corporate Director for a final decision. Final approval or denial of any HOME loan or grant shall be made by the Corporate Director except as follows:

(A) If the Corporate Director is off-island or on extended leave at the time the loan or grant is submitted to him/her for a final decision, then the Deputy Corporate Director may make the final decision to approve or deny the HOME loan or grant; or

(B) If the Corporate Director and Deputy Corporate Director are both simultaneously off-island or on extended leave at the time the loan or grant is submitted for a final decision, then the Acting Corporate Director may make the final decision to approve or deny the HOME loan or grant.

(3) For purpose of these policies, off-island or extended leave shall be defined as an absence or leave that extends for more than three working days after the loan or grant is submitted to the Corporate Director for his or her final decision.

(4) A written notice of the final decision shall be provided to the applicant and a copy/report of the decision shall be provided to the NMHC Board of Directors for informational purposes.

(c) Loan Grant/Denial Appeals Process.

(1) Applicants denied assistance under the HOME program may appeal the final decision to the NMHC Board of Directors by submitting their appeal in writing to the Corporate Director within thirty calendar days of the written notice of the final decision.

(2) Any appeal submitted must indicate the basis for the appeal and include any supporting documents. Upon receipt of an appeal, the Corporate Director shall submit the same to the Board of Directors for review and action at the next scheduled Board meeting.

Part 700 - Terms and Conditions of Loan

§ 100-100.1-701 Maximum Homebuyer Programs Loan Amount

(a) The amount of HOME loan funds that may be used for a new construction, purchase, or for an acquisition and repair shall be based on the borrower(s) ability to repay the loan as determined by the program underwriting standards, for which, not to exceed the debt-to-income (DTI) of forty-five percent (45%); as well as, not to exceed the payment-to-income (PTI) of thirty-five percent (35%) as provided in Section 100-100.1-201 (b), Determination of Repayment Ability.

Notwithstanding the borrower(s) ability to repay the loan, the maximum HOME assistance as per HOME regulations is capped at the HOME maximum per unit subsidy limit.

Moreover, the value of a HOME-assisted housing cannot exceed the most current 95% Area Median Sales Price Limits or the HOME maximum value limits for existing or new homes as published annually by HUD.

(b) For NMHC-owned properties, NMHC may sell the property directly to the HOME-approved applicant(s) but only after the property has been publicly auctioned at least once and resulted in an unsuccessful bid.

§ 100-100.1-705 Minimum Homebuyer Programs Loan Amount

The minimum loan amount shall not be less than \$1,000.00.

§ 100-100.1-710 Interest-Bearing Loans or Advances

These loans are amortizing loans. Repayment is expected on a regular basis, usually monthly, so that over a fixed period of time, all of the principal and interest is repaid. The interest chargeable on any borrowed HOME funds shall be based on income limits as specified in § 100-100.1715(d):

(a) If the applicant(s)' annual household income is between 60.1% and 80% of the HUD income Limits, a fixed rate of five percent (5%) shall apply throughout the term of the loan.

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- (b) If the applicant(s)' annual household income is between 50.1% and 60% of the HUD Income Limits, a fixed rate of four percent (4%) shall apply throughout the term of the loan.
- (c) If the applicant(s)' annual household income is between 30.1% and 50% of the HUD Income Limits, a fixed rate of three percent (3%) shall apply throughout the term of the loan.
- (d) If the applicant(s)' annual household income is at or below 30% of the HUD Income Limits, a fixed rate of two percent (2%) shall apply throughout the term of the loan.

§ 100-100.1-715 **Deferred Loans: Forgivable or Repayable**

- (a) These loans are not fully amortized. Instead, some, or even all, principal and interest payments are deferred to some point in the future. Deferred payment loans can be forgivable or repayable.
- (b) The forgiveness may be forgiven incrementally based on the affordability period. In order to qualify for deferred forgivable loans, the applicant(s)' annual household income must be at or below 30% of the HUD Income Limits and at a minimum the homebuyer(s)/applicant(s) must be 62 years of age or disabled and unable to be gainfully employed. A disabled family is a family whose head of household, spouse, or sole member is a person with a disability.
- (c) Person with a disability:
 - (1) Means a person who:
 - (i) Has a disability, as defined in 42 U.S.C. § 423;
 - (ii) Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
 - (A) Is expected to be of long-continued and indefinite duration;
 - (B) Substantially impedes his or her ability to live independently, and
 - (C) Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
 - (iii) Has a developmental disability as defined in 42 U.S.C. § 6001.
 - (2) Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome; and (3) Does not include a person whose disability is based solely on any drug or alcohol dependence.
- (d) The applicant's physician must complete the Homebuyer/Homeowner Program Disability Eligibility Verification to certify the borrower's disability. As appropriate, NMHC shall require a court legal guardianship in cases where the physician certification indicates that the applicant is incapacitated or incompetent to enter into a legal and binding agreement such as a mortgage. The legal guardian shall be included as a co-borrower in the mortgage or the HOME-assistance that is provided.

Table 2

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| <u>HUD HOME Program Income Limits for the NMI</u> | Interest Rate | Type of Assistance |
|---|---------------|----------------------------|
| 0% - <u>30%</u> | 0% | Deferred Loan [†] |
| 0% - 30% | 2% | Interest Bearing Loan |
| 30.1% - 50% | 3% | Interest Bearing Loan |
| | | |
| 50.1% - 60% | 4% | Interest Bearing Loan |
| 60.1% - 80% | 5% | Interest Bearing Loan |

[†]—Applies only to qualified elderly or disabled household applicants.

(e) Full repayment will be required at the sale, transfer, or the property being no longer the principal residence less than halfway into the affordability period. The deferred loan will be structured to begin incremental forgiveness when the homebuyer is more than halfway into the affordability period.

(f) For example, a homebuyer acquires a HOME assisted property that has a HOME subsidy of \$50,000. The affordability period is therefore 20 years. The homebuyer would have to live in the HOME assisted property for ten years before forgiveness will begin. Beginning with the 121st month of the affordability period, NMHC will forgive principal and interest for each month thereafter on a pro-rata basis that homebuyer principally resides in the HOME-assisted property.

(g) Existing homebuyer(s) (a homebuyer that received a HOME interest-bearing loans/advances or non-interest bearing loans/advances) may qualify for a deferral if their annual household income is at or below 30% of the HUD Income Limits and at some future point in time they have become disabled or turn 62 years of age.

§ 100-100.1-730 Repayment Period

The maximum repayment term shall not exceed 360 months or the affordability period, whichever is greater, unless the repayment term is amended or revised and approved by the Corporate Director to accommodate requests for relief from borrowers who have been determined to be able to repay their obligations, with the amended or revised repayment terms not to exceed an additional 60 months.

§ 100-100.1-735 After-Construction Property Value, After-Rehabilitation Property Value, or Property Value at Initial Purchase (if Acquisition Only).

The projected after-construction value, after-rehabilitation value, or property value at initial purchase (if acquisition only) of each homebuyer property to be assisted with HOME funds must not exceed the most current 95 percent of the area median purchase price for single family housing, as determined by HUD. NMHC will request for a real estate appraisal from a licensed real estate appraiser, prior to loan closing to determine such value.

§ 100-100.1-740 Security

(a) To ensure borrowed HOME funds, NMHC shall secure a mortgage on the property. The mortgage shall be maintained for no less than the term of each approved loan or the affordability period, whichever is greater.

(b) NMHC will execute a written agreement with the homebuyer that will specify the use of HOME funds, description of the project, roles and responsibilities, compliance with affordability period requirements, qualifications for affordable homeowner housing, monitoring, and duration of the agreement. Additionally, the purchase price, date by which housing must be acquired, address or legal description of the property must be indicated in the applicable written agreement.

(c) During the term of the loan, homebuyer shall also be required to maintain, at their expense, property insurance on the mortgaged property for fire, earthquake, typhoon, and flood damage (if applicable) covering the replacement value of all properties at a minimum equal to the loan amount. A waiver may be granted on this insurance requirement if a financial hardship is justified. Financial hardships shall be reviewed on a case-by-case basis and subject to approval by the Corporate Director.

(d) NMHC will require the homebuyer to execute and file for record a deed or deeds of restriction, land covenant or similar legal documents approved by HUD that will assure compliance with the principal residency and affordability period requirements and enforce HOME restrictions.

§ 100-100.1-745 Late Charge

For interest-bearing loans, a fixed one percent late installment charge of the missed monthly principal and interest (P & I) payment shall be assessed for every monthly payment that is over fifteen calendar days late or past due.

§ 100-100.1-750 Prepayment of Loan

There shall be no prepayment penalties for loans that are paid-off prior to the completion of the term of the loan. The affordability period provision is still applicable to loans that are paid-off.

Part 800 - Distressed Homebuyer(s)

§ 100-100.1-801 Distressed Homebuyer(s)

Distressed homebuyer(s) are those who are having a difficult time meeting their monthly loan payments due to external circumstances beyond their control. These circumstances include:

- (a) Reduction-in-force;
- (b) Reduction in pay;
- (c) Family medical emergency (including death of an immediate family member: parents, siblings, child(ren), spouse, and in-laws);
- (d) Medical condition (including career-ending injury) that causes homebuyer to discontinue employment. The borrower's physician must complete the Homebuyer/Homeowner Program Disability Eligibility Verification to certify the borrower's medical condition; and
- (e) Natural disaster.

Part 900 - Assistance

§ 100-100.1-901 Types of Assistance

(a) NMHC may offer the following types of assistance depending on the circumstances mentioned above:

- (1) Reduction-in-force. Monthly loan payments may be deferred for a period of up to twelve months. Interest and late charges would not accrue. Thereafter, interest rate will be reduced by 50% for a period of up to sixty (60) months. If this approach is still deemed unaffordable, the current term with the new interest rate may be extended and reamortized with an additional sixty (60) months.
- (2) Reduction in pay. Interest rate may be reduced by 50% for a period of up to twenty-four (24) months. If this approach is still deemed unaffordable, the current term with the new interest rate may be extended and reamortized with an additional sixty (60) months.
- (3) Family medical emergency. Monthly loan payments may be deferred for a period of up to twenty-four (24) months. Interest and late charges would not accrue. The current term may be extended and reamortized with an additional sixty (60) months.
- (4) Medical condition that causes borrower to discontinue employment – Principal amount may be forgiven incrementally (based on term). Homebuyer(s) above the 50% HUD income limits may only be required to pay principal or interest (whichever is lower) as his/her monthly payments.
- (5) Natural Disaster. Monthly loan payments may be deferred for a period of up to six (6) months in the event of a natural disaster, such as fire, typhoon, earthquake, and flood. Final decisions regarding requested deferments shall be made by the Corporate Director. Interest and late charges shall not accrue during deferment. Borrowers may be eligible for a deferment upon written request accompanied by acceptable evidence of negative impact caused by natural disaster.

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Further, in order to qualify for a deferment, the Borrower's loan and hazard insurance must be up to date.

(6) Other Hardships. Any other claimed financial hardship outside of the aforementioned seven listed hardships shall be brought to the **Corporate Director** for review and decision.

(b) In addition, NMHC may offer the two following types of assistance:

(1) Penalty Waiver. Accrued penalty fees for delinquent borrowers may be waived to assist them in making their accounts current.

(2)(i) Loan Assumption. Death of a homebuyer/borrower: Upon the death of the borrower which occurs within the affordability period, the entire unpaid balance of the loan shall be immediately due and payable. Title transfer without sale triggers the HOME recapture agreement enforceable through the restrictive deed or land covenant. The NMHC Board may allow assumption of the loan by the heirs of the borrower if a final decree in the probate of the borrower identifies the heirs and approves distribution to them of the improved property and the loan, and if the heirs themselves would qualify as a new applicant for the loan.

(ii) At the sole discretion of the NMHC Board, the loan may be assumed by a legal heir of a deceased borrower(s) of the HOME-assisted unit. This assumption exception is permitted where transfer of title is through the laws of descent provided that the heir is of legal age, meets all HOME Program eligibility requirements and has a full, undivided interest in the real property. The heir will be required to fill out an application and will be subject to credit, income, and asset verification.

(3) Foreclosure Prevention. In situations where a foreclosure is imminent, the NMHC Board may allow a borrower to have a HOME eligible immediate relative (i.e., mother, father, brother, sister, son, daughter) assume the loan, all for the purpose of preserving the affordability period. The total outstanding balance thereof shall be fully amortized at the original interest rate and terms to produce equal monthly payments. If, however, the HOME eligible immediate relative assuming the loan cannot afford the repayment of the loan at its original rate and terms, the NMHC Board may extend the term up to a period of sixty months. Should this accommodation still prove unaffordable, the property will go through the foreclosure process.

(4) Foreclosure. NMHC may use its right of first refusal, as set forth in the loan documents, written agreement with homebuyer, and restrictive deed or land covenant, to purchase the housing before foreclosure or deed in lieu of foreclosure to preserve affordability. Foreclosure triggers the HOME recapture agreement enforceable through the restrictive deed or land covenant.

(5) Foreclosure and Recapture. If the HOME assisted property is subject to recapture terms, NMHC has two options:

(i) Recapture Option 1: NMHC will recapture and pay to the CNMI HOME account the net proceeds from the foreclosure sale of the property in accordance with the recapture terms; or (ii) Recapture Option 2: NMHC may purchase the HOME assisted property at foreclosure sale and additional HOME funds may be spent. However, the total amount of the original and additional HOME funds spent may not exceed the maximum per unit subsidy amount.

(c) If NMHC forecloses on its own loan, NMHC cannot spend any additional HOME funds to acquire the property.

Part 1000 Mitigation to Foreclosure

§ 100-100.1-1001 Items Needed to Cancel Foreclosure and Reinstate Account

- (a) In accordance with 2 CMC § 4536(a) pay the entire amount then due under the terms of the mortgage other than such portion of principal as would not then be due had no default occurred, and reasonable attorney's fees actually incurred.
- (b) Pay delinquent account current inclusive of one month advance payment.
- (c) Have the homebuyer(s) submit a written proposal on how he/she will maintain the account in good standing.
- (d) Submit paid in full receipt of homebuyer(s)' insurance coverage for fire and earthquake.
- (e) Submit 2-3 recent check stubs and/or verification of benefits.

Part 1100 - Performing New Construction Work

§ 100-100.1-1101 Performing New Construction Work

- (a) Contractor Cost Estimates: The homebuyer(s)/applicant(s) shall be responsible in obtaining a minimum of three written construction cost estimates from at least three NMHC approved contractors, and each cost estimate submitted must include, as a minimum, the following information: bid price, cost breakdown of materials and labor charges, and schedule for completion of work. If for any reason that a construction cost estimate is unattainable, then a justification letter from the borrower and/or contractor may be accepted in lieu of this requirement.
- (b) Selection of Contractor/Contract Award: The homebuyer(s) shall have the right to select whichever contractor to perform the construction work, provided that NMHC has assessed the sources and uses of funds and determined that the costs are reasonable; moreover, provided that the contractor's quotation and after-construction estimated value does not exceed the approved loan amount; as well as, not to exceed the most current HUD-approved value limits, and provided that the contractor is an NMHC-approved contractor. Should it exceed the loan amount, the homeowner shall choose to either deposit the difference or negotiate with contractor in reducing the contract amount. Should the borrower not be able to deposit the difference or the contractor unwilling to lower the contract amount, then the borrower shall select his/her/their next choice. The homebuyer(s) shall submit a contractor selection notice notifying NMHC of his/her/their selection.
- (c) Construction Contract: The construction contract is a binding agreement strictly between the homebuyer(s) and the contractor whereby the contractor will provide the construction or repair work for a specified and agreed upon price. As NMHC's role is to finance the construction of the

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project, it is not a party to the construction contract. However, at any time the contractual provisions are not followed, NMHC shall have the right to withhold any progress payment until the contractor has complied with such provisions. The construction contract shall include, but is not limited to, the following provisions:

- (1) Contractor's name and mailing address;
- (2) Homeowner(s) name and mailing address;
- (3) Date of the contract, the contract amount, and payment schedule for each incremental billing;
- (4) Calendar days to complete the work (includes Saturdays, Sundays, and holidays);
- (5) Contractor will provide the performance bond, and labor and material payment bond up to the contract amount, as well as a builder's risk policy for the project;
- (6) The contractor will provide all the construction plans and permits necessary to comply with applicable local and federal laws;
- (7) Issuance of the notice to proceed or the commencement of the project;
- (8) Contractor will provide a one-year warranty on all work completed;
- (9) NMHC's right to inspect the progress of the project and right to withhold progress payments;
- (10) Change order procedures, if any; and
- (11) A provision for liquidated damages must be included in the construction contract which shall be negotiated between the borrower(s)/homebuyer(s) and the contractor.
- (12) Description of the work to be performed so that inspections can be conducted and, for rehabilitation, so that housing will meet NMHC's rehabilitation standards.

(d) Contractor Notification and Pre-Construction Requirements: Once NMHC is in receipt of the borrower(s)/homebuyer(s) contractor selection notice, NMHC shall notify the contractor of the borrower(s) selection of their company. NMHC shall inform the contractor of the scheduled pre-construction conference and shall likewise inform the contractor of the required construction documents for submission as listed below:

- (1) Building permit (if applicable)
- (2) Earthmoving and erosion control permit (if applicable)
- (3) Construction contract
- (4) Performance and payment bonds
- (5) Plans and specification approved by DPW
- (6) Private inspector's contract (if applicable)
- (7) Notice that an environmental review and clearance has been conducted.

(e) Project Duration: Construction must start within 12 months of NMHC's execution of the HOME written agreement with the homebuyer(s).

- (1) Progress payment requests shall be submitted to NMHC by the contractor incrementally as specified in the payment schedule. NMHC shall ensure that all work description indicated on the payment schedule is completed prior to releasing contractor's payment. An original and a copy of the requests must be submitted to the NMHC. The contractor shall freely use his/her/their company's billing form when submitting a payment request. The payment request shall be accompanied with the following whenever applicable: inspection reports

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(DPW and/or private inspector), geotesting results, termite treatment certification and/or warranty, builder's warranty, and borrower/homebuyer's acceptance of the project. In addition, each billing submitted must include pictures of the progress of the project and a copy of the payment schedule.

(2) Payment schedule shall be as follows:

(i) Payment request number 1 shall not be more than 10% of the contract amount. This shall include the installation of the project sign board accompanied with a picture, the delivery of materials to the construction site, and commencement of the project.

(ii) Payment request number 2 shall not be more than 25% of the contract amount. (iii) Payment request number 3 shall not be more than 25% of the contract amount.

(iv) Payment request number 4 shall not be more than 25% of the contract amount.

(v) Payment request number 5 shall be the 15% retainage request when all work is completed. The final payment request shall be accompanied with the certificate of occupancy from the Commonwealth Building Safety Office, builder's warranty, window warranty if subcontracted, termite treatment warranty, final inspection report from the DPW and if applicable, the private inspector's, certificate of acceptance from the homeowners, geotesting results if applicable, pictures of project interior and exterior, and DEQ certificate of use (sewage disposal system), if applicable.

(3) Change Order Procedures. From time to time, the homebuyer(s) may request for changes in the plans and specifications. In the event that this should occur, the following steps must be taken to address such request:

(i) The borrower/homebuyer must notify contractor in written form of the proposed changes and provide NMHC a copy of the notification.

(ii) Upon receipt of the notification, the contractor must cease work at the project site and obtain NMHC's approval of the change order request. Upon approval the contractor shall then provide NMHC a revised plan and specifications, including a revised payment schedule (if scheduled payments will be altered by the proposed changes). The contractor must obtain NMHC's approval of the change order request.

(iii) Once the change order request is approved, the homeowner will be required to deposit the additional money needed to NMHC (if applicable) to carry out the change order. The contractor will be required to submit the revised plans and specifications to DPW for approval.

(iv) Should the change order request be denied, then the contractor shall resume work to ensure timely completion of the project. The contractor may not be able to complete the project on time because of the delays the change order request may have caused. Therefore, the homebuyer(s) shall give the contractor additional days equal to the time the work was ceased up until the time the change order request was denied to complete the project. The homebuyer shall not charge the contractor liquidated damages during this period.

(4) Once the contractor has obtained the DPW's approval of the plans and specifications, then it shall provide the NMHC with the same copy. The contractor shall proceed in carrying out the change order and completing the project.

(f) Inspections: NMHC shall have the right, during the construction or improvement of the building, to inspect the same and to reject and to require to be replaced, any material or workmanship that does not comply with the plans and specifications, without any liability on the

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part of NMHC, as to workmanship or materials therein. Such inspection is solely for financing purposes and for the disbursement of funds, and any inspection or approval of any construction phase or increments of said dwelling shall not be deemed as a warranty by NMHC of the workmanship and material therein.

(g) Inspector: Progress and final inspections shall be conducted by the Building Safety Office of the Department of Public Works (DPW) to ensure all work performed is done according to the plans and specifications as approved by the applicant and DPW and applicable property standards. Applicant(s) may have a private inspector, (i.e., a qualified licensed engineer or a qualified licensed architect), conduct inspection with the costs with such inspection to be handled in accordance with § 100-100.2-240.

(h) Minimum Property Standards (MPS): For new construction of housing and acquisition rehabilitation of housing, the current building code adopted by the Department of Public Works Building Safety Office (note: current building code is the 2018 International Building Code) and zoning laws (note: zoning is currently applicable to Saipan only), and International Energy Conservation Code, NMHC written design standards for single family housing new/rehabilitation, and handicapped accessibility requirements (where applicable) must be adhered to.

Further adherence to HOME rehabilitation or acquisition and repair standards which details the methods, materials, and other requirements that the housing must meet upon completion, including each of the following.

1. Health and Safety [24 CFR 92.251(b)(1)(i)]
2. Major systems that were rehabilitated or replaced as part of the rehabilitation [24 CFR 92.251(b)(1)(ii)]
3. Lead-based paint [24 CFR 92.251(b)(1)(iii)]
4. Disaster mitigation, if applicable [24 CFR 92.251(b)(1)(vi)]
5. State and local codes, ordinances and zoning requirements [24 CFR 92.251(b)(1)(vii)]
6. Minimum deficiencies that must be corrected based on inspectable items and areas in HUD's Uniform Physical Condition Standards [24 CFR 92.251(b)(1)(viii)]

(i) Homebuyer(s), through their contractors, must ensure that they are familiar with these requirements. PJs using MPS may rely on inspections performed by a qualified person. If using HOME funds solely for acquisition, the property must also meet the minimum property standards mentioned above or the Uniform Physical Condition Standards (UPCS). The contractor will provide all the construction plans and permits necessary to comply with applicable local and federal laws.

(j) Project Completion:

1. Project shall be completed within 4 years of the date of the HOME written agreement (the date the HOME funds were committed to the project). [24 CFR 92.205(e)(2)]

2. Project completion information shall be entered in IDIS within 120 days of the final project draw. [24 CFR 92.502(d)(1)]

(k) Record Retention:

1. NMHC shall retain HOME homebuyer project records for five years after project completion. [24 CFR 92.508(c)(2)]
2. NMHC shall retain documents imposing recapture provisions for five years after the period of affordability terminates. [24 CFR 92.508(c)(2)]
3. NMHC shall retain HOME homebuyer project written agreement records for five years after the agreement terminates. [24 CFR 92.508(c)(4)]

Part 1200 Homebuyer Underwriting

§ 100-100.1-1201 Guidelines and Referenced Sections

In order to determine the specific amount of HOME assistance needed to ensure that the unit is affordable and sustainable over the long-term, HOME Program design reflects and incorporates underwriting standards that the HOME regulations at 24 CFR § 92.254(f) has laid out and further examines the following for each homebuyer:

- Program Eligibility and income;
- Housing and overall debt;
- Monthly expenses;
- Assets or cash reserve, as applicable; and
- Appropriateness of the amount of assistance

The HOME Program Policies and Procedures provides additional information on the underwriting subject matter. For Homebuyer activities, the following describes the activities and requirements:

- (a) The loan amount an applicant would be eligible for or if a loan can be extended is determined by the applicant(s) gross annual income, repayment ability, and credit worthiness pursuant to § 100-100.1-201.
 - i. The NMHC HOME Program methodology for determining income-eligibility, income as a component of underwriting, income verification and required source documentations, treatment and the calculation of assets are based on the HUD Part 5 Technical Guidelines.
 1. To receive HOME assistance, households must have incomes at or below 80 percent of the area median household income, adjusted for household size, and determined annually by HUD.
 2. HUD HOME Program regulations require that income of all family members be included in the determination of income for the purpose of eligibility. Pursuant to 24 CFR 92.203 (d) and Chapter Two of

- Part 5 of the Technical Guidelines, a Participating Jurisdiction must project a household's income for the next 12 months. The NMHC HOME Program shall use the same methodology of projecting income provided in 24 CFR 92.203 and Chapter Two of Part 5 of the Technical Guidelines for the purpose of underwriting.
3. As to whose income in a household must be included in that calculation the determination is made pursuant to the Part 5 Technical Guidelines definition of annual income and as guided by Chapter Three of Part 5.
 4. Gross amount. NMHC uses the monthly gross amounts, before any deductions have been taken, for those types of income counted. Adjusted income is not required for HOME-funded homebuyer or for owner-occupied rehabilitation according to Part 5 Technical Guidelines.
 5. For the purpose of underwriting and in determining loan repayment ability, the ratios for loan payment-to-income (PTI) and the debt-to-income (DTI), NMHC shall use income and debt obligations from the loan applicant(s)/borrower(s). Any household member to be included in the mortgage must be underwritten accordingly by examining and factoring-in their income, debt, assets, credit information/analysis and any other information that is deemed applicable in the underwriting process.
 6. The HOME regulations at 24 CFR 92.203(a) require that Participating Jurisdictions determine income eligibility of HOME applicants by examining source documents, such as wage statements or interest statements, as evidence of annual income. Additional supporting information to confirm eligibility and for purposes of underwriting is required as specified in §100-100.1-105. Review of documents and third-party verification performed in accordance with Chapter Two of the Part 5 Technical Guidelines.
 7. What to include as an Asset. There is no asset limitation for participation in the HOME Program. Eligible families are not required to "spend down" assets before they can participate in the Program. Income from assets is, however, recognized as part of annual income under the Part 5 Technical Guidelines definition.
 8. In general terms, an asset is a cash or non-cash item that can be converted to cash. Income that is earned, such as interest on a savings or checking account, is counted or factored into annual income. The treatment of assets and what is to be included as an asset, will be based on Chapter Three of the Part 5 Technical Guidelines.
- ii. Assessment of a homebuyer's debt is made by calculating two key ratios:
1. The loan Payment-to-Income Ratio is determined by taking the expected monthly payment of the loan, which is the principal and

interest, and dividing it by the total combined monthly gross income. For the NMHC HOME Program, this ratio should not exceed thirty-five percent of the homebuyer's gross monthly income. As to **insurance premiums**, the estimated monthly premium shall be factored into the ratio calculation and must not exceed the ratio threshold of thirty-five percent for approval.

2. The Debt-to-Income Ratio, or DTI, is determined by factoring all related debts, including the monthly loan payment and estimated insurance premium; plus, all recurring consumer debt, such as auto loan, credit card, student loan payments, and other installment and revolving debt that appears on the credit report. For the NMHC HOME Program, a homebuyer's DTI ratio should not exceed forty-five percent of their gross annual income. However, on a case-by-case basis, the debt ratio could be increased to fifty-five percent provided that the applicant could still meet payment responsibilities.
 - iii. Recurring monthly expenses, or those that are considered fixed monthly living expenses such as utilities and transportation costs are not factored in the DTI ratio but these type of expenses should be considered in the underwriting process and must be carefully budgeted and monitored by the homebuyer. The housing counseling shall address these types of essential expenses so that it does not decrease residual income and affect the homebuyer's ability to sustain the mortgage. A careful analysis of the overall debt obligations, housing costs, and recurring monthly living expenses shall be performed in determining the appropriate amount of HOME assistance to be provided.
- (b) The minimum and maximum loan assistance including the type to be extended to an applicant(s) are further explained in Part 700.
 - (c) The affordability restrictions that will be imposed on the property. A loan will only be extended to applicant(s) who will make their home assisted unit their principal residence pursuant to § 100-100.1-201(d).

§ 100-100.1-1205 Subsidy Layering

- (a) NMHC may provide eligible homebuyers with additional locally-funded assistance to cover additional housing cost that is deemed to have exceeded the maximum HOME assistance limit.

- (b) Homebuyer(s) that are approved for any additional, or supplemental assistance, whether it be a HOME deferred loan or with NMHC's local funds, shall be required to choose from NMHC's house design and layouts. Such house layout and unit size is dependent on the household size, the original approved HOME assistance, as well as, the total estimated costs to construct a new principal residence. This requirement is also applicable to eligible-homeowners who are approved for a HOME Rehab assistance for the reconstruction of a principal residential unit.

§ 100-100.1-1210 Acronyms Reference Section

[For Rehab & Homebuyer Policies and Procedures]

- (a) AIA—American Institute of Architects
- (b) AMI—Area Median Income
- (c) CD—Corporate Director
- (d) CFR—Code of Federal Regulations
- (e) CNMI—Commonwealth of the Northern Mariana Islands
- (f) CPSC—Consumer Product Safety Commission
- (g) DCD—Deputy Corporate Director
- (h) DEQ—Department of Environmental Quality
- (i) DPW—Department of Public Works
- (j) DTI—Debt-to-Income Ratio
- (k) EA—Environmental Assessment
- (l) GFE—Good Faith Estimate
- (m) HOME Program—U.S. HUD Homeownership Investment Partnerships Program
- (n) HQS—Housing Quality Standards
- (o) MCD—Mortgage Credit Division
- (p) MPS—Minimum Property Standards

- (q) MPV—Maximum Property Value
- (r) NAHA—National Affordable Housing Act
- (s) NEPA—National Environmental Policy Act
- (t) NMHC—Northern Marianas Housing Corporation
- (u) NTP—Notice to Proceed
- (v) PITI—Principal, Interest, Taxes, and Insurance
- (w) PJ—Participating Jurisdiction
- (x) PTI—Payment-to-Income Ratio
- (y) PTR—Preliminary Title Report
- (z) RER—Rehab Environmental Review
- (aa) RESPA—Real Estate Settlement Procedures Act
- (bb) SCRA—Service members Civil Relief Act
- (cc) SSI—Supplemental Security Income [Social Security]
- (dd) TCD—Time Certificates of Deposits
- (ee) TILA—Truth in Lending Act
- (ff) U.S. HUD—United States Department of Housing and Urban Development
- (gg) USDA RD—United States Department of Agriculture Rural Development
- (hh) USPAP—Uniform Standard of Professional Appraisal Practice
- (ii) VOE—Verification of Employment

**HOME POLICIES AND PROCEDURES
HOMEOWNER REHAB
FOR AMENDMENT NMAIC TITLE 100.2**

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

SUBCHAPTER 100-100.2

POLICIES AND PROCEDURES FOR HOMEOWNER REHABILITATION

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- § 100-100.2-001 Introduction
- § 100-100.2-005 Public Announcement

Part 100 Purpose and Requirements

- § 100-100.2-101 Purpose of the Program
- § 100-100.2-105 General Requirements

Part 200 Loan Specifications

- § 100-100.2-201 Loan Amount
- § 100-100.2-205 Target Group
- § 100-100.2-210 Income Eligibility
- § 100-100.2-215 Property Eligibility
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- § 100-100.2-225 Loan Terms and Repayment
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Part 300 Loan Application Process

- § 100-100.2-301 Confidentiality
- § 100-100.2-305 Discrimination Prohibited
- § 100-100.2-310 Pre-Qualification Interview
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- § 100-100.2-320 Ineligible Applicants
- § 100-100.2-325 Initial Inspection of Residence
- § 100-100.2-330 Lead-Based Paint
- § 100-100.2-335 Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities (24 C.F.R. Part 58)

§ 100-100.2-340 HOME Rehabilitation Loan Application

- § 100-100.2-345 Application Intake and Processing
- § 100-100.2-350 Credit History and Verification of Income
- § 100-100.2-355 Administration, Approval, Appeals Process
- § 100-100.2-360 Homeowner Counseling Session
- § 100-100.2-365 Commitment Letter
- § 100-100.2-370 Preliminary Title Report (PTR)
- § 100-100.2-375 Pre-Construction Conference
- § 100-100.2-380 Submission of Pre-Construction Documents
- § 100-100.2-385 Loan Closing/Settlement

Part 400 Rehabilitation

- § 100-100.2-401 Performing Rehabilitation Work

Part 500 Payments

- § 100-100.2-501 Mortgage Loan Payments
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Part 600 Affordability

- § 100-100.2-601 Affordability Restrictions

Part 700 Conveyance

- § 100-100.2-701 Sale, Conveyance, or Transfer of Property

Part 800 Assumption

- § 100-100.2-801 Loan Assumption

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Part 900 Financial Hardship
§ 100-100.2-901 Financial Hardship Assistance

Part 1000 Direct and Deferred Loan
§ 100-100.2-1001 Direct/Deferred Loans Assistance (Combination Loan)

Part 001 - General Provisions

§ 100-100.2-001 Introduction

- (a) The Homeownership Investment Partnerships (HOME) program was established under the National Affordable Housing Act of 1990. The main objective for the creation of the HOME program was to encourage, promote, and provide decent, safe, sanitary, and affordable housing.
- (b) Due to the limited availability of HOME funds allocated each fiscal year to the Commonwealth of the Northern Mariana Islands (CNMI) from the U.S. Department of Housing and Urban Development (HUD), financial assistance will be limited to qualified low-to very low-income homeowners subject to HOME program income limits for the area adjusted for household size in accordance with HOME regulations at 24 CFR 92. The Northern Marianas Housing Corporation (NMHC) has recognized three target groups to assist under the HOME program. Funds will be made available for eligible “homeowner rehabilitation” activities through low interest, non-interest bearing loans, and direct grants to assist in the rehabilitation and repair of their principal place of residence. Homeowner rehabilitation activities include those items identified at the initial inspection which are necessary in bringing the home in compliance with the 2018 International Building Code or most current building code adopted by the CNMI Department of Public Works Building Safety Office, zoning laws (note: zoning is currently applicable to Saipan only), International Energy Conservation Code, NMHC written design standards for single family housing new/rehabilitation, and handicapped accessibility requirements (where applicable); including the reduction of lead-based paint hazards and the remediation of other home health hazards.
- (c) The NMHC, on behalf of the CNMI, has been designated the responsibility of implementing and carrying out the objective of the program. NMHC’s Mortgage and Credit Division (MCD) will be responsible for the day-to-day operation of the HOME program. Support services will be provided by the NMHC’s Fiscal Division with respect to disbursement of and collection of payments, accounting, and maintenance of financial records. Overall, the NMHC Corporate Director will assume ultimate responsibility for the efficient and proper administration of the Program in accordance with statutory and

Part 1100 Ethics
§ 100-100.2-1101 Conflict of Interest

Part 1200 Miscellaneous
§ 100-100.2-1201 Acronyms Reference Section
§ 100-100.2-1205 Homeowner Rehabilitation-Underwriting Guidelines and Referenced Sections

regulatory requirements. Through these policies and procedures, NMHC will strive to accomplish the following program objectives:

- (1) Provide for the operation of the HOME program, the CNMI's primary objective which is to avail financial assistance to eligible homeowners for the rehabilitation and repair of their principal residence;
- (2) Foster good working relationships among NMHC, homeowners assisted with HOME monies, and minority and women-owned businesses (MBE/WBE); and
- (3) By imposing NMHC and HUD-prescribed residential rehabilitation standards, preserve and improve the general housing stock of the CNMI.

§ 100-100.2-005 Public Announcement

(a) Publicity.

(1) Upon notification from HUD of the approval of additional HOME funds, NMHC shall publish such approval within thirty calendar days from the date of the approval. General information of the HOME program shall be published in the print media of the widest local circulation and other suitable means available. HOME program information shall also be posted in public and private bulletin boards where announcements are commonly posted. Loan applications may be submitted after a thirty calendar day period to be stated in the public notice, has expired.

(2) Note: When it is determined that HOME funds have been exhausted, the application intake may be closed until funding is once again available. Those applicants who did not submit their loan applications when HOME funds were available may do so once NMHC is notified by HUD of the availability of funds and after such notice is published.

(b) Contents. Program announcements shall inform interested applicants on how and where they may obtain an application and additional information on the type of HOME program activity being administered in the CNMI. Such announcements shall further contain the following information:

- (1) Brief overview of the HOME program;
- (2) General list of eligible activities available;
- (3) Amount of funds available;
- (4) General eligibility requirements to qualify for financial assistance;
- (5) Homeowner (rehab)/homebuyer selection process; (6) Fair Housing logo and Equal Opportunity language; and
- (7) Opening date for acceptance of applications.

(c) Affirmative Marketing. NMHC shall market its HOME homeowner rehabilitation program to those least likely to apply without regard to race, color, national origin, sex, religion, familial status, and disability; maintain records of actions taken to affirmatively market the program, and maintain records to assess the results of those actions.

Special Outreach. To ensure that all persons are effectively and adequately informed about the HOME program and the availability of funds, brochures or HOME program information notices shall be provided and distributed or posted in the following locations and shall contain the information described in subsection (b). Brochures and/or HOME program information notices shall be made available at the following public and private areas:

- (1) U.S. Post Offices;
- (2) Major shopping centers;
- (3) Public health centers;
- (4) Places of worship;
- (5) Government office buildings;
- (6) The Nutrition Assistance Program (Food Stamp) office(s); and
- (7) U.S. Social Security Administration office(s).

Part 100 - Purpose and Requirements

§ 100-100.2-101 Purpose of the Program

The purpose of the program is to provide no cost or low cost financing assistance to very low and low-income families for the rehabilitation and/or repair of their principal residence. The rehabilitation goal is to increase the economic life of the existing dwelling, provide energy efficiency, and ensure a safe, decent, and healthy living environment for assisted families.

§ 100-100.2-105 General Requirements

To qualify for rehabilitation assistance, the applicant(s) must meet the following:

- (a) Qualify as low-income family as defined under the HOME program;
- (b) The dwelling must be the applicant's primary residence prior to applying for rehabilitation assistance;
- (c) Must occupy and continue to occupy residence after the completion of such repairs and/or renovation;
- (d) Own the property under an approved form of ownership as set forth in 24 CFR § 92.254(c), and as specified below:
 - (1) Has fee simple title to the property;
 - (2) Maintains a 40-year leasehold interest in the property;
 - (3) Owns a condominium **fee simple or maintains a 40-year leasehold interest in the property;**
 - (4) Owns or has a membership in a cooperative or mutual housing project that constitutes homeownership under state law; or
 - (5) Maintains an equivalent form of ownership approved by HUD.
- (e) Applicants not meeting any one of the above, do not qualify for assistance under the HOME rehabilitation program.

Part 200 - Loan Specifications

§ 100-100.2-201 Loan Amount

(a) Minimum and Maximum Loans: The minimum loan amount allowable under this program is one thousand dollars to a maximum HOME per-unit subsidy limit that apply to the jurisdiction as provided by HUD. The maximum assistance amount cannot exceed the HUD HOME maximum per-unit subsidy limit. NMHC will assess the house and the proposed rehab to determine that when completed the after rehab value of the house will not exceed the HOME 95% value limits for the CNMI as published by HUD.

(1) The amount of Homeowner rehab loan that may be used to rehabilitate an existing principal residence shall be based on the borrower(s) ability to repay the loan as determined by the program underwriting standards, not to exceed the debt-to-income (DTI) of forty-five percent (45%); as well as, not to exceed the payment-to-income (PTI) of thirty-five percent (35%)

(2) Borrower(s) whose ability to pay has been determined to exceed the 35% loan payment ratio, or PTI, may be approved for additional HOME rehab subsidies to supplement excess costs associated with the rehabilitation of a principal residence. Subsidy assistance shall be in the form of a grant with additional years/time added to the affordability period as indicated by the affordability table under Part 600.

(3) Homeowner(s) who are eligible for 100% HOME grant assistance may be approved for a grant amount up to the full cost to rehabilitate an existing principal residence provided that the rehabilitation cost estimate does not exceed that of the approved rehab loan amount as per maximum per-unit subsidy limit; and, does not exceed the HOME 95% value limits for the CNMI.

§ 100-100.2-205 Target Group

(a) Because of the limited funding allocated to the CNMI each program year, NMHC has recognized the need to prioritize the level of assistance to qualified families. In the event that there are more applicants than available funds, NMHC shall establish and maintain an applicant waiting list in where applicants shall be assisted if and when additional funds become available. All applicants being assisted, as well as those placed on the waiting list shall be processed on a first come, first serve basis.

(b) NMHC will categorize the target groups as first priority, second priority, third priority, and fourth priority. Classification of such groups are as follows:

(1) First Priority:

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(i) Elderly or disabled families with income between 0%- 30% of the area median income. This target group is eligible for grant assistance. Elderly or disabled household applicants may receive 100% grant assistance.

(A) An elderly family is a family whose head of household, spouse, or sole member is age 62 or older.

(B) A disabled family is a family whose head of household, spouse, or sole member is a person with a disability. Person with a disability:

(I) Means a person who:

a. Has a disability, as defined in 42 U.S.C. § 423;

b. Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:

1. Is expected to be of long-continued and indefinite duration;

2. Substantially impedes his or her ability to live independently, and

3. Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or

c. Has a developmental disability as defined in 42 U.S.C. § 6001.

(II) Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome; and (III)

Does not include a person whose disability is based solely on any drug or alcohol dependence.

(C) The applicant's physician must complete the Homebuyer/Homeowner Program Disability Eligibility Verification to certify the borrower's disability. As appropriate, NMHC shall require a court legal guardianship in cases where the physician certification indicates that the applicant is incapacitated or incompetent to enter into a legal and binding agreement such as a mortgage. (ii) A combination of non-interest loan and grant assistance may be provided to very low income non-elderly or non-disabled applicants whose income falls between 0%-20% provided that the first half of the assistance will be in the form of a non-interest bearing loan and the next half will be in the form of a grant.

(2) Second Priority: Very low-income families with limited financial resources whose income fall between 20.1%-30% of the HUD income limits; a fixed rate of one percent shall apply throughout the term of the loan.

(3) Third Priority: Low-income families with limited financial resources whose income fall between 30.1%-50% of the HUD income limits; a fixed rate of two percent shall apply throughout the term of the loan.

(4) Fourth Priority: Low-income families with limited financial resources whose income fall between 50.1% to 80.0% of the HUD income limits; a fixed rate of three percent shall apply throughout the term of the loan.

§ 100-100.2-210 Income Eligibility

NMHC shall refer to the Technical Guide for Determining Income and Allowances for the HOME Program, Third Edition in verifying the household's assets and income which can be found in the HUD website. The NMHC shall adopt the guide and make use of the Part 5 income and asset calculation worksheets including any and all forms required in determining an applicant's annual and adjusted income. Information provided by the applicant shall be accompanied with proper

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- (i) Elderly or disabled families with income between 0%- ~~30%~~ of the area median income. This target group is eligible for grant assistance. Elderly or disabled household applicants may receive 100% grant assistance.
- (A) An elderly family is a family whose head of household, spouse, or sole member is age 62 or older.
- (B) A disabled family is a family whose head of household, spouse, or sole member is a person with a disability. Person with a disability:
- (I) Means a person who:
- a. Has a disability, as defined in 42 U.S.C. § 423;
 - b. Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
 1. Is expected to be of long-continued and indefinite duration;
 2. Substantially impedes his or her ability to live independently, and
 3. Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
 - c. Has a developmental disability as defined in 42 U.S.C. § 6001.
- (II) Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome; and (III) Does not include a person whose disability is based solely on any drug or alcohol dependence.
- (C) The applicant's physician must complete the Homebuyer/Homeowner Program Disability Eligibility Verification to certify the borrower's disability. As appropriate, NMHC shall require a court legal guardianship in cases where the physician certification indicates that the applicant is incapacitated or incompetent to enter into a legal and binding agreement such as a mortgage. (ii) A combination of non-interest loan and grant assistance may be provided to very low income non-elderly or non-disabled applicants whose income falls between 0%-20% provided that the first half of the assistance will be in the form of a non-interest bearing loan and the next half will be in the form of a grant.
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§ 100-100.2-210 Income Eligibility

NMHC shall refer to the Technical Guide for Determining Income and Allowances for the HOME Program, Third Edition in verifying the household's assets and income which can be found in the HUD website. The NMHC shall adopt the guide and make use of the Part 5 income and asset calculation worksheets including any and all forms required in determining an applicant's annual and adjusted income. Information provided by the applicant shall be accompanied with proper

documentations (i.e., check stubs, bank statements, 1040 tax forms, etc.). The anticipated gross annual household income and assets for the next twelve months is used in determining if an applicant(s) is/are eligible to participate in the program. NMHC shall calculate the weekly average income and assets and multiply it by 52 weeks. If the total household income falls within the 80% area median income as indicated in § 100-100.2-220(b), the applicant(s) is/are eligible to participate in the program. Anything more than 80% would immediately disqualify them.

§ 100-100.2-215 Property Eligibility

- (a) **Property Ownership:** Interested applicant(s) must provide proof of fee simple ownership or must have at least 40-year leasehold interest on the property to be improved. The applicant must have at least a minimum of 30 years of the leasehold interest remaining on the property to be improved. The assisted unit must be located in the CNMI, more specifically, Saipan, Rota, or Tinian.

- (b) **Conformance to Property Standards:** All assisted properties that are rehabilitated with HOME assisted funds must meet the program's established rehabilitation standards (see Exhibit 1). The Rehabilitation Standards are the program's guidelines of acceptable construction methods and materials to be used when performing rehabilitation and the quality standards that the property must meet when all rehabilitation work is completed. NMHC shall make the rehabilitation standards available to the Department of Public Works (DPW) inspectors and the inspectors shall use them as a guide to certify that completed work was done accordingly.

- (c) **Local/State, National, or International Codes:** Upon completion of rehabilitation work, the HOME assisted owner-occupied rehabilitation property must meet applicable 2018 International Building Code or most current code adopted by the CNMI Department of Public Works Building Safety Office, zoning laws (note: zoning laws currently applicable to Saipan only), International Energy Conservation Code as adopted by the Commonwealth of Northern Mariana Islands (CNMI) government.

- (d) Upon completion of rehabilitation work, the HOME assisted owner-occupied rehabilitation property must meet handicapped accessibility requirements, where applicable; and the homeowner must also maintain, at their own expense, property insurance on the mortgaged property covering fire, earthquake, typhoon, and flood damage. An insurance waiver may be granted, in whole or in part (depending on policy coverage), to homeowners who show financial hardship.

- (e) **Principal Residence and Annual Recertification:**
 - (1) HOME rehab applicants approved to receive financial assistance must own the property and occupy the property as their principal residence at the time of application, upon completion of the HOME-funded project, and throughout the NMHC affordability period. In order to maintain compliance with the affordability restrictions, borrower(s) shall be recertified annually for principal residency throughout their affordability period. An annual recertification for principal residency notice and form shall be sent to homeowners/borrowers to complete, sign, and submit to

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NMHC in order to confirm and have on file that they are continually occupying the mortgaged property and housing. The following stipulations apply for a principal residence: (i) A deed restriction or covenant running with the land shall incorporate this requirement; (ii) The loan documents between the homeowner and NMHC shall also incorporate this requirement;

(iii) Temporary subleases are not allowed.

(2) Annual recertifications are conducted in order for homeowners to maintain compliance with the affordability restrictions.

(3) Annual recertifications through field visits may be conducted if the required completed form has not been provided, or if the account status is pending probate, or the account has been accelerated to the collection attorney for foreclosure proceedings. The Loan Specialist shall verify the borrower(s) principal residence and, as necessary, to take photos and document the status of the residential unit.

(f) Maximum Property Value: The projected after rehabilitation value of each assisted property may not exceed the most current 95 percent area median purchase price for single family housing, as determined by HUD. To determine such value, a written appraisal must be obtained by the borrower from an appraiser approved by NMHC. The appraisal report must document the appraised value and the appraisal approach used.

§ 100-100.2-220 Interest Rate and Type of Assistance

(a) The interest rate charged on the outstanding principal balance for each target group is determined by the gross household income which falls in the following percentage of the established HOME program income limits for the Northern Mariana Islands as published annually by HUD. See Table 1 below for more details. NMHC from time to time may revise the specified interest rates below as it deems beneficial for the administration of the program.

Table 1

| Target Groups | Northern Mariana Is. HOME Income Limits | Interest Rate | Type of Assistance |
|---------------|---|---------------|---|
| First | 0%- <u>30%</u> | 0% | 100% Grant [†] |
| | 0%-20% | 0% | Non-Interest Loan & Grant ^{††} |
| Second | 20.1%-30% | 1% | Interest Bearing Loan |
| Third | 30.1%-50% | 2% | Interest Bearing Loan |
| Fourth | 50.1%-80% | 3% | Interest Bearing Loan |

[†]—Applies only to qualified elderly or disabled household applicant(s).

^{††}—Applies to families who fall within the specified area median income group above. Families in this income bracket may be given a grant to supplement the additional funding needed to complete the renovation/rehabilitation of the family’s dwelling. Maximum grant amount for applicants in this income bracket shall not be more than 50%, or half of the approved HOME Rehab assistance based on set underwriting technical criteria to not exceed the required DTI. The first half shall be in the form of a loan and the next half of the assistance shall be in the form of a grant.

Additional subsidies provided shall be in the form of a grant and shall extend the affordability period depending on the additional supplemental rehab assistance granted, as provided in Part 600 on affordability.

(b) The Area Median Income for the Northern Mariana Islands as established by the U.S. Department of Housing and Urban Development for the HOME program and periodically revised and published at <https://www.hudexchange.info/programs/home/home-income-limits/>, as updated. NMHC shall comply with any revisions that the U.S. Congress enacts.

§ 100-100.2-225 Loan Terms and Repayment

(a) Grants: Grants are provided with no requirement or expectation of repayment. Homeowners that receive grants to rehabilitate their principal residence must occupy the assisted unit throughout the NMHC affordability period following completion of the rehabilitation. However, should the assisted homeowner(s) decide to vacate, rent out, transfer title, or sell the assisted unit during the NMHC affordability period, the homeowner must repay the grant. See part 600 for an explanation of the affordability restrictions and recapture.

(b) Non-Interest Bearing Loans: The principal amount of loans is paid back on a regular basis over time, but no interest is charged. The repayment term of all non-interest bearing loans shall be 30 years or 360 months and shall be fully amortized to produce equal monthly payments.

(c) Interest-Bearing Loans: These loans are amortizing loans. Repayment is expected on a regular basis so that over a fixed period of time, all the principal and interest is repaid. The repayment term of all interest-bearing loans shall be 30 years or 360 months and shall be fully amortized at either 1%, 2%, or 3%, to produce equal monthly payments. The interest rate is dependent on the applicant's gross household income as specified in § 100-100.2-220(a).

(d) Extended Terms: Should a financial hardship beyond the borrower(s) control exist, a request for an extended loan term may be considered provided that the borrower(s) are able to meet the repayment of their re-amortized loan. The borrower(s) must provide NMHC with documentation justifying their inability to meet the loan repayment term while at the same time providing an adequate standard of living for his/her/their family. An extended term must be recommended by the mortgage manager and approved by the corporate director. All extended terms granted must not exceed a five-year extension term for each request made. The maximum number of times such an extension may be requested by a homeowner is two. Financial hardship includes, but is not limited to:

- (1) Reduction-in-force;
- (2) Reduction in pay;
- (3) Family medical emergency (including death of an immediate family member: parents, siblings, child(ren), spouse, and in-laws);
- (4) Medical condition (including career-ending injury) that causes homeowner to discontinue employment. The borrower's physician must complete the homebuyer/homeowner program disability eligibility verification to certify the borrower's medical condition;
- (5) Drastic increase in cost of living (e.g., utility rates, fuel);

- (6) Natural disaster.

§ 100-100.2-230 Repayment Analysis

- (a) Grant: 100% grant assistance need not be repaid so long as the homeowner is in compliance with the requirement to occupy the HOME-assisted housing as the homeowner's principal residence throughout the NMHC affordability period. Provisions in § 100-100.2-225(a) apply to this section as well.
- (b) Non-interest and Interest-Bearing Loans: Maximum monthly debt service for either type of loan including existing long term obligations, insurance, plus the rehabilitation loan that will be incurred shall not exceed 45% of the gross household income.
- (c)(1) The maximum debt-to-income ratio shall be not more than 45% (or most current ratio) of the gross household income. The maximum payment-to-income ratio of the rehabilitation loan itself shall not be more than 35% (or most current ratio) of the gross household income. (2) On a case-by-case basis, NMHC may provide an exception to exceed the 45% debt-to-income ratio, but not more than 55%, upon NMHC's determination that the applicant(s) can meet repayment responsibilities. This provision is also applicable in determining and providing financial hardship assistance (see part 900).

§ 100-100.2-235 Use of Loan Funds

- (a)(1) The loan/grant funds will be used to assist existing homeowners to repair, rehabilitate, or reconstruct owner-occupied housing units for the primary purpose of correcting dwelling deficiencies ensuring a safe and healthy living condition, and preserving and extending the physical life of the dwelling. All corrections shall conform to the 2018 International Building Code or the most current building code adopted by the CNMI Department of Public Works Building Safety Office, zoning laws (note: zoning laws currently applicable to Saipan only), International Energy Conservation Code as adopted by the Commonwealth of the Northern Mariana Islands (CNMI) government, and also ensure that it meets the NMHC HOME Rehabilitation Standards as adopted by the NMHC Board.
- (2) Special purpose homeowner repairs such as weatherization, emergency repairs, and handicapped accessibility may only be undertaken within a more comprehensive scope of work that brings the housing unit up to standard.
- (b)(1) Rehabilitation-This includes the alteration, improvement, or modification of an existing structure. It also includes moving an existing structure to a foundation constructed with HOME funds. Rehabilitation may include adding rooms outside the existing walls of a structure.
- (2) Adding a housing unit is considered new construction and is not eligible.

(c) Reconstruction-In many instances, applicant(s) requesting assistance under this program live in substandard homes which are often unsafe and unsanitary. Many of which are termite infested and dilapidated to the point where a complete tearing down of the unit would be most appropriate. Reconstruction refers to rebuilding a structure on the same lot where housing is standing at the time of project commitment. HOME funds may be used to build a new foundation or repair an existing foundation. Reconstruction may take place on the same foundation that the existing structure is on. Reconstruction may take place anywhere on the lot. During reconstruction, the number of rooms per unit may change, but the number of units may not.

(d) Luxury items and improvements are not eligible, including but not limited to: barbecue pits, bathhouses, exterior hot tubs, saunas, whirlpool baths, swimming pools, satellite dishes, tennis courts, and dirty kitchens. Any additions or alterations to provide for commercial use are not eligible.

§ 100-100.2-240 Eligible Costs

(a) As defined in 24 C.F.R. § 92.206(a)(2)-(5), (b), and (d), HOME funds can be used to cover the hard rehabilitation costs necessary to meet required rehabilitation standards and associated “soft costs.” HOME funds may be used to pay for property improvements that are considered standard for the area. However, non-essential luxury or cosmetic improvements to the property are not permitted.

(1) Hard costs include the following:

- (i) Meeting the rehabilitation standards;
- (ii) Meeting applicable codes, standards, and ordinances;
- (iii) Essential improvements;
- (iv) Energy-related improvements;
- (v) Lead-based paint hazard reduction;
- (vi) Accessibility for disabled persons;
- (vii) Repair or replacement of major housing systems;
- (viii) Incipient repairs and general property improvements of a non-luxury nature; and (ix) Site improvements and utility connections.

(2) Soft costs include the following:

- (i) Financing fees;
- (ii) Initial credit report;
- (iii) Preliminary title report (PTR) and lender’s title policy, if applicable;
- (iv) Recordation fees, transaction taxes;
- (v) Legal and accounting fees;
- (vi) Appraisals;
- (vii) Architectural/engineering fees, including specifications and job progress inspections;
- (viii) Project costs incurred by the PJ that are directly related to a specific project; and (ix) Refinancing of secured existing debt if the housing is owner-occupied and refinancing allows the overall costs of borrower to be reduced and the housing is made more affordable and rehabilitation cost was greater than the amount of debt refinanced.

(b) Loan closing fees and related costs:

NMHC shall charge \$3,364.00 (more or less, depending on current costs) to the borrower(s) for certain loan closing fees and other related costs such as the following:

- a. \$14.00 ---- Credit Report
 - b. \$200.00 ---- Preliminary Title Report (PTR)
 - c. \$600.00 ---- Appraisal Report
 - d. \$150.00 ---- Recordation of Mortgage Documents
 - e. \$500.00 ---- First Annual Premium for Hazard Insurance
 - f. \$500.00 ---- Initial Utility Connection
 - g. \$1,400.00 ---- Title Policy
-
- \$3,364.00 Total

Loan closing fees and associated hard and soft costs may be bundled into the total approved loan amount. In example, a borrower who is approved for a \$120,000 loan may use a portion of the loan to pay for the loan closing costs and soft costs. In this case, the \$3,364.00 incurred closing costs shall be subtracted from the total approved loan of \$120,000 and the resulting net amount of \$116,636.00 shall then be used for the rehabilitation of their principal residence.

(1) If the homeowner(s) opt to have a private inspector perform unit inspection, the first/initial unit inspection fee may be covered by NMHC, subject to any conditions set by NMHC. Any cost associated with any subsequent inspection shall be the responsibility of the homeowner(s).

Part 300 - Loan Application Process

§ 100-100.2-301 Confidentiality

As is NMHC's practice, all applicant information is kept confidential and shall be made available only to borrower(s), borrower(s)' authorized representative, and authorized NMHC personnel. Additionally, HUD and the Comptroller General of the United States, any of their representatives, have the right of access to any pertinent books, documents, papers or other records of the NMHC in order to make audits, examinations, excerpts, and transcripts in accordance with 24 CFR 92.508(d)(2).

§ 100-100.2-305 Discrimination Prohibited

Under no circumstances shall any of the NMHC Board of Directors, its officers, employees, agents, or contractors providing services to the corporation discriminate any applicant or borrower on the basis of race, color, national origin, religion, sex, ancestry, disability, or familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18).

§ 100-100.2-310 Pre-Qualification Interview

(a) Before an applicant can be given a formal application, the interviewing loan officer must conduct a pre-qualification interview to initially determine an applicant's eligibility for assistance. A HOME Program Pre-Qualification Interview Worksheet shall be completed by the interviewing loan specialist.

(b) Because the information collected from the applicant during this process may not be accurate, as the loan officer may only be relying on "assumed estimates" regarding their employment, debt, and assets, applicants who are initially determined eligible may later be determined ineligible for the program.

§ 100-100.2-315 Eligibility Notification

Once the applicant(s) have been pre-qualified and have been later determined eligible for the program, NMHC shall officially notify the applicants in writing of their eligibility. Such notification shall be mailed no later than five working days after the determination, and shall contain a listing of additional information to be submitted for completion of loan file. Eligible applicant(s) shall be given thirty calendar days to submit the additional information requested. Applicant(s) that do not submit all pending information before the thirty calendar day deadline, shall have their applications file placed in the inactive files.

§ 100-100.2-320 Ineligible Applicants

All ineligible applicants shall be notified in writing of their ineligibility. Such notification shall be mailed no later than five working days after the determination of ineligibility and shall include a description/reason of such determination. Applicants may appeal the determination to the NMHC Board for reconsideration and final decision.

§ 100-100.2-325 Initial Inspection of Residence

Initial inspections shall be conducted by NMHC's property manager and in coordination with the loan specialist or an NMHC representative to identify and verify deficiencies noted by eligible homeowners/applicants. NMHC personnel conducting the inspections shall note deficiencies in written form and shall obtain pictures of the condition of the unit. Such inspections shall also verify

the eligibility and be the basis in estimating the costs of the rehabilitation activities requested and in developing the scope of work for the rehabilitation project. The applicant and the property manager, as well as the responsible loan specialist, shall work cooperatively to develop the scope of work for the project. The rehab scope of work needs to adequately describe the work to be performed to meet NMHC's rehabilitation design standards at completion. The scope of work must be an eligible activity as described in § 100-100.2-235. The scope of work shall be provided to three NMHC approved contractors by the borrower(s) who shall prepare a cost breakdown estimate for the project. The estimates shall then be submitted along with the applicant(s) choice of contractor for the project upon submission of his/her/their loan application. NMHC may, at its own discretion, select the appropriate contractor for the applicant if the rehab project is deeply subsidized using additional HOME funds. Deeply subsidized means additional funding assistance on top of the underwritten funding assistance.

§ 100-100.2-330 Lead-Based Paint

(a) The federal government banned lead-based paint from housing in 1978. Deteriorating lead-based paint (peeling, chipping, chalking, cracking, or damaged) is a hazard and needs immediate attention.

(1) For Homeowner Rehabilitation Projects: Before any rehabilitation work is done, homeowners must provide documentation that shows that their homes were built either before or after January 1, 1978. Such documentation may include a copy of the building permit, if one can be provided; a notarized declaration/affidavit by the homeowner(s) or contractor attesting to the completion date of the home construction; and the age of the dwelling unit/property.

(2) Homebuyer Activities: For homebuyer purchase or homebuyer acquisition and repair projects, the seller(s) of property must provide documentation that shows that the home(s) or dwelling unit(s) were built either before or after January 1, 1978. Such documentation may include a copy of the building permit, if one can be provided; a notarized declaration/affidavit by the homeowner(s) or contractor attesting to the completion date of the home construction; and the age of the dwelling unit/property. For a homebuyer new construction project, LBP file documents shall include the building permit as well as a certification of completion from the contractor.

(b) For those homes deemed to have been completed before January 1, 1978, they must be checked for lead in one of two ways, or both:

(1) A paint inspection which shows the lead content of every different type of painted surface in the home;

(2) A risk assessment which shows if there are any sources of serious lead exposure (such as peeling paint and lead dust). A risk assessment provides the homeowner the necessary actions to take when addressing these hazards.

(c) Only a trained, certified professional is allowed to check the home for such hazards. Only a certified lead "abatement" contractor is allowed to permanently remove lead hazards. However, if the risk assessment does not reveal any lead-based paint hazards, NMHC will not require the homeowner to conduct any abatement of hazards.

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- (d) For those homes that were completed before January 1, 1978, the following forms must be completed:
- (1) Lead Hazard Evaluation Notice;
 - (2) Notice of Lead Hazard Reduction;
 - (3) Relocation Screening Sheet for Projects with Lead Hazard Reduction Activities;
 - (4) Protection of Occupants' Belongings and Worksite Preparation for Projects with Lead Hazard Reduction Activities; and
 - (5) Property Owner/Rehab Contractor Contract Addendum Reduction of Lead Paint Hazards.
- (e) The following are required activities to address lead-based paint:
- (1) Notification
 - (i) Lead Hazard Information Pamphlet—Occupants, owners, and purchasers must receive the EPA/HUD/Consumer Product Safety Commission (CPSC) lead hazard information pamphlet, or an EPA-approved equivalent.
 - (ii) Disclosure—Property owners must provide purchasers and lessees with available information or knowledge regarding the presence of lead-based paint and lead-based paint hazards prior to selling or leasing a residence.
 - (iii) Notice of Lead Hazard Evaluation or Presumption—Occupants, owners, and purchasers must be notified of the results of any lead hazard evaluation work or the presumption of lead based paint or lead hazards.
 - (2) Notice of Lead Hazard Reduction Activity—Occupants, owners, and purchasers must be notified of the results of any lead hazard reduction work.
 - (3) Lead Hazard Evaluation—Evaluation methods include visual assessments, paint testing, and risk assessments.
 - (4) Lead Hazard Reduction—Reduction methods described include paint stabilization, interim controls, standard treatments, and abatement.

§ 100-100.2-335 Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities (24 C.F.R. Part 58)

- (a) HOME rehabilitation activities to be undertaken by NMHC are subject to the environmental review requirements at 24 C.F.R. Part 58. CNMI is the responsible entity and is responsible for ensuring that the environmental review process is satisfied before HOME funds are committed to specific project site.
- (b) Rehabilitation of homeowner housing may be categorically excluded per 24 C.F.R. § 58.35(a)(3) when the following conditions are met:
- (1) The building is for residential use and has one to four units;
 - (2) The density will not increase beyond four units;
 - (3) The land use will not change; and
 - (4) The footprint of the building will not increase in a floodplain or in a wetland.

(c) Reconstruction of a single family unit in a new location on the same lot is classified as new construction for the purposes of environmental review. Reconstruction of homeowner housing may be categorically excluded per 24 C.F.R. § 58.35(4)(i) when it is an individual action (reconstruction only) on a one to four family dwelling.

(d) Homeowner rehabilitation housing categorically excluded per 24 C.F.R. § 58.35 is categorically excluded from an environmental assessment (EA) and finding of no significant impact (FONSI) under the National Environmental Policy Act (NEPA) except for extraordinary circumstances. To document compliance with environmental review requirements, CNMI must:

- (1) Complete the Rehab Environmental Review (RER) for the Homeowner Rehabilitation Loan Program. This process includes the Notice of Intent to Request Release of Funds for Tiered Projects and Programs, the Request for Release of Funds to HUD, and obtaining the Authority to Use Grant Funds from HUD, in accordance with 24 CFR 58; and
- (2) Complete the RER Appendix A when an individual loan or grant application is received before approving any site-specific loan or grant for each structure, document and implement the mitigation of impacts as necessary, and keep all supporting documents in the Environmental Review Record as evidence of compliance.

§ 100-100.2-340 HOME Rehabilitation Loan Application

(a) Applicants determined eligible for assistance will be provided a HOME Rehabilitation Loan Application. A checklist of all required documentation for submission is attached to the loan application. Preliminary requirements include:

- (1) Certificate of title/deed/homestead permit/lease agreement;
- (2) Property map and sketch of direction to property;
- (3) 1040 tax form for the previous tax year;
- (4) HOME program eligibility release form;
- (5) Last two months worth of pay stubs;
- (6) Verification of permanent employment;
- (7) Current loan statement or loan payment record;
- (8) Most recent savings account statement (TCD, bonds, form passbook, money market accounts);
- (9) The last six months checking account statement available;
- (10) Profit sharing plan (bank or duty free employees);
- (11) Most recent retirement plan statement;
- (12) Current certification of child care expenses;
- (13) Current Certificate of Compliance from Division of Revenue and Tax;
- (14) Judgments (if any); divorce statement and/or probate decree;
- (15) Verification of medical expenses (transportation and medication);
- (16) Verification of full-time student status;
- (17) Business income tax forms for three previous years, if applicable;
- (18) Most current financial statement, if applicable.

- (b) For further verification purposes, the application shall also be attached with the following documents:
- (1) Verification of income from business;
 - (2) Verification of Social Security benefits;
 - (3) Verification of pension and annuities;
 - (4) Verification of Veterans Affairs benefits;
 - (5) Verification of public assistance income;
 - (6) Verification of child support payments;
 - (7) Verification of alimony or separation payments;
 - (8) Verification of recurring cash contributions;
 - (9) Verification of income from military service;
 - (10) Verification of assets on deposit;
 - (11) Verification of assets disposed;
 - (12) Record of oral verification;
 - (13) Three cost estimates for the rehabilitation project;
 - (14) Current appraisal by a licensed and Uniform Standard of Professional Appraiser Practice (USPAP) certified appraiser, if available.

§ 100-100.2-345 Application Intake and Processing

Upon receipt of the HOME Rehabilitation Loan Application, the loan specialist must provide the applicant(s) with a Good Faith Estimate (GFE) Disclosure Statement as required by the Real Estate Settlement Procedures Act (RESPA) of 1974. The GFE discloses all costs and/or fees associated with the processing of such loan request. If the GFE is not provided to the client at the time of their submission of their application, the form must be mailed out within three business days after NMHC's receipt of the loan application. If the application is denied within a three business day period, then NMHC is not obligated to send one out.

§ 100-100.2-350 Credit History and Verification of Income

As part of determining income eligibility and credit worthiness, the applicant(s) shall provide NMHC with an executed HOME Program Eligibility Release Form to conduct a third party verification. NMHC may focus on the income and credit worthiness of the head of household and spouse, or from the borrower and co-borrower. However, to determine income eligibility, NMHC shall consider the income of ALL household members.

- (a) Credit Report—The applicant(s) shall provide a written authorization for NMHC to request and obtain a written credit report from a recognized credit bureau, more specifically, Equifax. The credit report will be used as a reference in determining the applicant(s) credit worthiness. Poor repayment of credit obligations shall be considered a credit risk and shall be a reason for denial of assistance. On a case by case basis, NMHC may reconsider its decision if the applicant has reestablished his/her credit standing, or if the applicant demonstrates a good faith effort to pay-off or resolve his/her delinquent account(s) or bad debt(s), and shall be required to submit a letter

justifying any delinquency and/or bad debt. A non-refundable credit report fee of at least \$4.25 (or current applicable fee) shall be charged to soft costs where applicable.

(b) Employment—NMHC shall send the applicant(s) employer(s) and all applicable household members, for the purpose of determining income eligibility, a signed Verification of Employment (V.O.E.) form who shall furnish the requested information on the V.O.E. NMHC may consider job stability as one of the basis in determining loan approval. As such, NMHC, on a case-by-case, may require that an applicant, or one of the applicants, be employed for at least two years before the loan request is submitted to the Corporate Director for approval.

(c) Assets, Business Income, and Credit Accounts—The applicant(s) shall provide NMHC with a written authorization to obtain third party verifications whenever applicable. Monthly bank statements from the previous six months for each checking account owned, and the most recent savings account, Time Certificates of Deposits (TCD), and other bank/investment accounts must be provided to NMHC for asset verification purposes. Third party verification from creditors shall also be conducted to determine applicant(s) credit worthiness.

§ 100-100.2-355 Administration, Approval, Appeals Process

(a) Program Administration

(1) The MCD Manager shall be responsible for HOME program implementation and management of related tasks. The MCD Manager shall supervise division staff in loan and grant origination, underwriting and closings under the HOME program.

(2) The MCD Manager shall review each submitted application, ensure all supportive documentation is in place, and make any necessary recommendations to the Corporate Director prior to the Corporate Director making the final decision on the loan or grant application.

(b) Loan Review & Approval

(1) Under the direction of the MCD Manager, a Loan Specialist shall review and verify all applicants' credit, income, assets, liabilities, title reports, and any other requested reports and documentation. Upon completion of the review process, the Loan Specialist shall prepare a loan write-up containing his/her recommendations.

(2) The MCD Manager shall review the loan write-up for concurrence before submitting the same to the Corporate Director for a final decision. Final approval or denial of any HOME loan or grant shall be made by the Corporate Director except as follows:

(i) If the Corporate Director is off-island or on extended leave at the time the loan or grant is submitted to him/her for a final decision, then the Deputy Corporate Director may make the final decision to approve or deny the HOME loan or grant; or

(ii) If the Corporate Director and Deputy Corporate Director are both simultaneously off island or on extended leave at the time the loan or grant is submitted for a final decision, then the Acting Corporate Director may make the final decision to approve or deny the HOME loan or grant.

(3) For purpose of these policies, off-island or extended leave shall be defined as an absence or leave that extends for more than three working days after the loan or grant is submitted to the Corporate Director for his or her final decision.

(4) A written notice of the final decision shall be provided to the applicant and a copy/report of the decision shall be provided to the NMHC Board of Directors for informational purposes.

(c) Loan/Grant Denial Appeals Process

(1) Applicants denied assistance under the HOME Program may appeal the final decision to the NMHC Board of Directors by submitting their appeal in writing to the Corporate Director within thirty calendar days of the written notice of the final decision.

(2) Any appeal submitted must indicate the basis for the appeal and include any supporting documents. Upon receipt of an appeal, the Corporate Director shall submit the same to the Board of Directors for review and action at the next scheduled Board meeting.

§ 100-100.2-360 Homeowner Counseling Session

(a) All applicants for a HOME loan assistance must attend a Homeownership/Homebuyer Education and Counseling Session that will be provided by NMHC. NMHC shall notify the applicant(s) of the date, time, and location of the session. The education and counseling session shall be scheduled after the loan has been preliminarily approved and may be conducted before or on the day that NMHC issues the commitment letter to the applicant(s). The counseling session shall include a discussion of the terms and conditions of the loan, educate the homeowner(s) of their financial responsibilities, the importance of budgeting, making timely payments, foreclosure prevention, as well as, home maintenance and repair measures.

(b) NMHC shall inform applicant(s) at the time of their submission of their application of the required homeowner counseling session and again in written form when NMHC notifies the applicant(s) of NMHC's preliminary approval of their loan request. Failure to attend the required Homeownership/Homebuyer Education and Counseling Session may be grounds for denial or cancellation of assistance.

§ 100-100.2-365 Commitment Letter

(a) Once the loan request has been approved by the NMHC Corporate Director, the responsible loan specialist shall prepare the commitment letter for the Corporate Director's signature. The commitment letter is a binding agreement between NMHC and the borrower(s) wherein it discloses the terms and conditions of the approved loan; including the estimated after rehab value to ensure compliance with 24 CFR 92.254(a)(2)(iii) and (b)(1); the housing is the principal residence of an income qualified homeowner; the amount and form of assistance (e.g., grant, amortizing loan, deferred payment loan); the rehabilitation work to be performed; the completion date; and the NMHC property standards that must be met. Borrowers who have been approved shall agree not to incur additional debts, unless formally requested by the borrowers and authorized by NMHC.

(b) The responsible loan specialist shall obtain a written certification (via email or memo format) from the Chief Accountant that funds are available for the project before the Corporate Director executes the commitment letter.

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- (c) After the Commitment Letter has been signed and dated by the Corporate Director, the responsible loan specialist shall schedule the applicant(s) to come in and sign and date the letter should they agree with the terms and conditions.
- (d) NMHC shall reexamine the household's income eligibility if the determination was made more than 6 months before signing the Commitment Letter.
- (e) NMHC shall create the HOME project activity in IDIS following the execution of the commitment letter and commitment of HOME funds in accordance with 24 CFR 92.502(b).

§ 100-100.2-370 Preliminary Title Report (PTR)

- (a) The responsible loan specialist shall order a preliminary title report (PTR) on behalf of the borrower(s) within two weeks after the borrowers have executed their commitment letter. The purpose in obtaining a title report is to ascertain ownership of the proposed property for collateral and to ensure that NMHC holds the first lien on the property; as well as, to verify that the property to be assisted with HOME funds is held in one of the eligible forms of homeownership.
- (b) The responsible loan specialist shall obtain the preliminary title report (PTR) by submitting an email request to the local title companies. The project will be granted on a first come, first serve basis to the company agreeing to the rate set by NMHC.
- (c) The Loan Specialist shall obtain an updated PTR prior to loan closing to ensure that NMHC maintains the first lien on the property.

§ 100-100.2-375 Pre-Construction Conference

- (a) The pre-construction conference shall be held after NMHC's receipt of the PTR and the same has been determined to have met NMHC's requirement as indicated in § 100-100.2-370. The responsible loan officer shall inform the homeowner(s) and their contractor, and their private inspector (if applicable), in written form of the scheduled pre-construction conference. The notice shall include the date, time, and location of the conference. The conference shall be conducted by the responsible loan officer and shall include the homeowner(s), their contractor, and their private inspector (if applicable).
- (b) The homeowner(s) and their contractor, and if applicable, their private inspector are to be provided with information such as their rights and responsibilities before, during, and after the rehabilitation period of their home.

§ 100-100.2-380 Submission of Pre-Construction Documents

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The NMHC shall notify the contractor of the homeowner(s) selection of his/her/their company and shall likewise instruct the contractor to submit the required construction documents listed below. These documents are to be provided to NMHC within 30 days from the date of notice.

- (a) Building permit (if applicable);
- (b) Earthmoving & erosion control permit (if applicable);
- (c) Construction contract;
- (d) Performance bond;
- (e) Plans & specification approved by DPW;
- (f) Private inspector's contract (if applicable).

§ 100-100.2-385 Loan Closing/Settlement

Promissory Note, Mortgage, Restrictive Covenant, Consent to Encumber Land, Affidavit

- (a) Promissory Note: All loans will require borrower(s) to sign a promissory note. The promissory note shall be attached together with the mortgage and loan agreement and shall be filed at the Commonwealth Recorder's Office as one document in the following order: Mortgage, promissory note, and loan agreement.
- (b) Mortgage, Consent to Encumber Land, Restrictive Covenant: All loans will require all legal owners, including the spouse of a borrower who may or may not be an applicant of the rehabilitation loan to sign the aforementioned documents. The consent to encumber land and restrictive covenant shall be attached together with the mortgage, loan agreement, and promissory note and shall be filed at the Commonwealth Recorder's Office as one document.
- (c) Affidavit of Marital Status: All loans will require that all unmarried borrowers declare their marital status before executing the documents stated in subsections (a) and (b).
- (d) The responsible loan officer shall prepare the following disclosure forms to be executed by borrowers: Federal Truth-in-Lending Disclosure, HUD 1, Fixed Rate and Variable Rate Disclosure Form.

Part 400 - Rehabilitation

§ 100-100.2-401 Performing Rehabilitation Work

- (a) Contractor Cost Estimates. The homeowner(s) shall be responsible in obtaining a minimum of three written rehabilitation cost estimates from at least three NMHC approved contractors, and

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each cost estimate submitted must include, as a minimum, the following information: bid price, cost breakdown of materials and labor charges, and schedule for completion of work. If for any reason that a construction cost estimate is unattainable, then a justification letter from the borrower and/or contractor may be accepted in lieu of this requirement.

(b) Selection of Contractor. The homeowner(s) shall have the right to select whichever contractor to perform the rehabilitation work, provided that the contractor's quotation and the after-rehab estimated value does not exceed the HOME published after-rehab value limits for existing homes and provided that the contractor is an NMHC-approved contractor. Should the cost of rehabilitation exceed the maximum per unit subsidy limit, the homeowner shall negotiate with contractor in reducing the contract amount. Should the contractor unwilling to lower the contract amount, then the borrower shall select his/her/their next choice. The homeowner(s) shall submit a contractor selection notice notifying NMHC of his/her/their selection.

(c) Construction Contract. The construction contract is a binding agreement strictly between the homeowner and the contractor whereby the contractor will provide the rehabilitation or repair work for a specified and agreed upon price. As NMHC's role is to finance the construction of the project, it is not a party to the construction contract. However, at any time the contractual provisions are not followed, NMHC shall have the right to withhold any progress payment until the contractor has complied with such provisions. The construction contract shall include, but is not limited to, the following provisions:

- (1) Contractor's name and mailing address;
- (2) Homeowner(s) name and mailing address;
- (3) Date of the contract, the contract amount, and payment schedule for each incremental billing;
- (4) Calendar days to complete the work (includes Saturdays, Sundays, and holidays);
- (5) Contractor will provide the performance bond, labor and material payment bond up to the contract amount, as well as a builder's risk policy for the project;
- (6) The contractor will provide all the construction plans and permits necessary to comply with applicable local and federal laws;
- (7) Issuance of the notice to proceed or the commencement of the project, the rehab must start within 12 months of NMHC executing the HOME Commitment Letter with the homeowner;
- (8) Contractor will provide a one-year warranty on all work completed;
- (9) NMHC's right to inspect the progress of the project and right to withhold progress payments;
- (10) Change order procedures, if any;
- (11) A provision for liquidated damages must be included in the construction contract which shall be negotiated between the homeowner and contractor;
- (12) Description of the work to be performed so that inspections can be conducted; and for rehabilitation, so that housing will meet NMHC's rehabilitation standards.

(d) Contractor Notification and Pre-Construction Requirements. Once NMHC is in receipt of the homeowner's contractor selection notice, NMHC shall notify the contractor of the homeowner's

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selection of their company. NMHC shall inform the contractor of the scheduled pre-construction conference and shall likewise inform the contractor of the required construction documents for submission as listed below.

- (1) Building permit (if applicable);
 - (2) Earthmoving and erosion control permit (if applicable);
 - (3) Construction contract;
 - (4) Performance and payment bonds;
 - (5) Plans and specification approved by DPW;
 - (6) Private inspector's contract (if applicable).
- (e) Project Duration
- (1) Progress payment requests shall be submitted to NMHC by the contractor incrementally as specified in the payment schedule. NMHC shall ensure that all work description indicated on the payment schedule is completed prior to releasing contractor's payment. An original and a copy of the requests must be submitted to the NMHC. The contractor shall freely use his/her/their company's billing form when submitting a payment request. The payment request shall be accompanied with the following whenever applicable: inspection reports (DPW and/or private inspector), geotesting results, termite treatment certification and/or warranty, builder's warranty, and/or homeowner's acceptance of the project. In addition, each billing submitted must include pictures of the progress of the project and a copy of the payment schedule.
 - (2) Payment schedule shall be as follows:
 - (i) Payment request number 1 shall not be more than 10% of the contract amount. This shall include the installation of the project sign board accompanied with a picture, the delivery of materials to the construction site and commencement of the project;
 - (ii) Payment request number 2 shall not be more than 25% of the contract amount;
 - (iii) Payment request number 3 shall not be more than 25% of the contract amount;
 - (iv) Payment request number 4 shall not be more than 25% of the contract amount;
 - (v) Payment request number 5 shall be the 15% retainage request when all work is completed. The final payment request shall be accompanied with the certificate of occupancy from the Commonwealth Building Safety Office, builder's warranty, window warranty if subcontracted, termite treatment warranty, final inspection report from the DPW and if applicable, the private inspector's, certificate of acceptance from the homeowners, geotesting results if applicable, pictures of project interior and exterior, and DEQ certificate of use (sewage disposal system), if applicable.
 - (3) Change Order Procedures. From time to time, homeowner(s) may request for changes in the plans and specifications. In the event that this should occur, the following steps must be taken to address such request:
 - (i) Homeowner must notify contractor in written form of the proposed changes and provide NMHC a copy of the notification.
 - (ii) Upon receipt of the notification, the contractor must cease work at the project site and obtain NMHC's approval of the change order request. Upon approval the contractor shall then provide NMHC a revised plan and specifications, including a revised payment schedule (if

scheduled payments will be altered by the proposed changes). The contractor must obtain NMHC's approval of the change order request.

(iii) Once the change order request is approved, the homeowner will be required to deposit the additional money needed to NMHC (if applicable) to carry out the change order. The contractor will be required to submit the revised plans and specifications to DPW for approval.

(iv) Should the change order request be denied, then the contractor shall resume work to ensure timely completion of the project. The contractor may not be able to complete the project on time because of the delays the change order request may have caused. Therefore, the homeowner(s) shall give the contractor additional days equal to the time the work was ceased up until the time the change order request was denied to complete the project. The homeowner shall not charge the contractor liquidated damages during this period.

(v) Once the contractor has obtained the DPW's approval of the plans and specifications, then it shall provide the NMHC with the same copy. The contractor shall proceed in carrying out the change order and completing the project.

(vi) Inspections: NMHC shall have the right, during the rehabilitation work or improvement of the unit, to inspect the same and to reject and to require to be replaced, any material or workmanship that does not comply with the plans and specifications, without any liability on the part of NMHC, as to workmanship or materials therein. Such inspection is solely for financing purposes and for the disbursement of funds, and any inspection or approval of any rehabilitation phase or increments of said dwelling shall not be deemed as a warranty by NMHC of the workmanship and material therein.

(vii) Inspector: Progress and final inspections shall be conducted by the Building Safety Office of the Department of Public Works (DPW) to ensure all work performed is done according to the plans and specifications as approved by the applicant and DPW and applicable property standards. Homeowner(s) may have a private inspector, (i.e., a qualified licensed engineer or a qualified licensed architect), conduct inspection with the costs with such inspection to be handled in accordance with § 100-100.2-240.

(viii) Minimum Property Standards (MPS): For new construction of housing and acquisition and/or rehabilitation of housing, CNMI Building Safety Code and zoning laws (if applicable for Tinian and Rota), International Energy Conservation Code, NMHC written design standards for single-family housing new/rehabilitation, and handicapped accessibility requirements (where applicable) must be adhered to. Homeowner(s), through their contractors, must ensure that they are familiar with these requirements. PJs using MPS may rely on inspections performed by a qualified person. If using HOME funds solely for acquisition, the property must also meet the minimum property standards mentioned above (or [the Uniform Physical Conditions Standards pursuant to 24 CFR 5.705 and 24 CFR 92.251](#)) if no local codes and standards apply).

(ix) The contractor will provide all the construction plans and permits necessary to comply with applicable local and federal laws.

Part 500 Payments

§ 100-100.2-501 Mortgage Loan Payments

(a) Prepayment of Mortgage Loan—There shall be no prepayment penalties for all rehabilitation loans that are “paid-off” prior to the maturity date (original or revised). Pre-paying off the loan relieves the borrower(s) from the affordability restrictions imposed on the property. NMHC may terminate the affordability period restrictions when the homeowner prepays the loan because the HOME program does not require the enforcement of an affordability period for homeowner rehabilitation not involving acquisition or new construction.

(b) The monthly mortgage payments (inclusive of principal, interest, late charges, or any other amounts due) shall be made to the NMHC whose central office is located in the corner of Micro Beach Road and Chalan Pale Arnold Road, Garapan, Saipan. NMHC’s respective field offices in Rota and Tinian are likewise accepting payments daily. NMHC’s Rota Field Office is currently located in Songsong Village. NMHC’s Tinian Field Office is located in San Jose Village. Acceptable forms of payment are cash, personal checks, debit or credit cards (available only in Saipan), cashier’s check, money order, allotment, or direct deposit thru Bank of Guam.

(1) The first monthly mortgage payment inclusive of the principal and interest, shall begin thirty days after all construction work is satisfactorily completed. Payment application shall be applied in the following order:

(i) Accrued interest; (ii) Principal; (iii) Late fees.

(2) Irregular payments from time to time may be made by borrowers. Should they occur, the NMHC shall apply the payments as follows:

(i) Partial payments made that are less than a borrower’s scheduled payment shall be deposited and credited to the account, but shall not excuse the requirement of full payment.

(ii) Multiple Payments—In instances where borrower(s) may have two existing loan accounts with NMHC, but makes less than the combined scheduled payments, payments are to be applied first to the oldest loan and the balance shall be deposited and credited to the other loan.

(iii) Excess Payments—In instances where borrowers make more than their scheduled monthly payments, the payments are to be applied to the unpaid principal, unless the borrowers indicate in written form to have the payments applied as advance payments.

(iv) Charged-off Accounts—Borrowers whose account(s) have been charged off will still have the opportunity to pay-off such account. Borrower(s) will be required to execute a charged off payment agreement prior to making any payment.

§ 100-100.2-505 Failure to Make Payment as Required

(a) Late Fees for Overdue Payments: A penalty fee of one percent of the monthly mortgage payment will be assessed on all accounts not paid by the fifteenth of each month each day that the full payment is not received.

(1) Delinquencies

(i) Notices—Written notices of past due accounts shall be sent to borrower(s) based on the following schedule:

(A) First notice—Account over 30 days past due;

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- (B) Second notice—Account over 60 days past due;
- (C) Third notice (demand notice)—Account over 90 days past due; (D) Fourth notice (2nd demand notice)—Account over 120 days past due.

(ii) In the event that the borrower(s) fail(s) to update the account after the receipt of the fourth notice, NMHC shall forward the account to the local attorney for further collection efforts, which may include foreclosure.

(b) Default: Should a borrower under this loan program fail to make payment as required or breaches any of the terms and conditions of the mortgage and the promissory note, the borrower will be considered in default of said agreements. NMHC shall have the right to collect any and all outstanding amounts due and demand a full payment thereof. NMHC shall have the right to charge the borrower(s) all legal expenses and fees caused by the borrower's failure to pay.

(c) Foreclosure: NMHC may use its right of first refusal, as set forth in the loan documents, written agreement with homebuyer, and restrictive deed or land covenant, to purchase the housing before foreclosure or deed in lieu of foreclosure. Foreclosure triggers the NMHC recapture agreement enforceable through the restrictive deed or land covenant.

(1) Foreclosure and Recapture. If the HOME assisted property is subject to recapture terms, NMHC has two options:

- (i) Recapture Option 1: NMHC will recapture and pay to the CNMI HOME account the net proceeds from the foreclosure sale of the property in accordance with the recapture terms; or
- (ii) Recapture Option 2: NMHC may purchase the HOME assisted property at foreclosure sale and additional HOME funds may be spent. However, the total amount of the original and additional HOME funds spent may not exceed the maximum per unit subsidy amount.

(2) In the event of default by the borrower, the NMHC may foreclose its lien on the property as secured by the mortgage. Such foreclosure proceedings may result in the sale of the rehabilitated real property. If NMHC forecloses on its own loan, NMHC cannot spend any additional HOME funds to acquire the property. Should the property be sold through foreclosure, then the amount due to NMHC will be the net proceeds of the sale up to the amount of loan assistance provided, including interest due, late charges, outstanding principal, legal fees, and any other amounts due.

Part 600 - Affordability

§ 100-100.2-601 NMHC Affordability Restrictions

(a) Long Term Affordability. HOME rules do not impose long term affordability requirements for rehabilitation of existing homeowner occupied housing. NMHC has elected to impose NMHC affordability requirements that require that assisted properties remain affordable for a specific period of time, depending on the level of HOME funds invested in the property and the nature of the activity funded:

| HOME Invested per Unit | Minimum Length of the Affordability Period |
|------------------------|--|
| Less than \$15,000 | 5 years |
| \$15,000-\$40,000 | 10 years |

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| | |
|---|----------|
| More than \$40,000 to <u>Max Loan Limit</u> | 15 years |
|---|----------|

| <u>Supplemental HOME Rehab Subsidies</u> | <u>Additional Years Added to the Affordability Period</u> |
|--|---|
| <u>\$1.00 - \$50,000</u> | <u>5 years</u> |
| <u>More than \$50,000</u> | <u>10 years</u> |

(1) Affordability Restrictions

(i) The affordability requirements are to be imposed by deed restrictions, covenants running with the land, or other mechanisms approved by HUD, except that the affordability restrictions may terminate upon foreclosure or transfer in lieu of foreclosure or upon loan payment in full.

(2) Affordability and Special Exceptions

(i)(A) NMHC may, as determined on a case-by-case basis, provide an exception to the affordability restrictions in order to extend or provide additional rehab assistance to existing qualified client(s) in need. This exception shall only be granted to existing client(s) who have paid-off their first HOME loan but have yet to satisfy or complete the affordability period. In this case, the client(s) shall be required to re-apply for the additional rehab assistance to determine eligibility and loan amount.

(B) The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the termination event, or any entity that includes the former owner or those whom, the former owner has or had family or business ties, obtains an ownership interest in the project or property. If a home rehabilitated with HOME assistance is sold during the NMHC affordability period, NMHC recapture provisions apply to ensure the continued provision of affordable homeownership.

(C) The remaining length of affordability, or time, for the first rehab loan/assistance shall be combined with the new, additional, rehab loan/assistance affordability period. Example: If an existing borrower has paid-off her loan but has 5 years remaining to satisfy affordability, and subsequently approved for a \$20,000.00 additional rehab loan with a 10-year length as the affordability period. Ultimately, this client will be bound with a combined total of 15 years as the minimum length of the affordability period.

(ii)(A) Existing client(s) who was/were assisted with a HOME grant or deferred loan but has/have yet to satisfy or complete the affordability period may, on a case-by-case basis and as determined by NMHC, qualify for an extension or additional rehab assistance. However, the additional assistance shall be in the form of an interest-bearing loan with an amount not to exceed the total maximum loan amount as prescribed under this policy with the repayment term of 30 years or 360 months, and shall be fully amortized at a fixed annual rate of 1%. Note: This assumes that the client(s) fall within the eligibility criteria, such as 30% income limits and applicable household size, within debt-to-income, and creditworthiness. Client(s) shall be required to re-apply for the additional rehab assistance to determine eligibility and loan amount.

(B) The remaining length of affordability, or time, for the first HOME grant or deferred loan shall be combined with the new, additional, rehab loan/assistance affordability period.

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(iii) Requests for any of the foregoing exceptions shall be submitted to the NMHC Board at the next board meeting for final review and approval.

(b) **Right of First Refusal.** During the affordability period, the homeowner(s) agrees not to sell or assign the residence hereby rehabilitated to any persons unless and until homeowner(s) proposes to sell same to NMHC, its successors or assigns on terms consistent with preserving affordability and allows then sixty days time within which to purchase said residence.

(c) **Recapture.** NMHC will ensure that it recoups all or a portion of the HOME grant or loan assistance provided to the homeowner(s), if the housing unit ceases to be the principal residence of the homeowner(s) for the duration of the period of affordability. Subsidy amounts (in the form of loans) that directly benefited the property owner (i.e., through grants, non-interest bearing loans, interest bearing loans, etc.) are also subject to recapture. Recapture is capped at what is available out of net proceeds for agreements after November 2004. Net proceeds are defined as the sales price less superior non HOME debt (if any) less closing costs. NMHC shall utilize the following recapture options:

(1) **Recapture the Entire Amount.** NMHC may recapture the entire amount of the loan, grant, and/or subsidy from the homeowner(s) if the sale of the property occurs within halfway into the given NMHC affordability period. For example, a homeowner was approved for a \$20,000 HOME loan to rehabilitate a home. The NMHC affordability period is therefore, ten years. On the fourth year, the homeowner sells the house for \$60,000. Since the homeowner failed to comply with the minimum five years of the ten year affordability period, the recaptured amount is \$20,000.

(2) **Forgiveness: Reduction during NMHC Affordability Period.** NMHC may reduce the loan amount, grant, and/or subsidy to be recaptured on a pro rata basis for the period the homeowner(s) has/have owned and occupied the housing unit measured against the required NMHC affordability period; however, the homeowner(s) must occupy the housing unit as his/her/their principal residence for a minimum of five years or at least halfway into the NMHC affordability, whichever is greater, in order to qualify for this recapture option. For example, if the HOME assistance is \$40,000 with a 10 year affordability period, the homeowner sells the property in the 6th year of the NMHC affordability period having lived in the home for a full 5 years for \$60,000, the homeowner has a superior debt of \$15,000, and the homeowner's share of the closing cost is \$1,500, the amount subject to recapture is calculated as follows: (i) Net Proceeds:

| | |
|----------|-----------------------------|
| \$60,000 | (sales proceeds) |
| \$15,000 | (superior private debt) |
| -\$1,500 | (closing cost) [†] |
| \$43,500 | (net proceeds) |

[†]If client pays closing cost, it will be subtracted. If not, it will be added on as part of the net proceeds.

(ii) **Reduction to Direct Subsidy:**
 $\$40,000 \div 10 \text{ year NMHC affordability period} = \$4,000 \text{ per year}$
 $5 \text{ years} \times \$4,000 \text{ per year} = \$20,000 \text{ forgiven Amount to Recapture:}$

\$40,000 subsidy – \$20,000 forgiven = \$20,000 subject to recapture

(iii) Homeowner Gets:

(net proceeds amount to recapture)

\$43,500 net proceeds – \$20,000 recaptured = \$23,500 for homeowner

(3) Homeowner(s) Recover of Initial Investment. The homeowner(s) investment (down payment and capital improvements made by the owner after completion of the rehab work) may be repaid in full before any HOME funds are recaptured, provided that the homeowner(s) have occupied the housing unit at a minimum of 5 years before the sale of the property and the homeowner's household income is at or below 50% of the Area Median Income.

(4) Shared Appreciation. In the case where net proceeds exceed the amount necessary to repay both the homeowner(s)' investment and the HOME assistance, the excess proceeds may be shared proportionately (i.e., percentage of investment provided) by both parties.

(d) Note: When the recapture requirement is triggered due to a voluntary or involuntary sale during the period of affordability and there are no net proceeds or the net proceeds are insufficient to repay the HOME investment due, NMHC may recapture an amount less than or equal to the net proceeds available.

(e) Legal Instrument to Enforce Recapture. NMHC must use deed restrictions, land covenants, or other similar legal documents to enforce these recapture restrictions as approved by HUD.

Part 700 - Conveyance

§ 100-100.2-701 Sale, Conveyance, or Transfer of Property

(a) Upon the sale, conveyance, or transfer of title of the rehabilitated and mortgaged real property under this program during the NMHC affordability period, NMHC will enforce the terms of recapture set forth in the HOME Commitment Letter and reinforced with recorded deed restrictions or land covenants. Upon sale of the home and enforcement of the recapture provisions, the NMHC affordability period will terminate.

(b) At the sole discretion of the NMHC, a title transfer will only be permitted through the laws of descent or through a loan assumption, or upon selling the property, provided that NMHC have been properly informed and the same have consented to such sale. If, should any of these occur, one must submit his/her intention of loan assumption or selling of the property and request for the NMHC Board's approval for the transfer of title.

Furthermore, if the title changes hands through the laws of descent during the NMHC affordability period, the NMHC affordability period may not terminate and will continue with the new homeowner if the new homeowner satisfies the HOME eligibility requirements. The new homeowner may assume the HOME loan and the NMHC affordability period if the new homeowner meets the HOME eligibility requirements.

If the title changes hands through the laws of descent during the NMHC affordability period and the new homeowner does not meet the HOME eligibility requirements, NMHC will enforce the terms of recapture set forth in the HOME Commitment Letter and reinforced with recorded deed restrictions or land covenants. Upon enforcement of the recapture provisions, the NMHC affordability period will terminate.

Part 800 - Assumption

§ 100-100.2-801 Loan Assumption

(a) Death of a Borrower—Immediately upon notification to NMHC of a borrower's death, the surviving borrower or a family member of the borrower(s) shall complete a deceased borrower's report and/or submit a copy of the death certificate.

(1) Upon the death of a borrower, the entire unpaid balance of the loan shall be immediately due and payable. NMHC shall instruct its collection attorney to file a claim against the estate; or (2) For those accounts covered with a mortgage life insurance, or where the borrower assigns his/her life insurance to NMHC, NMHC shall ensure that it files its claim with the insurance company to ensure that the outstanding balance including the principal, interest, insurances, late fees, and any other fees due to the account is paid off; or

(3) In situations where there exists a surviving borrower, the same may submit a request to maintain the current monthly payment as scheduled without having the account sent for legal collection; or

(4) If both borrowers are deceased, then NMHC may allow for an assumption of the loan by the heir(s) as indicated in the probate decree (which shall be provided to NMHC).

(i) This assumption exception is permitted where transfer of title is through the laws of descent provided that the heir is of legal age, meets all HOME Program eligibility requirements and has a full, undivided interest in the real property. The heir will be required to fill out an application and execute a mortgage update and will be subject to a credit, income, and asset verification just like a new applicant.

(ii) The heir or heirs of the deceased will be responsible in maintaining the account current as they await the probate decree. Once they are in receipt of the decree, they must submit it to NMHC so that NMHC will prepare the loan assumption agreement.

(b) Foreclosure Prevention

(1) In situations where a foreclosure is imminent, the NMHC may allow a borrower to have a HOME eligible immediate relative (i.e., mother, father, brother, sister, son, daughter) assume the loan, all for the purpose of preserving the affordability period. The total outstanding balance thereof shall be fully amortized at the original interest rate and terms to produce equal monthly payments.

(2) If the HOME eligible immediate relative assuming the loan cannot afford the repayment of the loan at its original rate and terms, NMHC may but is not required to waive that requirement and extend an additional term of up to a period of five years or sixty months to the existing term.

(c) Foreclosure—Should NMHC determine the borrower(s) or family member's absolute inability to repay the loan, then it shall sell the property to recover all assistance provided. Recapture provision shall take place. See § 100-100.2-505 for guidance on foreclosures and § 100-100.2-601 for guidance on recapture.

Part 900 - Financial Hardship

§ 100-100.2-901 Financial Hardship Assistance

(a) Reduction-In-Force—Monthly loan payments may be deferred for a period of up to twelve months. Interest and late charges would not accrue. Thereafter, interest rate will be reduced by 50% for a period of up to sixty months. If this approach is still deemed unaffordable, the current term with the new interest rate may be extended and re-amortized with an additional sixty months.

(b) Reduction in Pay—Interest rate may be reduced by 50% for a period of up to twenty-four months. If this approach is still deemed unaffordable, the current term with the new interest rate may be extended and re-amortized with an additional sixty months.

(c) Family Medical Emergency—Monthly loan payments may be deferred for a period of up to twenty-four months. Interest and late charges would not accrue. The current term may be extended and re-amortized with an additional sixty months.

(d) Medical Condition or Disability Assistance—Provided to borrower(s) who, after obtaining HOME rehabilitation assistance become physically or mentally disabled and are certified by a physician to be incapable of resuming work. The assistance may be conducted in the following manner:

- (1) Borrower(s) are to submit a doctor's certification certifying their incapability to resume work.
- (2) Borrower(s) outstanding loan balance may be converted to a grant.

(e) Drastic Increase in Cost of Living—Interest may be waived for a period of up to twenty-four months. If this approach is still deemed unaffordable, the current term may be extended and re-amortized with an additional sixty months.

(f) Natural Disaster,

(1) Monthly loan payments may be deferred for a period of up to six months in the event of a natural disaster, such as fire, typhoon, earthquake, flood, and outbreak/pandemic. Final decisions regarding requested deferments shall be made by the Corporate Director. Interest and late charges shall not accrue during deferment.

(2) Borrowers may be eligible for a deferment upon written request accompanied by acceptable evidence of negative impact caused by natural disaster. Further, in order to qualify for a deferment, the borrower's loan and hazard insurance must be up to date.

(g) Other Hardships and Exceptions—Any other claimed financial hardship outside of the aforementioned eight listed hardships, as well as exceptions on a case-by-case basis, shall be brought to the Board for review and decision.

Part 1000 - Direct and Deferred Loans

§ 100-100.2-1001 Direct/Deferred Loans Assistance (Combination Loan)

(a)(1) Deferred loan assistance will no longer be provided. However, to further assist our economically-disadvantaged families, NMHC may make available direct loan/grant assistance instead (See § 100-100.2-220).

(2) The following provision in this section alone refers only to existing deferred loan clients.

(b) Annual Recertification of Existing Deferred Home Loan Borrowers

(1) Existing borrowers whose loans have been partially or entirely deferred prior to or on December 31, 2007, shall continually be recertified annually for principal residency requirement; but all existing deferred home loan borrowers shall cease to be recertified for financial and eligibility requirement purposes. This provision shall apply and be made effective after each borrower(s) has/have been recertified for his/her/their last annual recertification due date and completed prior to or on the official adoption date of these policies and procedures; and shall therefore be considered the last and final financial and eligibility recertification.

(c) If at any time during the fifteen years following the effective date of the loan and mortgage documents or the completion of the rehabilitation and repair work, whichever is longer, borrower decides to sell, transfer, lease, or rent the house and/or property, or any portion thereof, NMHC will enforce the terms of recapture set forth in the HOME Commitment Letter and reinforced with recorded deed restrictions or land covenants. Upon sale of the home and enforcement of the recapture provisions, the NMHC affordability period will terminate. Part 600 provides more guidance on enforcing recapture requirements.

(d) Annual re-certification for elderly borrowers shall be conducted solely to ensure that residence and occupancy requirements are being met.

(e) NMHC shall prepare the release of mortgage after borrowers have fully complied with the terms of the homeowner rehabilitation assistance including the NMHC affordability period and principal residency requirements.

Modified, 1 CMC § 3806(a), (c), (e)-(g).

Part 1100 Ethics

§ 100-100.2-1101 Conflict of Interest

(a) Under no circumstances shall any immediate family members (whether by blood, marriage or adoption), spouse, parent (including a stepparent), child (including a stepchild), brother, sister (including a stepbrother or stepsister), grandparent, grandchild, and in-laws of a covered person, elected or appointed official of the CNMI government, NMHC's Board of Directors, its officers, agents, and employees participate in any HOME assisted project or activity; or, shall obtain a financial interest or financial benefit from a HOME-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to the HOME-assisted activity, or the proceeds from such activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter. Other provisions in 24 C.F.R. § 92.356 shall also apply.

(b) Exceptions: Threshold requirements. Upon the written request of the participating jurisdiction, HUD may grant an exception to the provisions above on a case-by-case basis when it determines that the exception will serve to further the purposes of the HOME Investment Partnerships Program and the effective and efficient administration of the participating jurisdiction's program or project. An exception may be considered only after the participating jurisdiction has provided the following:

- (1) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
- (2) An opinion of the participating jurisdiction's or state recipient's attorney that the interest for which the exception is sought would not violate state or local law.

(c) Factors to be considered for exceptions. In determining whether to grant a requested exception after the participating jurisdiction has satisfactorily met the requirements mentioned above, HUD will consider the cumulative effect of the following factors, where applicable:

- (1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;
- (2) Whether the person affected is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
- (3) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question;
- (4) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (c) of this section;
- (5) Whether undue hardship will result either to the participating jurisdiction or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
- (6) Any other relevant considerations.

Part 1200 - Miscellaneous

§ 100-100.2-1201 Acronyms Reference Section

[For Rehab & Homebuyer Policies and Procedures]

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

- (a) AIA—American Institute of Architects
- (b) AMI—Area Median Income
- (c) CD—Corporate Director
- (d) CFR—Code of Federal Regulations
- (e) CNMI—Commonwealth of the Northern Mariana Islands
- (f) CPSC—Consumer Product Safety Commission
- (g) DCD—Deputy Corporate Director
- (h) DEQ—Department of Environmental Quality
- (i) DPW—Department of Public Works
- (j) DTI—Debt-to-Income Ratio
- (k) EA—Environmental Assessment
- (l) GFE—Good Faith Estimate
- (m) HOME Program—U.S. HUD Homeownership Investment Partnerships Program
- (n) HQS—Housing Quality Standards
- (o) MCD—Mortgage Credit Division
- (p) MPS—Minimum Property Standards
- (q) MPV—Maximum Property Value
- (r) NAHA—National Affordable Housing Act
- (s) NEPA—National Environmental Policy Act
- (t) NMHC—Northern Marianas Housing Corporation
- (u) NTP—Notice to Proceed

- (v) PITI—Principal, Interest, Taxes, and Insurance
- (w) PJ—Participating Jurisdiction
- (x) PTI—Payment-to-Income Ratio
- (y) PTR—Preliminary Title Report
- (z) RER—Rehab Environmental Review
- (aa) RESPA—Real Estate Settlement Procedures Act
- (bb) SCRA—Service members Civil Relief Act
- (cc) SSI—Supplemental Security Income [Social Security]
- (dd) TCD—Time Certificates of Deposits
- (ee) TILA—Truth in Lending Act
- (ff) U.S. HUD—United States Department of Housing and Urban Development
- (gg) USDA RD—United States Department of Agriculture Rural Development
- (hh) USPAP—Uniform Standard of Professional Appraisal Practice
- (ii) VOE—Verification of Employment

§ 100-100.2-1205 Homeowner Rehabilitation Underwriting Guidelines and Referenced Sections

(a) Determining how much of a loan an applicant would be eligible for or if a loan can be extended is determined by the applicant(s) gross annual income, repayment ability, and credit worthiness. These could be found in §§ 100-100.2-205, 100-100.2-210, 100-100.2-220, 100-100.2-225, 100-100.2-230, and 100-100.2-350. An applicant(s) debt ratio should not exceed forty-five percent of their gross annual income. However, on a case-by-case basis, the debt ratio could be up to fifty-five percent provided that the applicant could still meet payment responsibilities.

(b) The minimum and maximum loan assistance can be found in § 100-100.2-201 including the type to be extended to an applicant(s) which are further explained in §§ 100-100.2-220, 100-100.2-225, and 100-100.2-230.

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

(c) The affordability restrictions that will be imposed on the property, a loan will only be extended to applicant(s) who will make their home-assisted unit their primary residence (see § 100-100.2-215(e)).

(d) Where it is applicable for homeowner rehabilitation, and in areas that are silent, the concepts, methodology and technical underwriting guidelines shall mirror NMHC's HOME Homebuyer Activities Policies and Procedures as outlined and detailed in Part 1200 § 100-100.1-1201 & § 100-100.1-1205 on Subsidy Layering.



Department of Finance

P.O. Box 5234 CHRB

Saipan, MP 96950

Phone: (670) 664-1100 / Fax: (670) 664-1115



PUBLIC NOTICE OF PROPOSED AMENDMENTS TO REGULATIONS to the DEPARTMENT OF FINANCE, DIVISION OF CUSTOMS SERVICE

INTENDED ACTION TO ADOPT THESE PROPOSED AMENDED REGULATIONS:

The Department of Finance – Division of Customs Service intends to amend the Customs Service Regulations, pursuant to the procedures of the Administrative Procedure Act (APA), 1 CMC § 9104(a). If adopted, these amendments will become effective ten days after the publication of a Notice of Adoption in the Commonwealth Register. 1 CMC §9105(b)

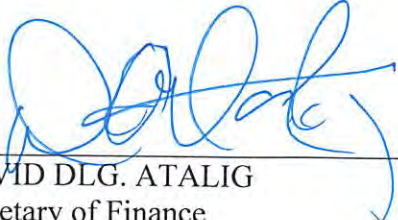
AUTHORITY: These amendments are promulgated under the authority set forth in the Commonwealth Code, including but not limited to 1 CMC §2553, 1 CMC §2557, 1 CMC §252021, 1 CMC §1104, 1 CMC §1402, 4 CMC §1425 and §1820.

THE TERMS AND SUBSTANCE: The purpose of the amendments to Customs Service Regulations Chapter 70-10 is to establish policy and procedures to implement and provide uniform enforcement of the laws of the Commonwealth of the Northern Mariana Islands administered by Customs; to require Customs to control imports of all articles, wares, or merchandise for the assessment and collection of taxes; and for the interception of harmful elements and other contraband.


DIRECTIONS FOR FILING AND PUBLICATION: These proposed amended regulations shall be published in the Commonwealth Register in the section on Proposed and Newly Adopted Regulations (1 CMC § 9102(a)(1)) and 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: Interested parties may submit written comments on the proposed regulations to David Dlg. Atalig, Secretary of Finance, via US mail to the Dept. of Finance, P O Box 5234 CHRB, or via hand-delivery to the Office of the Secretary of Finance, Capitol Hill, Saipan, MP. Comments, data, views, or arguments are due within 30 days from the date of publication in this notice. 1 CMC § 9104(a)(2)

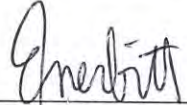
Department of Finance
P O Box 5234 CHRB Saipan, MP 96950
670-664-1100 info@dof.gov.mp


Submitted by: DAVID DLG. ATALIG
Secretary of Finance

7/15/2020
Date



Received by: MATHILDA. A. ROSARIO
Governor's Special Assistant
for Administration

07/22/2020
Date


File & Recorded by: ESTHER SN. NESBITT
Rehistran Commonwealth

07.23. 2020
Date

Pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3) 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, pursuant to 1 CMC § 2153(f).


EDWARD MANIBUSAN
Attorney General

7/23/2020
Date



Department of Finance

P.O. Box 5234 CHRB

Saipan, MP 96950

Phone: (670) 664-1100 / Fax: (670) 664-1115



NUTISIAN PUPBLIKU NI MANMAPROPONI NA REGULASION SIHA PARA I DIPATTAMENTON I FINANSIAT, DIBISION I CUSTOMS

NUTISIA PUT I AKSION NI MA'INTENSIONA: I Dipattamenton i Finansiat, Dibision i Customs (Customs) ma'apl'ueba i publikasion i tinattiyi na amendasion siha para iyo-niha Customs Service Regulations. Ma'intensiona para u ma'adapta esti siha na regulasion kumu petnanti, sigun para i Aktun Administrative Procedures, 1 CMC § 91 04(a). Kwnu ma' adapta, esti siha na regulasion siempri mu ifektibu gi Mlum dies (1 0) dihas dispues di publikasion nu i Nutisian i Adaptasion gi M.lum i Rehisl'an Commonwealth. (1 CMC § 9 105(b))

ATURIDAT: Esti na amendasion siha para u macho'gui gi papa' i aturidat ni mapega mona gi halum i Commonwealth Code iningklusi, lao ti chi-na para, 1 CMC § 2553, 1 CMC § 2557, 1 CMC § 25201, 4 CMC § 1 104, 4 CMC § 1402, 4 CMC § 1425 yan 4 CMC § 1 820.

I TEMA YAN SVST ANSIAN I P ALARRA SIHA: I intensiona i amendasion siha para i Customs Service Regulations Chapter 70-10 para u ma'estaplesi i policy yan i manera siha ni para u ma'implimenta ya mapribeni unifotmi na enforcement i lai I Commonwealth gi Sangkattan na Islas Marianas ni mamananea gi Customs; manisisita i Customs para u gubietna i imports i todun articles, fektus, pat kosas para i ibaluasion yan kuleksion i tax siha; yan para i inturumpi i piligru na elements yan otu contraband.

DIREKSION PARA V MAPO'LV YAN MAPUPBLIKA: Esti i manmaproponi na amendasion siha debi na u mapupblika gi hruum i Rehistran i Commonwealth gi halum i seksiona ni maproponi yan nuebu na ma'adapta na regulasion siha (1 CMC § 91 02(a)(1)) yan u mapega gi hlilum i kumbinienti na lugat gi halum civic center yan gi hruum ufisinin gubietnarnentu siha gi halum distritun senadot, parehu Englis yan gi lingguahln natibu (1 CMC § 9 104(a)(1)).

UPINON SIHA: I manintirisao na petsona siha sina manna'halum tinigi' upinon ni manmaproponi na regulasion siha para i Sekriwian i Finansiat, David Dlg. Atalig, via U.S. mail para Dipattamenton i Finansiat, P.O. Box 5234 CHRB, Saipan, MP 96950, pat intrega halum gi Ufisinin i Sekretarian Finansiat. I upinon, data, views, pat agumentu siha nisisita u fanhruum gi halum trenta (30) dihas ni tinattiyi gi fetchan kalendaru gi publikasion nu esti na nutisia. 1 CMC 91 04(a)(2).

Department of Finance
P O Box 5234 CHRB Saipan, MP 96950
670-664-1100 info@dof.gov.mp


Nina' halum as:



DAVID DLG. ATALIG
Sekritarian I Finansiiit

7/16/2020
Fetcha

Rinisibi as:



MATHILDA. A. ROSARIO
Ispisiat Na Ayudanti Para
Atministrasion

07/23/2020
Fetcha


Pine'lu yan
Ninota as:



ESTHER SN. NESBITT
Rehistran Commonwealth

07.23.2020
Fetcha

Sigun i 1 CMC § 2153(e) yan i 1 CMC § 9104(a)(3) i manmaproponi na regulasion siha ni manechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligat ginin i Abugadu Henerat CNMI yan debi na u mapupblika, 1 CMC § 2153(f).



EDWARD MANIBUSAN
Abugadu Henerat

7/23/2020
Fetcha



Department of Finance

P.O. Box 5234 CHRB

Saipan, MP 96950

Phone: (670) 664-1100/Fax: (670) 664-1115



ARONGORONGOL TOULAP REEL POMMWOL LIIWEL NGALI MWOGHUTUGHUTUL DEPATTAMENTOOL FINANCE, DIVISION OF CUSTOMS

ARONGORONG REEL MANGEMANGIL MWOGHUT: Depattamentool Finance, Division of Customs (Customs) re atirow reel akkateewowul liiwel kka e amwirimwirtiwi ngali Mwoghutughutul Customs Service. Re mangemangil rebwe adoptaali mwoghutughut kkal bwe ebwe lleghlo, sangi Administrative Procedure Act, 1 CMC § 9 104(a). Ngare re adoptaali, ebwe bwungulo liiwel kkal llo1 seigh ráál mwiril aal akkateewow reel Notice of Adoption llo1 Commonwealth register. 1 CMC § 9105(b).

BWANGIL: Liiwel kkal nge aa ffil reel ffeerul faal bwangil iye ebwe mmwetelo mmwal llo1 Commonwealth Code ebwe bwal aschuulong, nge ese yoor pilil ngali, 1 CMC § 2553, 1 CMC § 2557, 1 CMC § 25201. 4 CMC § 1104, 4 CMC § 1402, 4 CMC § 1425 me 4 CMC § 1820.


KKAPASAL ME AWEEWEL: Bwulul liiwel ngali Customs Service Regulations Chapter 70-10 nge ebwe itittiwi afal me mwoghut ngali peiragh me rebwe ayoora bwe ebwe weewelo enforcement reel alleghul Commonwealth me Teel Faluw kka Efang llo1 Marianas iye Customs re lemeli; re mwuschel bwe Customs rebwe lemeli kkosas ikka e toolong me faluw kka akkaaw reel alongal tappal kkosas, wares, ngare merchandise ngali assessment me collection reel tax; me bwal atippa mil kka e nngaw ngaliir aramas me akkaaw ikka esoor bwangil ngare e nngaw nge re bweibwoghlong.

AFAL REEL AMMWELIL ME AKKATEEWOWUL: Pommwol liiwel kkal nge ebwe akkateewow llo1 Commonwealth Register loll talil pommwol me ffil mwoghutughut kka ra adoptaali (1 CMC § 9102(a)(1)) me ebwe apascheta llo1 civic center me llo1 gobetnamento llo1 senatorial district, fengal reel kkasal English me mwaliyaasch (1 CMC § 9 104(a) (1)).

FOOS: Scho kka re mwuschel isiisilong iischil mangemang wool pommwol mwoghutughut kka rebwe isch ngali David Dlg. Atalig, Sekkretoriyal Finance, via U. S. Mail ngali Depattamentool Finance, P. O. Box 5234, CHRB, Seipel, MP 96950, ngare bwughilo reel Bwulasiyol Sekkretoriyal Finance, Asungul, Seipel, MP, Isiisilongol mangemang, data, views, ngare angiangi ebwe toolong llo1 eliigh (30) ráál mwiril aal a kateewow arongorong yeel. 1 CMC § 9 104(a) (2).

Department of Finance
P O Box 5234 CHRB Saipan, MP 96950
670-664-1100 info@dof.gov.mp

Isaliyalong:




DAVID DLG. ATALIG
Sekretoriyal Finance

7/16/2020

Ráál

Bwughiyal:

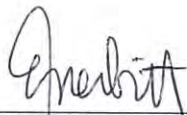


MATHILDA A. ROSARIO
Special Assistant ngali
Administration

07/22/2020

Ráál

Ammwelil:




ESTHER SN. NESBITT
Commonwealth Register *trw*

07-23-2020

Ráál

Sangi 1 CMC §2153 (e) me 1 CMC § 9104(a)(3) reel pommwol mwoghutughut ikka e appasch bwe ra takkal amwuri fischiiy me atirowa bwe aa ffil reel ffeerul me legal sufficiency sangi Soulemelemil Allegh Lapalap CNMI me ebwe akkateewow. 1 CMC § 2153(f).



EDWARD MANIBUSAN
Soulemelemil Allegh Lapalap

7/23/2020

Ráál

Proposed Amendments as follows:

§ 70-10.1-050 Definitions

ADD Cannabis & Marijuana

“Cannabis” means all parts of the plant of the genus cannabis, the seeds thereof, and every compound, manufacture, salt derivative, mixture, or preparation of the plant and its seeds whether growing or not, regardless of moisture content. With the exception of cannabis extracts intended for consumption, “cannabis” does not include items containing delta-9 tetrahydrocannabinol (THC) concentration of no more than three-tenths of one percent (0.3%). Cannabis extracts intended for consumption include cannabidiol, or “CBD”, in any consumable form including, but not limited to, oils, tinctures, capsules, pills, and edibles.

“Marijuana” means all parts of the plant of the genus cannabis, the seeds thereof, and every compound, manufacture, salt derivative, mixture, or preparation of the plant and its seeds whether growing or not, regardless of moisture content, other than marijuana extracts. “Marijuana” does not include hemp, nor does it include fiber produced from the stalks, oil or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

“Terminal operator” means a firm that owns, leases or operates a facility that receives, processes and staging of passengers; the receipt, transit, storage and marshalling of cargo; the loading and unloading of modes of transport conveyances; and the manifesting and forwarding of cargo and passengers to destination.

REDEFINE Customs Jurisdictions

~~Customs Jurisdiction: All compounds of all official ports of entry listed in subsection (mm) shall be under the jurisdiction of the Customs Service for clearance purposes in international travel. Customs jurisdiction shall also extend to all U.S. post offices located within the CNMI pursuant to agreement between the U.S. Postal Service and the Commonwealth.~~

The jurisdiction of the Customs Service shall include all official customs points of entry into the Commonwealth and points of exit out of the Commonwealth, including the

compounds thereon, as well as any future official customs points of entry that may be established from time to time. Customs jurisdiction also extends to:

- (1) all U.S. post offices located within the CNMI;**
- (2) all points of entry and exit within and between the islands of the Commonwealth and within 200 miles of the shoreline of any island of the Commonwealth;**
- (3) destinations inside the Commonwealth, as provided in 6 CMC § 2304, where Customs Service discovers or has probable cause to believe that contraband has entered the Commonwealth; and**
- (4) K-9 unit screenings for the purpose of detecting illegal drugs and other contraband at all seaports and airports within the Commonwealth including all inter-island outgoing and incoming commuter flights as well as incoming and outgoing water crafts.**

REDEFINE Official Customs Points of Entry

(1) All vessels and aircraft on international travel and authorized entry into the customs territory of the Commonwealth must enter and obtain customs clearance from any of the following official customs ports of entry:

- (i) Saipan. The primary official customs ports of entry on the island of Saipan are Tanapag Harbor (Charlie Dock) and Isley Field (Saipan International Airport) and U.S. Post Office or other Postal Service Facilities. The secondary official customs ports of entry on the island of Saipan are Sugar Dock, Baker Dock, Smiling Cove, and Garapan Fishing Complex.
- (ii) Rota. The official customs ports of entry on the island of Rota are the Harbor (West Dock) and Rota International Airport and U.S. Post Office or other Postal Service Facilities.
- (iii) Tinian. The official customs ports of entry on the island of Tinian are the Harbor and West Tinian Airport and U.S. Post Office or other Postal Service Facilities.

Extended official customs points of entry are authorized points of entry, determined by the Customs Division, and shall also include but not limited to terminal operator and freight forwarder business locations.

(2) A vessel or aircraft in distress may anchor or land at any port in the Commonwealth but shall immediately notify the nearest Customs Service office for immediate Customs clearance.

REDEFINE Tobacco or Tobacco Substitute or Chewable Tobacco Product

~~Tobacco or Tobacco Substitute or Chewable Tobacco Product: Shall mean all tobacco products other than cigarettes, which includes any smokable, chewable, and snuffable tobacco substances.~~

Tobacco Products, Tobacco Substitutes, and Smokable Substances: Means all tobacco products, other than cigarettes, and any smokable substances, materials or products intended to create smoke, fumes, or vapor for inhalation and exhalation upon burning or heating. Tobacco products include: all smokable tobacco, other than cigarettes; chewable tobacco; snuffable tobacco; and vaporizer liquids containing nicotine. Smokable substances include: vaporizer liquids not containing nicotine; smokable hemp products; and any herbs intended for smoking.

§ 70-10.1-105 Rates

- **ADD Cannabis and Marijuana 15% ad valorem**
- **RENAME “Tobacco/Tobacco Substitute” “Tobacco Products, Tobacco Substitutes, and Smokable Substances”**

70-10.1-115 Non-business Use Exemption

~~(e) Tobacco, Tobacco Substitute, or Chewable Tobacco Product Nonbusiness Use.~~

(c) Tobacco Products, Tobacco Substitutes, and Smokable Substances Nonbusiness Use.

~~(1) Except as otherwise provided, arriving passengers may bring for personal use and consumption exempt from the excise tax, an amount of tobacco or tobacco substitute, or chewable tobacco product or other smokable or snuffable substance, material or product other than cigarettes, not to exceed one pound, provided that such substance, material or product is not contraband~~

(1) Except as otherwise provided, arriving passengers may bring for personal use and consumption exempt from the excise tax, an amount of smokable tobacco, chewable tobacco, snuffable tobacco, and other smokable substances, other than cigarettes and vaporizer liquids, not to exceed one pound, provided that such substance, material or

product is not contraband. For vaporizer liquids, whether containing nicotine or not, arriving passengers may bring for personal use and consumption exempt from the excise tax, an amount not to exceed 300 milliliters or 10.14 fluid ounces.

§ 70-10.1-301 Master's Responsibilities; Arrivals

(c) Boarding of Vessels and Aircraft. The customs agent may board and examine any vessel or aircraft arriving in the Commonwealth at a **point** of entry when it is necessary to carry out the provisions of applicable laws of the Commonwealth, or any rule or regulation promulgated thereunder and require the master or captain thereof to exhibit for examination by the customs agent the manifest or any documents or papers, or any trunk, package or cargo on board, or any compartment, storage area, cabin, galley, cockpit, lavatory, or any section of the vessel or aircraft. The master or captain of the carrier shall ensure the safety of the customs employees from the time of boarding the vessel or aircraft until such employees disembark.

NEW / Proposed language for new section

§ 70-10.1 -537 545 - Extended Points of Entry

- (a) **In General.** The Director shall have the authority to classify places in the Commonwealth as extended points of entry in order to ensure effective enforcement of chapter 4, division 1, of title 4 of the Commonwealth Code, the Controlled Substance Act, the Weapons Control Act, the Anti-Drug Enforcement Act of 1991, and other laws and regulations enforced at the points of entry.
- (b) **Extended Points of Entry.** Extended points of entry are authorized locations, such as terminal operator and freight forwarder warehouses, that receive, store, or maintain custody of cargo pending Customs clearance.
- (c) **Requirements.** For an extended point of entry location, the responsible party must submit a plan, subject to the approval of the Director, outlining security measures taken to prevent loss, theft, or unapproved release of cargo. The plan should include:
- (1) A risk assessment identifying areas that pose security threats, vulnerabilities to crimes, accidents and/or natural disasters, and measures taken to address any

vulnerabilities, such as installing window shutters, locks, motion detectors, alarms, closed circuit television systems (CCTV), etc.;

(2) Policies for providing staff training on cargo release procedures and related security measures;

(3) Measures for ensuring adequate lighting, which may include installing security lighting if necessary. For example, motion-sensitive lighting may be necessary to ensure that individuals cannot enter and exit the premises undetected and to permit CCTV surveillance; and

(4) Any other information relating to alarm systems, plans for on-site security personnel, and any other security measures.



Commonwealth of the Northern Mariana Islands
Office of the Attorney General

2nd Floor Hon. Juan A. Sablan Memorial Bldg.
Caller Box 10007, Capitol Hill
Saipan, MP 96950

EDWARD MANIBUSAN
Attorney General

LILLIAN A. TENORIO
Deputy Attorney General

OAG 20-01

July 23, 2020

Subject: Encroachment on Public Shorelines

Agency: Department of Public Lands

Opinion of the Attorney General

I. QUESTIONS PRESENTED

- 1. Can the Department of Public Lands allow construction on public lands within 150 feet of the shore's high water mark?
2. If a person encroaches on public lands within 150 feet of the shore's high water mark by construction, what remedies are available to the Department of Public Lands?

II. SHORT ANSWER

- 1. As a general rule, DPL cannot allow permanent construction on public lands within 150 feet of the shore's high water mark. DPL may only allow permanent construction on such lands if that construction is for a public purpose.
2. DPL cannot charge fees or fines, or provide permits, because these remedies implicitly grant an interest in the underlying public lands. DPL may prohibit the construction from occurring, or require the construction to be removed. Alternatively, DPL may allow permanent construction for a public purpose. Permanent construction could therefore be allowed if that construction was transferred to DPL and that it is used solely for public purposes.

III. BACKGROUND

When the Constitution of the Commonwealth of the Northern Mariana Islands ("CNMI Constitution") was ratified in 1977, it created the Marianas Public Lands Corporation ("MPLC").1 The MPLC was established to act as a steward of DPL's public lands for the benefit of people of Northern Marianas descent within the context of several constitutional restrictions.2

1 NMI Const. art. XI, § 4.
2 NMI Const. art. XI, §§ 4-5.

These restrictions included a prohibition on MPLC's transfer of any interest in public lands within 150 feet of the shore's high water mark ("public shoreline").³

The MPLC had a limited constitutional lifespan, and was dissolved in 1994.⁴ Its responsibilities were succeeded by the Board of Public Lands, the Marianas Public Lands Authority, and then the Department of Public Lands ("DPL").⁵ These entities inherited the MPLC's fiduciary responsibilities to people of Northern Marianas Descent ("NMDs").⁶

In 2010, Article XI, Section 5 was found to be constitutionally inoperative by the Commonwealth's Supreme Court.⁷ However, many of the limitations formerly placed on the MPLC by Article XI, Section 5 of the CNMI Constitution have been re-enacted as statutes and apply to DPL.⁸ The prohibition on transferring any interest in public shoreline and power to prohibit the construction of permanent structures on public shoreline are among these re-enacted restrictions.⁹ Nevertheless, DPL may authorize the construction of permanent structures for a public purpose.¹⁰

In recent years, DPL has discovered encroachments into public shoreline by various private entities. DPL has inquired as to the scope of both the restriction and DPL's remedies.

IV. ANALYSIS

1. DPL may not transfer any interest in public shorelines, and may only allow permanent construction on public shorelines for a public purpose.

The original prohibition on transferring interests in public shoreline was contained in Article XI, Section 5 of the CNMI Constitution.¹¹ This section is no longer constitutionally operative.¹² Thus, this prohibition no longer has a constitutional dimension.

Nevertheless, 1 CMC § 2806 currently prohibits DPL from transferring any interest in public shoreline. It also gives DPL the power to prohibit permanent construction on public shoreline.¹³ DPL may only allow permanent construction on public shoreline when that construction is for a public purpose.¹⁴

³ NMI Const. art. XI, § 5(e).

⁴ See NMI Const. art. XI, § 4(f); Exec. Order 94-3.

⁵ See P.L. 15-2 (2006); P.L. 12-71 (2001); P.L. 12-33 (2000); P.L. 10-57 (1997).

⁶ See *DPL v. Commonwealth*, 2010 MP 14 ¶ 12.

⁷ *Id.* ¶ 23.

⁸ Compare NMI Const. Art XI, § 5 with 1 CMC § 2806.

⁹ 1 CMC § 2806(e) ("The Department may not transfer an interest, and may prohibit the erection of any permanent structure, in public lands located within 150 feet of the high water mark of a sandy beach, except that the Department may authorize the construction of facilities for public purposes")

¹⁰ *Id.*

¹¹ NMI Const. art. XI, § 5(e).

¹² *DPL v. Commonwealth*, 2010 MP 14 ¶ 23.

¹³ 1 CMC § 2806(e)

¹⁴ *Id.*

If a statute's language is clear and unambiguous, then that language must be given its plain meaning.¹⁵ Here, 1 CMC § 2806(e) – like Article XI, Section 5 before it – is clear in its statement of what is prohibited and what is allowed.¹⁶ DPL must therefore follow the statute's plain language:

- DPL may not transfer any interest in public lands within 150 feet of the shore's high water mark.
- DPL may prohibit permanent construction on public lands within 150 feet of the shore's high water mark.
- DPL may allow permanent construction if that construction is for a public purpose.

2. DPL may require the encroaching construction to be removed or to be dedicated to a public purpose.

As discussed, 1 CMC § 2806(e) prohibits DPL from transferring “any interest” in public shoreline, generally allows DPL to prohibit “permanent construction” on public shoreline, and allows DPL to approve of permanent construction if that construction is for a public purpose.¹⁷ These limitations and language originate in Article XI, Section 5 of the CNMI Constitution.¹⁸ Thus, despite the Commonwealth's Supreme Court's determination that Article XI, Section 5 is constitutionally inoperative,¹⁹ it is appropriate to examine the policy that animates these restrictions. These policies are contained in the fifth recommendation made to the CNMI constitutional convention by the Committee on Personal Rights and Natural Resources (the “Committee Report”).²⁰

The Committee Report explains that the restrictions adopted in Article XI, Section 5(e) are being adopted to “protect[] the availability of sandy beaches.”²¹ They further explain that this policy exists to support both the Commonwealth's commercial interest in tourism and the interests of the Commonwealth's people in accessing important nature resources.²² These concerns remain equally important now that the prohibition on transfers is contained in a statute, rather than the CNMI Constitution. Thus, any enforcement of the prohibitions of 1 CMC § 2806(e) should be pursued with a preference toward ensuring open public access to public shorelines, for both tourists and CNMI residents.

¹⁵ *Ishimatsu v. Royal Crown Ins. Corp.*, 2013 MP 2 ¶ 4.

¹⁶ Compare NMI Const. Art XI, § 5 with 1 CMC § 2806.

¹⁷ 1 CMC § 2806(e) (“The Department may not transfer an interest, and may prohibit the erection of any permanent structure, in public lands located within 150 feet of the high water mark of a sandy beach, except that the Department may authorize the construction of facilities for public purposes”)

¹⁸ Compare NMI Const. Art XI, § 5 with 1 CMC § 2806.

¹⁹ *DPL v. Commonwealth*, 2010 MP 14 ¶ 23.

²⁰ See Committee Recommendation No. 5, Committee on Personal Rights and Natural Resources (Nov. 4, 1976), reprinted in 2 Journal of the Northern Marianas Constitutional Convention 523 (1976) (hereinafter “Committee Report”). See also *DPL v. Commonwealth*, 2010 MP 14 ¶ 22 (analyzing Article XI, Section 5 based on the Committee Report).

²¹ Committee Report at 15.

²² *Id.*

As a general rule, DPL addresses encroachment on public lands by charging the trespasser a fee in lieu of rent and allowing encroachment on that basis.²³ After paying the fee, the encroaching party's encroachment is retroactively allowed for the period covered by the fee.²⁴ This licenses the encroachment, and thereby grants a temporary interest in the property being encroached upon to the encroacher. It is consequently not allowable under 1 CMC § 2806(e).²⁵

Similarly, other means of allowing non-public permanent construction to remain would violate 1 CMC § 2806(e) – the owner of the construction's interest in their building and the public's inability to use the property creates an implicit—though illegitimate—interest in the property on which that construction sits. Thus, DPL's primary remedy is to use its power to prohibit encroachment by permanent construction to stop such construction from occurring.²⁶ If this is impossible, then DPL can require that the offending construction be removed.²⁷

Finally, in the event that DPL does not wish to have the construction removed, DPL can require that it be dedicated to public purposes.²⁸ At a minimum, this would require that ownership of the construction be transferred to DPL. Further steps would depend on the nature of the encroaching construction – a pavilion or dock might merely require removal of impediments to or charges for use. In contrast, a boathouse or other area that could easily be controlled by the original owner might require additional safeguards. This judgment would need to be made by DPL based on the nature of the encroaching construction.

V. CONCLUSION

DPL may not transfer any interests in public lands, including charging fees or permits. It may instead prohibit permanent construction, or require that such construction be removed. Nevertheless, since DPL may allow construction for public purposes, otherwise impermissible permanent construction may be allowed to remain if it becomes public – the transfer of ownership rights to DPL and opening of access to the public.


EDWARD MANIBUSAN
Attorney General

²³ See NMIAC § 145-70-210(j)(1) (setting the fee for encroachment at “8% of the estimated fair market value or 3% of gross receipts if this amount is greater than the annual permit fee.”)

²⁴ See *id.* at (j)(2) (referring to the encroachment fee as an “annual fee.”)

²⁵ See 1 CMC § 2806(e) (prohibiting the transfer of “any interest” in public shorelines). The Attorney General expresses no opinion on whether a purely punitive fine not accompanied by any occupancy rights would be consistent with the limitations of 1 CMC § 2806(e).

²⁶ *Id.* (allowing DPL to prohibit the erection of a permanent structure encroaching on public lands).

²⁷ *Cf.* 1 CMC §§ 2801 (giving DPL the power to “administer” public lands), 2806(e) (allowing DPL to prohibit construction on public shorelines). DPL's statutes and regulations are currently silent on who must bear the cost of this removal.

²⁸ See 1 CMC § 2806(e)