

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



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**COMMONWEALTH REGISTER**

**VOLUME 42  
NUMBER 12  
DECEMBER 28, 2020**

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# COMMONWEALTH REGISTER

VOLUME 42  
NUMBER 12  
DECEMBER 28, 2020

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# Commonwealth Healthcare Corporation

Commonwealth of the Northern Mariana Islands  
1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950



## PUBLIC NOTICE OF EMERGENCY REGULATIONS

### WHICH ARE COVID-19 VACCINATION AND TREATMENT FEE AMENDMENTS TO THE COMMONWEALTH HEALTHCARE CORPORATION'S CHARGEMASTER

EMERGENCY ADOPTION AND IMMEDIATE EFFECT: The Commonwealth Healthcare Corporation (hereinafter "CHCC") of the Northern Mariana Islands, finds that:

- (1) the attached rules and regulations regarding COVID-19 fee amendments to the CHCC Chargemaster shall be adopted immediately on an emergency basis because the public interest so requires, for the reasons stated below (1 CMC § 9104(b), (c); 1 CMC § 9105(b)(2)); and
- (2) the same rules and regulations shall be adopted, after a proper notice and comment period, as permanent regulations pursuant to the attached Notice of Proposed Rules and Regulations and the Administrative Procedure Act, 1 CMC § 9104(a) and will be published at NMIAC 140-10.8-101.

AUTHORITY: The Board of Trustees may prepare and adopt rules and regulations to assure delivery of quality health care and medical services and the financial viability of the Corporation that will best promote and serve its purposes. 3 CMC Section 2826(c).

The Administrative Procedure Act provides that an agency may adopt an emergency regulation upon fewer than 30 days' notice if it states its reasons in writing:

- (b) If an agency finds that the public interest so requires, or that an imminent peril to the public health, safety, or welfare requires adoption of a regulation upon fewer than 30 days' notice, and states in writing its reasons for that finding, it may, with the concurrence of the Governor, proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, to adopt an emergency regulation. The regulation may be effective for a period of not longer than 120 days, but the adoption of an identical regulation under subsections (a)(1) and (a)(2) of this section is not precluded.

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(c) No regulation adopted is valid unless adopted in substantial compliance with this section.

1 CMC § 9104(b), (c).

**THE TERMS AND SUBSTANCE:** These Rules and Regulations provide for new fees related to COVID-19 vaccinations and treatment option (Monoclonal Antibodies) and one other fee for the CHCC Chargemaster.

**THE SUBJECTS AND ISSUES INVOLVED:** COVID-19 vaccinations and treatment option (Monoclonal Antibodies) and one other fee, amendments to the CHCC Chargemaster to provide for corrections to fees already promulgated.

**ADOPTION OF EMERGENCY REGULATIONS FOR 120 DAYS:** The Corporation has followed the procedures of 1 CMC § 9104(b) to adopt these Proposed Regulations on an emergency basis for 120 days.

**REASONS FOR EMERGENCY ADOPTION:** The CHCC finds that the public interest requires adoption of these regulations on an emergency basis, for the following reasons:

1. These are new fees that are related to COVID-19 vaccinations and treatment with Monoclonal Antibodies that could not have been anticipated as they were only just created and became available. The pandemic is costing CHCC a lot of money and it needs to have these fees adopted so the insurance companies and Medicaid and Medicare can be billed for these essential services to keep the CHCC population healthy and to treat those who become sick.

**DIRECTIONS FOR FILING AND PUBLICATION:** These Proposed Emergency Rules and Regulations shall be published in the Commonwealth Register in the section/s on emergency and proposed regulations (*see* 1 CMC § 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each senatorial district (1 CMC § 9104(a)(1)) and will be codified at NMIAC Sections 140-10.8-101.

The CEO shall take appropriate measures to make these Rules and Regulations known to the persons who may be affected by them (1 CMC 9105(b)(2)).

**IMMEDIATE EFFECT:** These Emergency Rules and Regulations become effective immediately upon filing with the Commonwealth Register and delivery to the Governor. (1 CMC § 9105(b)(2)) This is because the CHCC has found that this effective date is required by the public interest or is necessary because of imminent peril to the public health, safety, or welfare. (*Id.*)

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TO PROVIDE COMMENTS: Regulations. However, the related Notice of Proposed Rules and Regulations will specify comment procedures. Please see the notice regarding these emergency regulations being presented as proposed regulations, in the April 2020 Commonwealth Register.

These emergency regulations were approved by the CHCC on 22 day of December, 2020.

Submitted by:  12/22/2020  
ESTHER L. MUNA Date  
Chief Executive Officer

 12/20/2020  
LAURI B. OGUMORO Date  
Chair, CHCC Board of Trustees


Received by:  12/28/2020  
MATHILDA A. ROSARIO Date  
Special Asst. for Administration

Concurred by:  12/28/2020  
RALPH DLG. TORRES Date  
Governor

Filed and Recorded by:  12/24/20  
ESTHER SN. NESBITT Date  
Commonwealth Register <sup>rar</sup>

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

Dated the 24<sup>th</sup> day of December, 2020.

  
EDWARD E. MANIBUSAN  
Attorney General

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CPT	MOD	Description	Reason for change	New Price	Comments
81229		CYTOGENOM CONST MICROARRAY COPY NUMBER & SNP VAR	NEW	\$ 3,480.00	
91300		SARSCOV2 VACCINE DIL RECON 30 MCG/0.3 ML IM USE	NEW	\$ -	Pfizer-Biontech Covid-19 Vaccine. A fee will be assigned once Medicare identifies the reimbursement rate.
91301		SARSCOV2 VACCINE 100 MCG/0.5 ML IM USE	NEW	\$ -	Moderna Covid-19 Vaccine. A fee will be assigned once Medicare identifies the reimbursement rate.
0001A		IMM ADMN SARSCOV2 30MCG/0.3ML DIL RECON 1ST DOSE	NEW	\$ 50.82	
0002A		IMM ADMN SARSCOV2 30MCG/0.3ML DIL RECON 2ND DOSE	NEW	\$ 85.17	
0011A		IMM ADMN SARSCOV2 100 MCG/0.5 ML 1ST DOSE	NEW	\$ 50.82	
0012A		IMM ADMN SARSCOV2 100 MCG/0.5 ML 2ND DOSE	NEW	\$ 85.17	
Q0239		INJECTION, BAMLANIVIMAB, 700 MG	NEW	\$ -	A fee will be assigned once Medicare identifies the reimbursement rate.
M0239		INTRAVENOUS INFUSION, BAMLANIVIMAB	NEW	\$ 928.80	



# NORTHERN MARIANAS HOUSING CORPORATION

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

Email: [nmhc@nmhc.gov.mp](mailto:nmhc@nmhc.gov.mp)

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

Tels: (670) 234-9447

234-6866

234-7670

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## PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF REGULATIONS OF The Northern Marianas Housing Corporation

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER  
AS PROPOSED REGULATIONS

Volume 42, Number 07, pp. 043782-043855 of July, 2020

**ACTION TO ADOPT PROPOSED REGULATIONS:** The Northern Marianas Housing Corporation (NMHC) 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 (APA), 1 CMC § 9104(a). The NMHC announced that they intended to adopt these regulations as permanent, and now do so. I also certify by signature below that: as published, Adopted Regulations are a true, complete, and correct copy of the referenced Proposed, and they are being adopted without any modifications.

**PRIOR PUBLICATION:** The prior publication was as stated above.

### **MODIFICATIONS FROM PROPOSED REGULATIONS; FOR HOME PROGRAM HOMEBUYER ACTIVITIES:**

§ 100-100.1-001 Introduction, Subpart (e)(3) language modification and clarification;

Added new § 100-100.1-310 as reserved;

§ 100-100.1-740 Security, Subpart (b), additional language on written agreement to include refinancing guidelines;

§ 100-100.1-740 Security, Subpart (e), new subpart to expand on refinancing guidelines;

§ 100-100.1-1101 Performing New Construction Work, Subpart (g) Inspector & (h) Minimum Property Standards, language modification and clarification.

### **HOMEOWNER REHABILITATIONS:**

§ 100-100.2-001 Introduction, Subpart (b) language modification and clarification;

§ 100-100.2-201 Loan Amount, Subpart (a), minimum and maximum loans, additional language to support section;

§ 100-100.2-215 Property Eligibility, Subpart (b); additional language and regulation citations to support HOME Written Rehabilitation Standards;

§ 100-100.2-360 Homeowner Counseling Session, Subpart (a), additional language to expand on NMHC's homebuyer education and counseling program and requirements;

§ 100-100.2-1101 Conflict of Interest, Subpart (a) language modification and clarification.

**AUTHORITY:** The Northern Marianas Housing Corporation is empowered by the Legislature with the authority to adopt and modify rules and regulations for the administration and enforcement of its housing programs. 2 CMC § 4433(i).

**THE TERMS AND SUBSTANCE:** The Adopted Regulations represent a substantial revision to the HOME Program Regulations and are in conformity with NMHC's obligation to operate the HOME Program consistent with the policies in 2 CMC §§ 4433(i) and (j).

**DIRECTIONS FOR FILING AND PUBLICATION:** These 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).

**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 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 agency shall consider all written submissions respecting the Proposed Regulations. No written comments were submitted to NMHC on the Proposed Regulations.

**ATTORNEY GENERAL APPROVAL:** The Adopted Regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC § 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).

The Adopted Regulations were approved by the Northern Marianas Housing Corporation through the approval of the Board of Directors during its meeting on July 30<sup>th</sup>, 2020, and the Board of Directors was authorized to promulgate these regulations on behalf of the Northern Marianas Housing Corporation.


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

Certified and ordered by:

  
FRANK LEE BORJA  
Acting Chairperson  
Board of Directors

12/14/20  
Date


Filed and  
Recorded by:

  
ESTHER SN. NESBITT  
Commonwealth Registrar

12.17.2020  
Date

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

Dated this 16 of December, 2020.

  
EDWARD MANIBUSAN  
Attorney General

**TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION**

**SUBCHAPTER 100-100.2**

**POLICIES AND PROCEDURES FOR HOMEOWNER REHABILITATION**

**Part 001 General Provisions**

- § 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
- § 100-100.2-220 Interest Rate and Type of Assistance
- § 100-100.2-225 Loan Terms and Repayment
- § 100-100.2-230 Repayment Analysis
- § 100-100.2-235 Use of Loan Funds
- § 100-100.2-240 Eligible Costs

**Part 300 Loan Application Process**

- § 100-100.2-301 Confidentiality
- § 100-100.2-305 Discrimination Prohibited
- § 100-100.2-310 Pre-Qualification Interview
- § 100-100.2-315 Eligibility Notification
- § 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

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

**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 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

## **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 as enacted by law and any updates approved by regulation by the CNMI Department of Public Works Building Safety Office, zoning laws (note: zoning is currently applicable to Saipan only), International Energy Conservation Code as adopted by the CNMI government, 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

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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 applic 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
- (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:

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- (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. NMHC will examine the sources and uses of funds for the project and determine that the costs are reasonable and that NMHC is not investing any more HOME funds, alone or in combination with other governmental assistance, than is necessary.

(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:

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(1) First Priority:

(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

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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. The Rehabilitation Standards are the program's written 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's HOME Written Rehabilitation Standards shall detail the methods, materials and requirements that the housing must meet upon completion of rehab, including all of the following:

- (1) Health and Safety - identifying all life-threatening deficiencies that must be addressed immediately if the housing is occupied pursuant to 24 CFR 92.251(b)(1)(i);
- (2) Major systems – requiring that, upon project completion, each major system, as defined in 24 CFR 92.251(b)(1)(ii), had a remaining useful life of a minimum of 5 years, or for a longer period as specified by the NMHC, or the major system was rehabilitated or replaced as part of the rehabilitation pursuant to 24 CFR 92.251(b)(1)(ii);
- (3) Lead-based paint pursuant to 24 CFR 92.251(b)(1)(iii);
- (4) Disaster mitigation (if applicable) – requiring the property meet the disaster mitigation requirements pursuant to 24 CFR 92.251(b)(1)(vi);
- (5) State and local codes, ordinances and zoning requirements pursuant to 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 pursuant to 24 CFR 92.251(b)(1)(viii).

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 provisions

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of the 2018 International Building Code enacted by law and updates approved by regulation 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 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) A HOME written agreement 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

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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%-30%	0%	100% Grant <sup>†</sup>
	0%-20%	0%	Non-Interest Loan & Grant <sup>††</sup>
Second	20.1%-30%	1%	Interest Bearing Loan
Third	30.1%-50%	2%	Interest Bearing Loan
Fourth	50.1%-80%	3%	Interest Bearing Loan

<sup>†</sup>—Applies only to qualified elderly or disabled household applicant(s).

<sup>††</sup>—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 as enacted by law and any updated approved by regulation 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.

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(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

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\$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**

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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.

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(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.

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- (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

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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) and all household members of the applicant 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.

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(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.

NMHC's Homeownership/Homebuyer Education and Counseling program shall have written policies that:

- (1) Specify the acceptable delivery method for housing counseling (i.e., in-person, phone, and/or internet);
- (2) Specify the duration of the housing counseling (minimum number of hours/days);
- (3) Specify how long a counseling certificate is valid for NMHC's program (i.e., 1 year, 2 years);
- (4) Specify the funding for housing counseling (HOME administrative costs, HOME project-related soft costs, or reasonable fee charged to the homeowner); and
- (5) Specify NMHC's process for confirming and documenting the homeowner's participation in housing counseling.

(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.

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### § 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.
- (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

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- (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**

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 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;

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- (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 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

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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: Upon completion the building is subject to inspection by the Building Safety Office of the Department of Public Works (DPW) prior to the issuance of an occupancy permit or other permits as provided in the Building Safety Code codified in 3 CMC § 7101 et seq. 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;

(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**

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**§ 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
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

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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.

(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

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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) <sup>†</sup>
\$43,500	(net proceeds)

<sup>†</sup>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:

$\$40,000 \text{ subsidy} - \$20,000 \text{ forgiven} = \$20,000 \text{ subject to recapture}$

(iii) Homeowner Gets:

(net proceeds amount to recapture)

$\$43,500 \text{ net proceeds} - \$20,000 \text{ recaptured} = \$23,500 \text{ for homeowner}$

(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

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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 decent 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.

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(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.

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(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 considered covered persons who exercise or have exercised any functions or responsibilities with respect to activities assisted with HOME funds or who are in a position to participate in a decision-making process or gain inside information with regard to these activities 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

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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]

- (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

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- (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.
- (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.

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**SUBCHAPTER 100-100.1  
POLICIES AND PROCEDURES FOR HOMEBUYER ACTIVITIES**

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

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- (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

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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

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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.

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(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.

**§ 100-100.1-310 – This section is reserved.**

**§ 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) 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 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.

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(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:

- a. \$14.00 ---- Credit Report

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- 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.

(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.

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- (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

<u>HUD HOME</u> <u>Program</u> Income	Interest Rate	Type of Assistance
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<u>Limits for the CNMI</u>		
0% - <u>30%</u>	0%	Deferred Loan <sup>†</sup>
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

<sup>†</sup>—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).**

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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. The written agreement will also include NMHC's refinancing guidelines should the homeowner decide to refinance the superior loan.

(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.

(e) NMHC shall adhere to its written policies and standard operating procedures (SOP) for refinancing loans to which HOME loans are subordinated to ensure that the terms of the new loan are reasonable. Additional refinancing guidelines for which HOME funds are to be used shall include; but not limited to, the following: (1) verification of loan or mortgage to be refinanced; (2) clear title ownership; (3) obtain most current appraisal to ensure property value is greater than the HOME funds to be used for the acquisition and/or repair of the principal residential unit; (4) adhere to HOME eligibility and underwriting guidelines; and, (5) adherence to HOME affordability requirements and restrictions.

### § 100-100.1-745 Late Charge

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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.

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(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. 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

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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 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

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- (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 (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

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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 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 as adopted by the CNMI government, 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)]

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(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:

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- (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.

## TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

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- (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

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- (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

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- (gg) USDA RD—United States Department of Agriculture Rural Development
- (hh) USPAP—Uniform Standard of Professional Appraisal Practice
- (ii) VOE—Verification of Employment



**Commonwealth of the Northern Mariana Islands  
COMMONWEALTH CASINO COMMISSION**

Edward DeLeon Guerrero, Chairman  
P.O. Box 500237  
Saipan, MP 96950  
Tel. 233-1857/8

**PUBLIC NOTICE OF CERTIFICATION AND ADOPTION  
OF REGULATIONS OF THE COMMONWEALTH CASINO COMMISSION**

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER  
AS PROPOSED REGULATIONS

Volume 42, Number 10, pp 044176 - 044275, of October 28, 2020

**ACTION TO ADOPT PROPOSED REGULATIONS:** The Commonwealth of the Northern Mariana Islands, (“CNMI”), Commonwealth Casino Commission (“the Commission”), HEREBY ADOPTS AS PERMANENT regulations 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 Commission announced that it intended to adopt them as permanent, and now does so. (Id.) 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, and that they are being adopted without modification or amendment, except as stated as follows (and more particularly described below):

- (1) The word “key” was deleted from a proposed amendment, changing “casino key employee” to read “casino employee” in regulation § 175-10.3-310(b)(2) (and a misnumbering was corrected: “(2)(b) changed to “(b)(2)”).

**PRIOR PUBLICATION:** The prior publication was as stated above. The Commission adopted the regulations as final at its meeting of December 22, 2020.

**MODIFICATIONS FROM PROPOSED REGULATIONS, IF ANY:**

- 1. § 175-10.3-310(b)(2) amended by correcting transposed letter and number “(2)(b)” to “(b)(2) and deletion of “key” to read:

“(b)(2) Neither the casino gaming licensee nor any casino key employee licensee nor any casino licensee shall give, suffer, permit or allow in any way any person who is not licensed as a casino key employee access to view or obtain any information not obtainable by a member of the general public.”

**AUTHORITY:** The Commission has the authority to adopt rules and regulations in furtherance of its duties and responsibilities pursuant to Section 2314 of Public Law 18-56.

**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 of which it was aware. 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. The CCC received one written comment prior to adoption and has attached its response. The comment and response will be kept in the Commission's public file and transmitted to the Archives.


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

Certified and ordered by:

Submitted by:  12/23/2020  
EDWARD DELEON GUERRERO Date  
Chairman of the Commission

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 24<sup>th</sup> day of Dec, 2020.

  
Hon. EDWARD MANIBUSAN  
Attorney General

Filed and Recorded by:  12.24.2020  
ESTHER SN NESBITT Date  
Commonwealth Registrar



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December 22, 2020

Commission's Response to Public Comments Concerning Proposed Amendments to CCC Regulations Published in the Commonwealth Register, Vol. 42 No. 10 at 044176 - 044275

The Commission published proposed regulatory amendments in the Commonwealth Register, [insert register info] and received the following public comments in response:

1. A letter from Imperial Pacific International (CNMI) LLC dated 11/21/20 (attached)
2. No other public comments were received prior to the meeting.

The Commission has considered the public comments at the public meeting held on xx/12/20 and offers the below response. The Executive Director is instructed to place this response (with attached comments) in the Public File and also transmit a with the minutes of the 12/22/20 meeting when the same are transmitted to the Commonwealth's Archives.

Imperial Pacific International (CNMI) LLC's comments consisted of a general letter followed by specific comments on individual proposed regulatory changes.

Responding to the general letter:

Comment: "However, IPI was were [sic] expecting the existing Regulations to be relaxed because of the economic devastation to the worldwide economy caused by the pandemic. The majority of jurisdictions are relaxing regulations so the Gaming Industry can survive. These Changes proposed actually add additional and burdensome constraints in the middle of a worldwide economic collapse. The CNMI should follow in the footsteps of President Trump whose pro-business platform was centered on de-regulation. De-regulation is needed now more than ever."

Commission's Response. The Commission respectfully disagrees that now is an appropriate time for "de-regulation". As financial institutions, casinos are thoroughly regulated due concerns with money laundering; these concerns do not abate due to unstable economic situations. In fact, thorough regulation of financial institutions may be even more important given the economic disturbance caused by pandemic mitigation efforts.

Comment: "As an example, I would like to highlight the proposed changes to the licensing of vendors. IPI should be able to purchase anything other than gambling devices equipment and software without regulatory oversight."

Commission's Response. The Commission respectfully disagrees. It is clear that the Commonwealth does not wish the Commission to allow IPI unfettered purchasing authority "without regulatory oversight." For example, Commonwealth law has charged the Commission with the responsibility to promulgate regulations concerning "[t]he examination, supervision and monitoring of the continuing fiscal and financial capability of casino owners, operators, concessionaires and other parties with any direct relation to the sole casino and to protect the public in the event that such capability is significantly diminished." 4 CMC §2314(b)(3).

Comment: "I would like to highlight that no agency in the CNMI Government itself has any requirement for vendors to register other than by requiring local businesses to acquire a business license."

Commission's Response: The Commission has no comment on the jurisdiction of fellow agencies of the Commonwealth, and further has no comment on their regulatory priorities and policies. The Commission restates that Commonwealth law has charged the Commission with the responsibility to promulgate regulations concerning "[t]he examination, supervision and monitoring of the continuing fiscal and financial capability of casino owners, operators, concessionaires and other parties with any direct relation to the sole casino and to protect the public in the event that such capability is significantly diminished." 4 CMC §2314(b)(3).

Comment: "Until such time as the other gambling establishments and Government Procurement Departments are held to the same standards, this is overregulation and it is not equal treatment under the law. Vendors do not want the CCC or any government agency to have unfettered access to their records. They enjoy due process of law.

Commission's Response: The Commission takes seriously and is ever mindful of its legal and constitutional obligations. The Commission denies that its regulations (either facially or as-applied) violate due process protections. The Commission has no comment on the regulation of other industries; the Commission merely enforces the Commonwealth's gaming acts (PL-18-56, 19-24 and others). The Commission has no comment on the jurisdiction of fellow agencies of the Commonwealth, and further has no comment on other agencies' regulatory priorities and policies. As the licensee enjoys a monopoly as the sole casino gaming license under the gaming acts, it cannot be said to be similarly situated to any other entity such that it can claim "unequal treatment". The Commission explicitly denies that it has denied IPI the equal protection of the laws. Further,

[g]ambling "implicates no constitutionally protected right; rather, it falls into a category of 'vice' –activity that could be, and frequently has been, banned altogether. *United States v. Edge Broad. Co.*, 509 U.S. 418, 426 (1993). (Upholding an outright ban on gaming related speech under federal law) (emphasis added). *See also, Marshall v. Sawyer*, 301 F.2d 639, 653 (9th Cir. 1962). ("Gambling or being in or about a gambling establishment is a mere matter of governmental favor; it has none of the aspects of property or other private right.") Control of gaming falls under the Tenth Amendment. "Within this context, we find no room for federally protected constitutional rights. This distinctively stated problem is to be governed, controlled and regulated by the state legislature..." *Thomas v. Bible*, 694 F. Supp. 750, 760 (D. Nev. 1988), *aff'd*, 896 F.2d 555 (9th Cir. 1990).

Comment: "Additionally, restricting our ability to deal with vendors places an undue burden on the IPI operation and the operation of vendors who don't want to be held to such scrutiny. It will be difficult to purchase trash cans, lettuce or gasoline under the stricter regulations."

Commission's Response: At this time, the Commission denies that the regulations places an undue burden on the licensee or vendors. The Commission will monitor the impact of the regulation an may take further appropriate action in the future. That said, the Commission notes that the CCC's regulations have had a vendor licensing requirement for some time, (see, e.g. 175-10.1-1305) and vendors have been seeking, and obtaining licensure should the amount of business they transact exceed the yearly regulatory floor (which has not been amended).It is somewhat unnerving to the Commission that the licensee's comment does not reflect such knowledge.

Comment: "I would also like to highlight that Saipan has very limited resources and purchasing goods is extremely difficult. We try to purchase as much locally as possible but vendors don't want to deal with the red tape. Vendors from other jurisdictions will not place themselves under this scrutiny at any cost. Therefor we pay top dollar for everything."

Commission's response: The Commission restates that its regulations have had a vendor licensing requirement for some time, (see, e.g. §175-10.1-1305) and vendors have been seeking, and obtaining licensure should the amount of business they transact exceed the yearly regulatory floor (which has not been amended).

Comment: "Finally, IPI suggest [sic] that the government take this opportunity to bring under the supervision of CCC the other casinos operating on Saipan (poker parlors and e-gaming centers). IPI does not agree that these businesses are allowed to exist as IPI paid the CNMI for an exclusive casino license, by they do exist. So long as they exist, they should be regulated. The scope of the new regulations should be broadened to apply to them."

Commission's response. The Commission has no comment on what the CNMI government or its other agencies should do, and leaves that discussion to the legislature, the governor, and the other agencies of the CNMI. The Commission disputes the entirety of this comment. The Commission denies that "poker parlors and e-gaming centers" are not "allowed to exist" by PL 18-56. The Commission cannot expand its jurisdiction beyond that which was granted by the legislature.

Responding to the specific comments:

Comment re: proposed change to §175-10.1-205(i) "These is [sic] duplicative of what IPI has to file with Revenue and Taxation and will place additional costs and administrative burdens on IPI. The records sought by CCC can be obtained from Revenue and Taxation or a specific request can be made of IPI."

Commission's response: This regulatory change is within the authority granted to the Commission by Commonwealth law. The Commission disputes that having to photocopy and deliver to the Commission documents submitted to Finance is an undue regulatory burden.

Comment re: proposed change to §175-10.1-310” The addition of the term “key” makes this provision too restrictive. The majority of the employees that have access to confidential information are line level employees. Most of this information in is protected under the Privacy Act and there is no exemption to provide anything to the public. Additionally, the number of key licenses required would be is overwhelming. This would require, clerks, administration assistants, cashiers, HR employees, food servers to obtain a key license. Key license should be restricted to CEO, CFO, COO or those with great discretionary powers.”

Commission’s response. The Commission agrees and shall remove the word “key” upon final adoption. It shall read:

“(2) (b) Neither the casino gaming licensee nor any casino key employee licensee nor any casino licensee shall give, suffer, permit or allow in any way any person who is not licensed as a casino key employee access to view or obtain any information not obtainable by a member of the general public.”

Comment re: proposed change to §175-10.1-325 “Eliminate Altogether Instead of making regulations more restrictive at a time when Saipan is essentially closed to business for the foreseeable future, it make [sic] common sense to remove or relax restrictive regulations. Eliminate these statutes altogether as current vendors find this offensive. Any potential new licensee would agree to such scrutiny. None of the other casino gambling sites have any standards whatsoever for registration of vendors. No agency in the CNMI Government itself has any requirement for vendors to register other than by acquiring a business License. Until such time as the other gambling establishments and Government Procurement Departments are held to the same standards, this is overregulation and not equal treatment under the law. Vendors do not want agencies having unfettered access to their records. This places an undue burden on IPI’s operation. Vendors, who don’t want to pay the costs of complying will not do business with IPI.

Commission’s response: Commonwealth law has charged the Commission with the responsibility to promulgate regulations concerning “[t]he examination, supervision and monitoring of the continuing fiscal and financial capability of casino owners, operators, concessionaires and other parties with any direct relation to the sole casino and to protect the public in the event that such capability is significantly diminished.” 4 CMC §2314(b)(3). This regulation implements that statutory instruction. Further, the Commission notes that vendors have been following the extant licensing procedures. The Commission will monitor the situation and take appropriate corrective action should the Commission deem it warranted. The Commission denies that other “casino gambling sites” exist in Saipan. The Commission agrees that “[a]ny potential new licensee would agree to such scrutiny.”

Comment re: proposed change to §175-10.1-560(d): “Unreasonable. This is not a universally accepted calculation which is 1.0% of the previous year’s GGR + a per active gaming unit fixed cost. In our case the minimum bankroll would be \$710,000 in the cage plus and additional \$571,000 for per game requirements for a total of \$1,271,000 cage cash with access to an additional \$1,852,000 which is available the next business from an outside source such as a bank or LOC. \$3,123,000 total requirement all sources. See Exhibit 1, a summary of the Bankroll Calculation for Nevada under 6.150 of the Nevada Regulations which is universally accepted.”

Commission's Response: The Commission notes that this proposed regulatory change does not in any way affect any current regulatory responsibility of the licensee. This change merely adds a parenthetical numeric explanation to a requirement which presently exists. See §175-10.1-560(d). The Commission disputes that it is unreasonable to add a parenthetical clarification to a presently existing regulation.

Insofar as IPI's comment can be seen as a request for regulatory relief, the Commission disputes that the present regulation is unreasonable. While it certainly does not mirror a regulation from Nevada, the Commission notes that IPI is not located in Nevada. The Commission's regulation is promulgated under the authority granted to the Commission by Commonwealth law. Finally, the Commission proffers that, given the financial situation IPI claims in statements made in federal court in various hearings, now is not an opportune time to relax regulatory requirements concerning fiscal responsibility.

Comment re: proposed change to §175-10.1-595: "Impossible due to past record keeping. Additionally, will require the hiring of an entire team to track this and there are no guidelines for the investment qualifications."

Commission's response: The Commission notes that this proposed regulatory change does not in any way affect any current regulatory responsibility of the licensee. This change merely adds a parenthetical numeric explanation to a requirement which presently exists. See §175-10.1-560(d). The Commission disputes that it is unreasonable to add a parenthetical clarification to a presently existing regulation. Insofar as IPI's comment can be seen as a request for regulatory relief, the Commission disputes that the present regulation is unreasonable. Simply put, the Commission feels that highly regulated financial institutions can reasonably be required to keep records of expenses.

Comment re: proposed change to §175-10.1-1215: "The Licensee already pays for employee Key License fees through the Regulatory Fee. This will increase the cost burden on IPI when the government should be relaxing regulations that add to costs."

Commission's response: The Commission agrees that IPI is obligated by law to pay a regulatory fee. The Commission notes that this proposed regulatory amendment to a currently extant regulation does not affect IPI. The proposed change merely changes the present regulation's "service providers" and "vendors" to "gaming vendors" and "non-gaming vendors". Accordingly, the Commission disagrees that this change will "increase the cost burden on IPI" in any manner.

Comment re: proposed change to §§175-10.1-905; 1120; and 930: "All 3 of these regulation [sic] just increase the burdensome red tape and are unreasonable and unnecessary."

Commission's response: The Commission respectfully disagrees. The proposed change to §905 increases nothing as it merely changes the name "Casino Service Provider" to "Casino Gaming Vendor." Likewise, the changes to §1120 change the names "casino service provider" and "casino vendor licensee" to "casino gaming vendor licensee" and "casino non-gaming vendor registrant." The proposed change to §930 merely changes "licensure" to "registration."

Comment re: proposed change to §§175-10.1-1225: "This 'fee' is a tax. The tax was illegal. The licensee never agreed to the fee and is not in the CLA. The understanding of IPI was that

the \$15,000,000 included the costs of regulators. The Tinian Casino License fee is \$500K annually and there was no separate regulatory charge. When IPI objected to the added tax they were advised that it will be in the law and nothing can be done.

Commission's response: The Commission notes that the proposed regulatory change does not affect the regulatory fee imposed by Commonwealth law, and says nothing further at this time.

Comment re: proposed change to §§175-10.1-130 - 1390: "Instead of making Part 1300 more restrictive at a time when Saipan is essentially closed to business for the foreseeable future, it make common sense to remove or relax restrictive regulations. Eliminate these statutes altogether as current vendors find this offensive. Any potential new licensee would agree to such scrutiny. None of the other casino gambling sites have any standards whatsoever for registration of vendors. No agency in the CNMI Government itself has any requirement for vendors to register other than by acquiring a business License. Until such time as the other gambling establishments and Government Procurement Departments are held to the same standards, this is overregulation and not equal treatment under the law. This places an undue burden on IPI operation and the operation of vendors."

Commission response: The Commission notes that the proposed changes generally change the names "casino service provider" and "casino vendor licensee" to "casino gaming vendor licensee" and "casino non-gaming vendor registrant." The Commission respectfully disagrees that it is "overregulating". It is clear that the Commonwealth does not wish the Commission to allow IPI unfettered purchasing authority "without regulatory oversight." For example, Commonwealth law has charged the Commission with the responsibility to promulgate regulations concerning "[t]he examination, supervision and monitoring of the continuing fiscal and financial capability of casino owners, operators, concessionaires and other parties with any direct relation to the sole casino and to protect the public in the event that such capability is significantly diminished." 4 CMC §2314(b)(3). The Commission has no comment on the jurisdiction of fellow agencies of the Commonwealth, and further has no comment on their regulatory priorities and policies. The Commission restates that Commonwealth law has charged the Commission with the responsibility to promulgate regulations concerning "[t]he examination, supervision and monitoring of the continuing fiscal and financial capability of casino owners, operators, concessionaires and other parties with any direct relation to the sole casino and to protect the public in the event that such capability is significantly diminished." 4 CMC §2314(b)(3). Further, the Commission takes seriously and is ever mindful of its legal and constitutional obligations. The Commission denies that its regulations (either facially or as-applied) violate due process, and denies that it is denying anyone the equal protection of the law. The Commission has no comment on the regulation of other industries; the Commission merely enforces the Commonwealth's gaming acts (PL-18-56, 19-24 and others). The Commission has no comment on the jurisdiction of fellow agencies of the Commonwealth, and further has no comment on other agencies' regulatory priorities and policies. As the licensee enjoys a monopoly as the sole casino gaming license under the gaming acts, it cannot be said to be similarly situated to any other entity such that it can claim "unequal treatment". The Commission will continue to monitor the impact of its regulations and will take corrective action when the Commission deems it warranted.

Comment re: proposed change to §175-10.1-1535: "It is not clear what this means."

Commission response: The Commission feels the proposed new regulation is self-explanatory. It sets the statute of limitations on enforcement actions and allows for tolling.

Comment re: proposed change to §175-10.1-1865: Over regulation. Equal Treatment. No other business, whether a gambling establishment or not is subjected to such strict oversight. This will impair future operations and potential new applicants form applying.

Commission's response: The Commission disagrees that the proposed regulation is "over regulation." The Commission disputes that this regulation violates the equal protection of the laws. The Commission is presently unconcerned about "potential new applicants." The Commission deems it necessary to enact this regulation given, among other reasons, recent economic troubles experienced by companies worldwide, the economic difficulties of businesses in the Commonwealth, and for the reasons stated in recent Commission Orders.

Comment re: proposed change to §175-10.1-2405: "2401b. FEES The proposal is not Reasonable [sic]. The regulations should be relaxed if anything for the next several years. There should be a waiver of fees.

Commission's response: The Commission notes that the proposed amendment does not amend §2401(b). The proposed amendment to §2405 benefits IPI in that it extends flexibility for the Commission for the Commission to allow extended closure due to pandemic, a situation which was not previously considered by the Regulations. If IPI insists that it is unreasonable to give the Commission authority to allow extended closure due to pandemic, the Commission is willing to forego this regulatory change.

Comment re: proposed change to §175-10.1-2635: "How will operators comply? This could severely harm the industry."

Commission's response: The Commission does not think this regulation will severely harm the industry. The Commission will monitor the impact of its regulations and will take corrective action when the Commission deems it warranted. A Junket operator, or any of its agents, officers, directors, members, employees, or affiliates, will comply with this regulation by, each time he/it receives payment of United States or foreign currency outside of the United States in relation to a gaming debt owed to the junket operator or a casino gaming-related deposit made to the junket operator, submitting within 30 days after the receipt of such payment a Currency Payment Report in a form that has been adopted by the Executive Director.

Comment re: proposed change to Part 2900: "IPI agrees with the change. IPI has already been performing this"

Commission response: The Commission has no response to this comment at this time.

## TITLE 25: COMMONWEALTH CASINO COMMISSION REGULATIONS

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### § 175-10.1-040 Definitions.

In this subchapter, the following words have the following meanings, unless some contrary meaning is required:

- (a) “Act” means Public Law 18-56 as it may be amended or supplemented by subsequent legislation.
- (b) “Ante” means a player’s initial wager or predetermined contribution to the pot prior to the dealing of the first hand.
- (c) “Automated Teller Machine” or “ATM” means an automated bank teller machine capable of dispensing or receiving cash.
- (d) “Authorized Personnel” means any member or designee of the Commonwealth Casino Commission.
- (e) “Book” means a race book or sports pool licensed and approved pursuant to these regulations.
- (f) “Business Year” means the annual period used by a licensee for internal accounting purposes.
- (g) “Call” means a wager made in an amount equal to the immediately preceding wager.
- (h) “Card Game” means a game in which the licensee is not party to wagers and from which the licensee receives compensation in the form of a rake-off, a time buy-in, or other fee or payment from a player for the privilege of playing, and includes but is not limited to the following: poker, bridge, whist, solo and ~~panguingui~~panguingue.
- (i) “Card Room Bank” means an imprest fund which is a part of and accountable to the licensee’s casino cage or bankroll but which is maintained in the card room exclusively for the purposes set forth in §175-10.1-2115(a).
- (j) “Card Table Bank” means an imprest inventory of cash and chips physically located in the table tray on the card table and controlled by the licensee through accountability established with the card room bank. The card table bank shall be used only for the purposes set forth in § 175-10.1-2115(b)
- (k) “Cashable Credits” means wagering credits that are redeemable for cash or any other thing of value.
- (l) “Casino” means a place, area, structure, vessel, communication channel, or other thing, tangible or intangible, subject to licensing pursuant to this chapter for the conduct

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and playing of one or more games, or the acceptance of bets and wagers, including all associated activities of gaming and wagering, including but not limited to any bar, cocktail lounge, or other facilities housed therein such as money counting, surveillance, accounting, and storage, related to such conduct and playing, provided, that such term shall not include areas of a resort complex or other facility exclusively devoted to other activities, such as a hotel, golf course, etc., in which no game is conducted or played and no wagering occurs.

(m) “Casino Employees” means any natural person employed by the licensed casino who carries out or conducts casino gaming activities as part of the business of the exclusive casino licensee, which person shall be eighteen years of age or older and hold a license granted by the Commission. Persons deemed to be casino employees shall include:

- (1) Table games personnel who attend to or conduct gaming activities, including dealers, floor personnel, pit managers and shift managers.
- (2) Cage and count room personnel who support gaming activities within the casino, including cashiers, supervisors and shift managers.
- (3) Security personnel who work within the casino gaming areas, including guards, supervisors and shift managers.
- (4) Surveillance personnel who work within the casino gaming areas, including operators, supervisors and shift managers.
- (5) Marketing personnel who attend to or support gaming activities within the casino gaming areas, including hosts, marketing representatives, supervisors, and shift managers.
- (6) Slot machines personnel who attend to or support gaming activities within the casino, including attendants, technicians, supervisors, and shift managers.
- (7) Accounting personnel who work directly with financial information relating to gaming activities, including revenue auditors, staff accountants, and supervisors.
- (8) Information technology personnel who attend to or support gaming activities within the casino, including technicians, engineers, and supervisors.
- (9) Members of the management team who are manager level and above and who oversee or supervise or have responsibilities over any of the above operations.
- (10) Executive directors of the casino licensee.

(n) “Casino Gaming Activities” means all games of chance and other games played in major casino establishments in the United States and other games approved by the Commission, and further includes the operation of a sports book approved by the Commission to accept bets and wagers on sporting and other events which rely on events which occur within and without the casino.

(o) “Casino Gaming License” or “Casino License” means the holder of the license issued by the Commonwealth Lottery Commission pursuant to the Act to operate casino gaming at the casino gaming facilities.

(p) “Casino Gross Gaming Revenue” means the total sums actually received from casino gaming activities, including credit card payments received and checks received

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whether collected or not, less the total amount paid out as winnings, provided that any sum received in payment for credit extended by a casino or operator for purposes of casino gaming activities or for the issue of a chip or chips for casino gaming activities shall be included as a sum received from gaming, and provided further that no allowance shall be permitted for any credit card fee or discount.

(q) “Casino Key Employee” means an individual who is employed in the operation of a casino and who supervises other individuals employed in the casino and includes:

(1) A manager, an assistant manager, a floor person, a pit boss, a shift boss, a credit manager, and a count room manager;

(2) A supervisor of security employees, surveillance employees, accounting and auditing employees, and cashiers or count room employees;

(3) The chief legal officer, whether or not he or she is in-house counsel or retained, and all other in-house legal counsel, without regard to whether the individual supervises other individuals; and

(4) Any employee whatsoever of a casino licensee so designated by the Commission.

(r) “Casino Non-gaming-related Supplier” means a person who provides for the playing of games of chance in a casino, gaming equipment that is not mentioned in the definition of casino service provider in this section, or goods or services that relate to the construction, furnishing, repair, maintenance, or business of a casino, but that are not directly related to the playing of games of chance.

(s) “Casino Security Service” means any non-governmental enterprise providing surveillance and/or security services to a casino, a casino licensee, to an approved hotel, or to any premises located with a casino hotel complex.

(t) “~~Casino Service Provider~~ Gaming Vendor” means a person subject to licensing pursuant to this chapter that offers goods or services directly related to casino gaming activities, including such persons as: gaming equipment manufacturers, importers, distributors, and repairers; casino security services; and any other service provider or entity the Commission requires to be licensed.

(u) “Chairman” means the Chairman of the Commission appointed, confirmed, and elected pursuant to the Act or his designee.

(v) “Check” means a monetary instrument commanding a bank to pay a sum of money. In card games, it means to waive the right to initiate the wagering, but to retain the right to call after all the other players have either wagered or folded.

(w) “Chip” means a non-metal or partly metal representative of value issued by a licensee for use at table games or counter games at the licensee’s gaming establishment.

(x) “CMC” means the Northern Mariana Islands Commonwealth Code.

(y) “CNMI” means the Commonwealth of the Northern Mariana Islands.

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(z) “Commission” means the Commonwealth Casino Commission established by the Act.

Modified, 1 CMC § 3806(d), (f)–(g).

History: Amdts Adopted 40 Com. Reg. 40928 (Sept. 28, 2018); Amdts Proposed 40 Com. Reg. 40807 (June 28, 2018); Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

Commission Comment: The Commission changed semi-colons following definition terms to “means” pursuant to 1 CMC § 3806(g).

### § 175-10.1-050 Further Definitions.

In this subchapter, the following words have the following meanings, unless some contrary meaning is required:

- (a) “Licensee” means a holder of a license issued by the Commission.
- (b) “Meeting” means the convening of the full membership of the Commission, for which notice and a quorum is required in order to make a decision or to deliberate toward a decision upon a matter over which the Commission has supervision, control, jurisdiction, or advisory power. It includes, but is not limited to, the consideration of license applications, transfers of interest, claims for tax refunds, petitions for redetermination, disciplinary proceedings, and exclusion list proceedings.
- (c) “Members” mean the Commissioners of the Commonwealth Casino Commission.
- (d) “Operator” means any person that actually provides the overall management of the operations of a casino, whether by ownership, lease, contract, agreement, or otherwise.
- (e) “Payout Receipt” means an instrument that is redeemable for cash and is either issued by a game or gaming device, or as a result of a communication from a game or gaming device to associated equipment, that cannot be used for wagering purposes.
- (f) “Person” includes a natural person, as well as a partnership, corporation, association, joint venture, or other business entity.
- (g) “Pot” means the total amount anted and wagered by players during a hand.
- (h) “Premises” means land together with all buildings, improvements and personal property located thereon.
- (i) “Prepaid Access Instrument” means a card, code, electronic serial number, mobile identification number, personal identification number or similar device that allows patron

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access to funds that have been paid in advance and can be retrieved or transferred at some point in the future through such a device. To transfer funds for gaming purposes, a prepaid access instrument must be used in conjunction with an approved cashless wagering system, race book or sports pool wagering account, or interactive gaming account.

(j) “Promotional Chip” means a chip or token-like object issued by a licensee for use in promotions or tournaments at the licensee’s gaming establishment.

(k) “Proposition Player” means a person paid a fixed sum by the licensee for the specific purpose of playing in a card game who uses his own funds and who retains his winnings and absorbs his losses.

(l) “Raise” means a wager made in an amount greater than the immediately preceding wager.

(m) “Rake-off” means a percentage of the total amount anted and wagered by players during a hand in a card game which may be taken by the licensee for maintaining or dealing the game.

(n) “Registration” means a final order of the Commission which finds a partnership, limited partnership, association, trust, corporation, or other legal entity except an individual suitable to ~~be a holding company with respect to a~~ transact with the casino gaming licensee.

(o) “Regulations” means regulations adopted by the Commission.

(p) “Resort” means a place, such as a hotel with no fewer than five hundred rooms and a meeting hall, convention center, or other large event space capable of accommodating one thousand attendees, that is frequented by people for relaxation or recreation. To be considered a Resort, it must be built to the standards and contain amenities required in the Casino License Agreement entered into between the Commonwealth Lottery Commission and the casino gaming licensee.

(q) “Rim Credit” means all extensions of credit in exchange for chips not evidenced by the immediate preparation of a credit instrument.

(r) “Sales Representative” means any person owning an interest in, employed by, or representing a casino service industry enterprise licensed, who solicits the goods and services or business thereof.

(s) “Secretary” means the secretary of the Commission appointed, confirmed, and elected pursuant to the Act or his designee.

(t) “Secure Storage Facility” means any area, room, furniture, equipment, machinery, or other device used by the Commission for the storage of confidential information

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access to which is limited to authorized personnel at all times by lock or other appropriate security precaution.

(u) “Skill” or “Card Game Skill” means an employee engaged and financed by the licensee as a player for the purpose of starting and/or maintaining a sufficient number of players in a card game.

(v) “Slot Machine” means a machine used for gambling that starts when you put coins, dollars, chips, tokens, or credits into it and pull a handle or press a button. It includes but is not limited to video poker machines, electronic gaming machines, and all similar machines as determined by the Commission which can be used for the playing of games or wagering in any fashion.

(w) “Stake” means the funds with which a player enters a game.

(x) “Stakes Player” A person financed by the licensee to participate in a game under an arrangement or understanding where by such person is entitled to retain all or any portion of his winnings.

(y) “Statements on Auditing Standards” means the auditing standards and procedures published by the American Institute of Certified Public Accountants.

(z) “Statistical Drop” means the dollar amount of cash wagered by a patron that is placed in the drop box plus the dollar amount of chips or tokens issued at a table to a patron for currency, credit instruments, or rim credit.

Modified, 1 CMC § 3806(d)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

Commission Comment: The Commission changed semi-colons following definition terms to “means” in (l) and changed “it be built the” to “it must be built to the” in (p) pursuant to 1 CMC § 3806(g).

### § 175-10.1-055 Further Definitions.

In this subchapter, the following words have the following meanings, unless some contrary meaning is required:

(a) “Statistical Win” means the dollar amount won by the licensee through play.

(b) “Table Game Bankroll” means the inventory of:

(1) Chips, tokens, and coinage at a table game that is used to make change, extend credit, and pay winning wagers; and

(2) Unpaid credit at a table game, including credit instruments not yet transferred to the cage and outstanding rim credit.

(c) “Table Tray” means a receptacle used to hold the card table bank.

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- (d) “Time Buy-in” means a charge to a player, determined on a time basis, by the licensee for the right to participate in a game.
- (e) “Token” means a metal representative of value issued by a licensee for use in slot machines and at table games or counter games at the licensee’s gaming establishment.
- (f) “Treasurer” means the treasurer of the Commission appointed, confirmed, and elected pursuant to the Act or his designee.
- (g) “Vice Chairman” means the Vice Chairman of the Commission appointed, confirmed, and elected pursuant to the Act or his designee.
- (h) “Wager” or “Wagering” means a contract in which two or more parties agree that a sum of money or other thing, tangible or intangible, shall be paid or delivered to one of them or that shall gain or lose on the happening of an uncertain event or upon the ascertainment of a fact in dispute.
- (i) “Wagering Voucher” means a printed wagering instrument, used in a cashless wagering system, that has a fixed dollar wagering value and is redeemable for cash or cash equivalents.

Modified, 1 CMC § 3806(d), (f)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

Commission Comment: The Commission changed semi-colons following definition terms to “means” pursuant to 1 CMC § 3806(g).

### **§ 175-10.1-105 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 casino 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 the Act. The Commission may use such rules and regulations to interpret; enlarge upon, except provisions defining the authority and powers of the Commission; or define any provision of the Act to the extent that such provision is not specifically defined by the Act. The rules and regulations shall, 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 the suitability

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and compliance with the legal, statutory, and contractual obligations of owners, operators, and employees of casinos and other persons licensed under this chapter;

(3) The examination, supervision, and monitoring of the continuing fiscal and financial capability of casino owners, operators, concessionaires, and other parties with any direct or indirect relation to the sole casino operator licensee 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 economic policies for the operations of the casino games of fortune and other ways of gaming, pari-mutuels, wagering, and casino gaming activities offered to the public;

(5) To authorize and certify all the equipment and utensils used by the operations of the concessionaires approved in the respective concessions;

(6) To issue licenses for “junket” promoters of casino games of fortune or other casino gaming activities and charge fees therefore;

(7) To examine, supervise, and monitor the eligibility of the single or collective junket promoter(s), their partners, and principal employees;

(8) To examine, supervise, and monitor the activities and promotions of the junket promoters in relation to their compliance with legal, statutory, and contractual obligations, and other responsibilities stipulated in the applicable legislation and contracts;

(9) To investigate and penalize any administrative infractions practiced according to the appropriate substantial and procedural legislations;

(10) To ensure that the relationship of the licensed gaming operators with the government and the public is in compliance with the Commission’s regulations and provides the highest interest to Commonwealth;

(11) The exclusion and removal of undesirable persons from the sole casino operator licensee’s facilities;

(12) Civil penalties for the violation of provisions or regulations imposed under the Act;

(13) Penalties for the late payment of applicable fines or fees;

(14) Means to exclude from the gaming areas of a casino individuals under twenty-one years of age, except such lawful employees of the casino or of a resort complex or other facility of which the casino forms a part as the Commission determines by regulation may be present in such areas; and

(15) Provisions to attempt to identify and refuse service to gambling addicts and problem gamblers as they may be defined by the Commission.

(c) To levy fines and penalties for the violation of provisions of the Act and the regulations promulgated by the Commission.

(d) To require and demand access to and inspect, examine, photocopy, and audit all papers, books, and records of the casino operator on its premises or elsewhere as practical, including inspecting the gross income produced by the casino operators, gaming business 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) To determine the types of gaming and games to be covered by the casino license

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and their structure.

(f) To regulate sports betting, pari-mutuel betting, and other wagering, which relies on events occurring within or without the casinos, regulated by the Commission.

(g) The Commission shall not have the authority to issue license to the sole casino operator licensee. The power to issue such license lies with the Commonwealth Lottery Commission.

(h) To require and demand access to and inspect, examine, photocopy, and audit all papers, books and records of any casino ~~service provider~~ gaming vendor on its premises or elsewhere as practical, including inspecting the gross income produced by the provider's business and verification of their income, and all other matters affecting the enforcement of the Commission's policy or as required pursuant to this chapter.

(i) To conduct investigative hearings with public notice which may be conducted by one or more members with the concurrence of a majority of the Commission, or by a hearing examiner appointed by the Commission, with or without public notice, at such times and places, within the Commonwealth, as may be convenient.

(j) To withhold from public inspection, copying, or disclosure:

(1) All information and data required by the Commission to be furnished pursuant to this chapter or the regulations promulgated hereunder, or which may otherwise be obtained, relative to the internal controls or to the earnings or revenue of any applicant or licensee except in the course of the necessary administration of this act, or upon the lawful order of a court of competent jurisdiction, or, with the approval of the Attorney General, to a duly authorized law enforcement agency;

(2) All information and data pertaining to an applicant's criminal record, family, and background furnished to or obtained by the division or the Commission from any source shall be considered confidential and shall be withheld in whole or in part, except that any information shall be released upon the lawful order of a court of competent jurisdiction or, with the approval of the Attorney General, to a duly authorized law enforcement agency; and

(3) All things permitted to be exempt pursuant to the Open Government Act.

(4) However, the following information to be reported periodically to the Commission by a casino licensee shall not be considered confidential and shall be made available for public inspection:

(i) A licensee's gross revenue from all authorized casino gaming activities as defined in this chapter, and the licensee's gross revenue from simulcast wagering;

(ii)

- (A) The dollar amount of patron checks initially accepted by a licensee,
- (B) the dollar amount of patron checks deposited to the licensee's bank account,
- (C) the dollar amount of such checks initially dishonored by the bank and returned to the licensee as uncollected, and
- (D) the dollar amount ultimately uncollected after all reasonable efforts;

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- (iii) The amount of gross revenue tax or investment alternative tax actually paid and the amount of investment, if any, required and allowed, pursuant to Commonwealth law;
  - (iv) A list of the premises and the nature of improvements, costs thereof and the payees for all such improvements, which were the subject of an investment required and allowed pursuant to Commonwealth law;
  - (v) A list of the premises, nature of improvements and costs thereof which constitute the cumulative investments by which a licensee has recaptured profits pursuant to Commonwealth law;
  - (vi) All quarterly and annual financial statements presenting historical data which are submitted to the Commission, including all annual financial statements which have been audited by an independent certified public accountant licensed to practice in the CNMI; and
  - (vii) The identity and nature of services provided by any person or firm receiving payment in any form whatsoever for professional services in connection with the authorization or conduct of games conducted at a casino establishment.
- (k) Notice of the contents of any information or data released, except to a duly authorized law enforcement agency pursuant to subsections (j)(1)–(2), shall be given to any applicant or licensee in a manner prescribed by the rules and regulations adopted by the Commission
- (l) To have the sole authority to amend or revoke the license granted to the casino operator by the Commonwealth Lottery Commission for operating in an unsuitable manner due to violations of law, breaches of the license or violations of the regulations promulgated by the Commission, as well as any other reason for revocation or termination stated in the License. If the Commission revokes the license issued by the Commonwealth Lottery Commission, the Commonwealth Casino Commission shall have the sole authority to re-issue a new casino gaming license. At least three affirmative votes by Commission members shall be required to issue a new casino license.
- (m) [RESERVED]
- (n) [RESERVED]
- (o) The Commission shall have all oversight, responsibility, and authority necessary to assure compliance with this chapter, including but not limited to authority over: timelines for construction, the commencement of operations, and achieving the minimum initial investment requirements. The Commission shall approve the casino operator licensee's set number of games, such as slot machines or gaming tables, either in total or by category, or by location.
- (p) To impose reasonable charges and fees for all costs incidental to the review, redaction, and copying by the Commission of documents subject to public inspection without regard to whether the document is merely inspected by the requestor or whether copies are requested.

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(q) To summarily seize and remove from all premises wherein gaming is conducted or gambling devices or equipment is manufactured, sold, or distributed, and impound any equipment, supplies, documents, or records for the purpose of examination and inspection.

(r) The Commission or any of its members has full power and authority to issue subpoenas and compel the attendance of witnesses at any place within the Commonwealth, to administer oaths, receive evidence, and to require testimony under oath. The Commission or any member thereof may appoint hearing examiners who may issue subpoenas, administer oaths, and receive evidence and testimony under oath.

(s) The Commission may pay transportation and other expenses of witnesses as it may deem reasonable and proper. The Commission may require any licensee or applicant which is the subject of the hearing to pay for all costs and expenses of said hearing, including the expenses of any witness.

(t) The Commission shall initiate regulatory proceedings or actions appropriate to enforce the provisions of the gaming laws of the Commonwealth and the regulations promulgated thereto, when appropriate shall, in conjunction with the Attorney General, sue civilly to enforce the provisions of the gaming laws of the Commonwealth and the regulations promulgated thereto, and may request that the Attorney General prosecute any public offense committed in violation of any provision of the gaming laws of the Commonwealth.

(u) To have sole jurisdiction to resolve disputes between patrons of a licensed casino and the licensee wherein the patron is attempting to collect a payout or other gaming debt. The Commission shall provide by regulation the procedures by which disputes are to be resolved and may impose charges and fees therefore. Notwithstanding any other law to the contrary, the Commission's decisions on patron disputes may be reviewed by the Commonwealth Superior Court which may affirm the decision and order of the Commission or the hearing examiner, or it may remand the case for further proceedings, or reverse the decision only if the substantial rights of the petitioner have been prejudiced because the decision is:

- (1) In violation of constitutional provisions;
- (2) In excess of the statutory authority or jurisdiction of the Commission or the hearing examiner; or
- (3) Unsupported by any evidence whatsoever.

(v) To have sole jurisdiction to determine whether a person or entity requires licensure or a finding of suitability in order to own, be employed by, receive revenue or profits (whether directly or indirectly) from, or do business with, a licensed casino. Further, the Commission shall have sole jurisdiction to determine whether a person or entity remains suitable in order to continue to own, be employed by, receive revenue or profits (whether directly or indirectly) from, or continue to do business with, a licensed casino. The Commission's decisions on licensure or finding of suitability may be reviewed by the Commonwealth Superior Court which may affirm the decision and order

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of the Commission or the hearing examiner, or it may remand the case for further proceedings, or reverse the decision only if the substantial rights of the petitioner, applicant or license holder have been prejudiced because the decision is:

- (1) In violation of constitutional provisions;
- (2) In excess of the statutory authority or jurisdiction of the Commission or the hearing examiner; or
- (3) Unsupported by any evidence whatsoever.

(w) The Commission shall have concurrent authority to determine the suitability of any location proposed for any portion of the operations of the casino operator licensee's operations in the Commonwealth. The Commission shall have the authority to require of developers, owners, or financiers completion bonds in any amount agreeable to the Commission prior to or during the construction of any facility that requires, or once completed will require, a license from the Commission. The Commission shall have the authority to require the casino licensee to obtain completion bonds in any amount deemed reasonable to the Commission and of such quality satisfactory to the Commission to ensure the completion of construction for any construction project built by, for, or in relation to the casino licensee's operations in the Commonwealth. The Commission may but need not regulate the interior design, security, cleanliness or sanitation of any portion of the operations of the casino operator licensee's operations in the Commonwealth or any facility which requires or has a license issued by the Commission regardless of the location of such facility.

(x) Final action shall occur in an open meeting after appropriate notice has been given the public.

(y) To approve the construction of the various phases of development of the operations of the casino operator licensee's operations in the Commonwealth and to allow gaming to commence at any time, and in such locations in Saipan, as the Commission deems appropriate. Notwithstanding the foregoing, the Commission shall regulate one live training facility of temporary duration and all permanent facilities as are consistent with the provisions of the casino license agreement granted to the exclusive casino licensee and together shall be operated by the exclusive casino licensee.

(z) The Commission may exercise any proper power and authority necessary to perform the duties assigned to it by the Legislature, and is not limited by any enumeration of powers in this section.

Modified, 1 CMC § 3806(a), (d)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

Commission Comment: The Commission numbered the paragraph after (j)(3) as (j)(4) pursuant to 1 CMC § 3806(a).

### **§ 175-10.1-110      Limitation on Powers and Duties.**

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(a) The Commission shall not regulate betting or wagering associated with cockfighting.

(b) The Commission shall not have the authority to issue the original license to the sole casino operator licensee pursuant to the Act. The power to issue such sole casino operator license lies with the Commonwealth Lottery Commission pursuant to the Act.

(c) These Regulations supercede and replace any contrary bylaw previously adopted by the Commission.

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-115 Executive Director.

(a) The Commission shall hire an Executive Director who will be responsible for the overall administration of the Commission and the supervision of the casino operator licensee and others pursuant to the Act.

(b) Qualification of the Executive Director. The Executive Director shall possess the following minimum qualification:

(1) A bachelor's degree from a United States accredited educational institution or equivalent;

(2) Five years work experience in professional, administrative, or management in government or private sectors;

(3) Good ethical and moral character;

(4) The Commission shall not hire any person for the Executive 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; and

(5) The Executive Director shall not have any interest, directly or indirectly, in any business under the jurisdiction of the Commission.

(c) The Executive 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 Executive Director may hire and terminate such staff including a legal counsel and other professionals, necessary to carry out the purpose of the Commission. Such staff shall be exempt from the civil service. The Executive 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.

(d) The Executive Director shall have such other duties as may be assigned or delegated by the Commission.

(e) The Executive Director serves at the pleasure of the Commission.

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(f) The Executive Director's annual salary shall be established by the Commission. The Executive 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 any event not to exceed twenty-five thousand dollars (\$25,000) in reimbursements per calendar year. All travel will be subject to 1 CMC §7407.

Modified, 1 CMC § 3806(e)-(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-125 Commission Meetings.

(a) Regular meetings of the Commission shall be held at least once per month in Saipan, CNMI, on such dates and at such times as the Commission shall establish.

(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. Neither Robert's Rules of Order, nor any other system need be followed in any meeting of the Commission.

(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 or incapacity of the Chairman, the Vice Chairman may call a special meeting. In the absence or incapacity of both, any two 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 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 calendar days before the meeting. Documentation not timely received will not be considered by the Commission unless the Commission, in its discretion, otherwise consents.

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(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.

Modified, 1 CMC § 3806(e)-(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-135 Appearances.

(a) Except as provided in subsection (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 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 a unanimous recommendation of approval from the Commission; (2) Licensees or registrants and Commission counsel on stipulations between the licensees or registrants and the Commission, where the stipulations fully resolve petitions for redeterminations, claims for refunds, or other issues.

(c) Where the Commission is to consider a stipulation between the Executive Director and a licensee or registrant settling a disciplinary action and revoking, suspending or conditioning a license or registration, the licensee or registrant shall be prepared to respond on the record to questions regarding the terms of the stipulation and the licensee's or registrant's voluntariness in entering into the stipulation.

Modified, 1 CMC § 3806(e), (g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-155 Service of Notices in General.

(a) Each licensee, registrant, and applicant shall provide an electronic mail address to the Commission for the purpose of sending notices and other communications from the Commission. Each licensee, registrant, and applicant shall update this electronic mail address notification immediately as often as is otherwise necessary. The original provision and subsequent updates of electronic mail addresses shall be made to the

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Commission's custodian of records by means designated by the Chairman.

(b) Except as otherwise provided by law or in these regulations, notices and other communications may be sent to an applicant, registrant, 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, Complaints and other communications 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~~ may, in such case, be sent to the applicant or licensee at such address, but the Commission may charge a fee therefore.

(e) An applicant, registrant, or licensee will be addressed under the name or style designated in the application, registration, or license, and separate notices or communications will not be sent to individuals named in such application, registration, 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, registration, or license.

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-205 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 Executive 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 § 175-10.1-201, 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

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request 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) per page. Where copies are not provided, the cost for the mere inspection of documents is seventy cents per minute of the Commission's legal counsel's time reviewing, redacting, and copying the inspected documents.

(f) All payment 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 CNMI 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) All payment of fees, deposits, charges, or payments of any kind which are to be made to the Commonwealth Casino Commission shall be made by check payable to the order of the Commonwealth Casino Commission or the CNMI Treasurer and posted by certified mail to the mailing address of the Commission.

(h) The Commission may provide for payment by wire transfer.

(i) The Casino Licensee must provide to the Executive Director an exact copy of every tax or other document, form, or return filed with or provided to the Commonwealth's Secretary of Finance, the Department of Finance, or the Division of Revenue and Taxation within three days of such filing or provision, without regard as to whether the document, form or return was filed or provided by the Casino Licensee or on behalf of the Casino Licensee by an agent or third party.

Modified, 1 CMC § 3806(e), (g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-305 ~~Casino Service Provider~~ Gaming Vendor Licenses.

(a) No person shall provide any goods or services to or conduct any business whatsoever with a casino, a casino licensee, its employees or agents, whether or not said goods, services, or business directly relates to casino or gaming activity, unless a casino ~~service provider~~ gaming vendor license authorizing the particular casino service business shall have first been issued to the enterprise pursuant to Part 1300 of these regulations if such licensure has been required by the Commission.

(b) The casino licensee shall not procure in any fashion goods or services from or conduct any business whatsoever with a person or entity, its employees or agents, whether or not said goods, services, or business directly relates to casino or gaming activity, unless a casino ~~service provider~~ gaming vendor license authorizing the particular

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casino service business shall have first been issued to the enterprise pursuant to these regulations if such licensure has been required by the Commission.

Modified, 1 CMC § 3806(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-310 Licenses or Registration Generally Required.

(a) Every casino ~~service provider~~gaming vendor, casino ~~non-gaming vendor~~vendor, casino key employee, and casino employee, except those approved by the Chairman, shall wear in a conspicuous manner their license or registration credential issued by the Commission at all times while on duty in the casino area, which includes without limitation the casino floor, cashier's cage, ~~countrooms~~count rooms, surveillance rooms, security rooms, and any area of the premises not accessible to the general public. The license credential shall at a minimum contain the name of the hotel/casino complex, a photograph of the employee, the employee position and title, and shall be numerically controlled.

(b)(1) Neither the casino gaming licensee nor any casino key employee licensee shall permit any person who should be licensed as a casino ~~service provider~~gaming vendor, a ~~casino vendor~~, a casino key employee, ~~or~~ casino employee, or registered as a casino non-gaming vendor~~vendor~~; except those approved by the Executive Director, to work in the casino area (as defined above) or any area not accessible to the general public without such person obtaining licensure from the Commission. Neither the casino gaming licensee nor any casino key employee licensee shall permit any casino ~~service provider~~gaming vendor, casino ~~non-gaming vendor~~vendor, casino key employee, or casino employee, except those approved by the Chairman, to work in the casino area (as defined above) without wearing their license credential in a conspicuous manner. Neither the casino gaming licensee nor any casino key employee licensee shall permit any casino ~~service provider~~gaming vendor, casino ~~non-gaming vendor~~vendor, casino key employee, or casino employee to be present in the cashier's cage, ~~countrooms~~count rooms, surveillance rooms, security rooms, and any area of the premises not accessible to the general public if the employee is not working.

(b)(2) (b) Neither the casino gaming licensee nor any casino key employee licensee nor any casino licensee shall give, suffer, permit or allow in any way any person who is not licensed as a casino key employee access to view or obtain any information not obtainable by a member of the general public.

(c) The casino gaming licensee shall provide each such employee with a holder for the Commission license credential which shall permit the permanent display of the information contained on the license credential. Thirty days prior to the use of any such holder, a casino gaming licensee shall submit a prototype to the Commission along with a narrative description of the proposed manner in which the employee will be required to wear such holder.

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(d) In those situations where a license credential is lost or destroyed, a casino key employee or casino employee may be authorized to enter the casino area to perform employment duties so long as:

- (1) The loss or destruction of the license is promptly reported in writing to the Commission;
- (2) The employee applies for a new license credential prior to working without the credential and pays the fee for obtaining a replacement license; and
- (3) Permission is received from a duly authorized Commission representative to do so.

(e) An application for renewal as a casino key employee or a casino employee shall be accompanied by an offer for continued employment by the casino gaming licensee. The casino employee license shall be valid for three years the remainder of the fiscal year in which it was applied for and renewed up to thirty days (30) before its expiration every third October 1 thereafter, unless the license is sooner suspended or revoked, the licensee's authorization to work in the United States expires, is terminated or revoked, or the licensee's employment with the casino gaming licensee has ended. The casino key employee license shall be valid for two years the remainder of the fiscal year in which it was applied for and renewed up to thirty days (30) before its expiration before every other October 1 thereafter, unless the license is sooner suspended or revoked, the licensee's authorization to work in the United States expires, is terminated or revoked, or the licensee's employment with the casino gaming licensee has ended. By way of example, a casino key employee license or casino employee license applied for on December 31, 2018~~5~~ is valid through September 30, 2019~~7~~ and must be renewed before October 1, 2019~~7~~. Key employee licensees must not begin work until they have been granted a provisional key employee license or a full key employee license by the Commission.

(f) All suppliers of the casino gaming licensee while conducting business within the premise shall wear in plain view an identification card that identifies the supplier. Supplier identification cards shall be issued by the Commission. No supplier shall be permitted to be in the casino area which includes without limitation the casino floor, cashier's cage, ~~count rooms~~ count rooms, surveillance rooms, security rooms, and any area of the premises not accessible to the general public without displaying the Commission-issued identification card.

(g) All licenses and identification cards issued by the Commission remain at all times property of the Commission and must be surrendered to the Commission immediately upon request by any Commission member, agent, or the Executive Director.

(h) Neither the casino gaming licensee nor any casino key employee licensee or casino licensee shall permit any person who is not a holder of a gaming license issued by the Commission access to:

- (1) Any player tracking software or database;
- (2) Any software or database used in any manner whatsoever for the conduct of casino gaming or casino accounting;

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(3) Any computer or network settings, configurations, or passwords if such computer or network settings, configurations, or passwords are used in any manner whatsoever for the conduct of casino gaming or casino accounting;

(4) Any information or data of any kind whatsoever stored in or collected by any software listed in subsections (h)(1)–(2), unless such person is enrolled pursuant to Part 1000 or has been granted permission to obtain access by the Executive Director.

Modified, 1 CMC § 3806(d)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

Commission Comment: The Commission changed “CCC” to “Commission” throughout this title pursuant to 1 CMC § 3806(g).

### § 175-10.1-325 **Mandatory License or Registration Requirements.**

A condition of a casino license or any casino ~~service provider~~ gaming vendor license or casino ~~non-gaming vendor~~ vendor registration license, the Commission or its authorized representatives may inspect and monitor, at any time and with or without notice, any part of the licensed casino, its gaming operations, equipment, records, and related activities and any similar area or activity of the licensed casino ~~service provider~~ gaming vendor or casino ~~non-gaming vendor~~ vendor, and that a law enforcement officer may enter any such area as requested by the Commission. The Executive Director may authorize representatives of the Commission.

Modified, 1 CMC § 3806(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-425 **Withdrawal.**

(a) Except as otherwise provided in subsection (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~~ Executive Director that withdrawal of the application would be consistent with the public interest and the policies of the Act. Unless the ~~Executive Director~~ 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~~ Executive Director shall not direct the refunding, in whole or in part, of any fee or other payment relating to any application unless the ~~Commission~~ Executive Director 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~~ Executive Director shall not permit withdrawal of said

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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.

(c) Notwithstanding the foregoing, the ~~Commission~~ Executive Director may accept and consider written notice of withdrawal after the time specified herein if extraordinary circumstances so warrant.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### **Part 500 - ACCOUNTING REGULATIONS**

#### **§ 175-10.1-501 Commission Divisions.**

The Commission shall organize and maintain an Executive Division, a Division of Permit & Licensing, Administration, a Division of Enforcement & Investigations, a Division of Audit, and a Division of Compliance.

Modified, 1 CMC § 3806(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

#### **§ 175-10.1-505 Commission Audit Procedures.**

(a) The Division of Audit and the Division of Compliance will have the authority, among other tasks assigned by the Executive Director to:

- (1) Conduct periodic audits or reviews of the books and records of licensees on an as-needed basis, in the discretion of the Executive Director;
- (2) Review the accounting methods and procedures used by licensees;
- (3) Review and observe methods and procedures used by licensees to count and handle cash, chips, tokens, negotiable instruments, and credit instruments;
- (4) Examine the licensees' records and procedures in extending credit, and to confirm with gaming patrons the existence of an amount of debt and any settlement thereof;
- (5) Examine and review licensees' internal control procedures;
- (6) Examine all accounting and bookkeeping records and ledger accounts of the licensee or a person controlling, controlled by, or under common control with the licensee;
- (7) Examine the books and records of any licensee when conditions indicate the need for such action or upon the request of the Chairman or the Commission; and
- (8) Investigate each licensee's compliance with the Act and the regulations of the Commission.

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(b) The Division of Audit and/or the Division of Compliance shall at the request of the Executive Director conduct each audit in conformity with the statements on auditing standards. The Division of Audit and/or Division of Compliance~~divisions of Audit and Compliance~~ shall prepare an appropriate report at the conclusion of each audit and shall submit a copy of the report to the Commission.

(c) At the conclusion of each audit or review, the Division of Audit and/or Division of Compliance~~divisions of Audit and Compliance~~ or other applicable division shall confer with and go over the results of the audit or review with the licensee. The licensee may, within ten days of the conference, submit written reasons why the results of the audit or review should not be accepted. The Commission shall consider the submission prior to its determination.

(d) When the Division of Audit and/or Division of Compliance~~divisions of Audit and Compliance~~ or any other division finds that the licensee is required to pay additional fees or taxes or finds that the licensee is entitled to a refund of fees or taxes, it shall report its findings, and the legal basis upon which the findings are made, to the Commission and to the licensee in sufficient detail to enable the Commission to determine if an assessment or refund is required.

(e) Ordinarily, the casino gaming licensee will not pay the costs of the audit. If the Executive Director determines that the audit will require excessive costs, such excessive costs shall be paid by the casino gaming licensee. If the audit reveals and the Executive Director determines that amounts were deliberately misreported, underreported, or mischaracterized, the casino gaming licensee shall, in addition to any penalty which may be imposed, pay the costs of the audit and investigation.

(f) The Commission may require that a casino ~~service provider~~gaming vendor pay the costs of the audit.

Modified, 1 CMC § 3806(e)-(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-510 Procedure for Reporting and Paying Gaming Taxes and Fees.

(a) Unless the Commission establishes another procedure, taxes and fees which are to be paid to the Treasurer, and all reports relating thereto which are required under the Act and the regulations must be received by the Commonwealth Treasurer with an original receipt provided to the Commission not later than the due date specified by law or regulation, except that the taxes and reports shall be deemed to be timely filed if the casino gaming licensee or casino service provider demonstrates to the satisfaction of the Commission that they were deposited in a United States post office or mailbox, with first-class postage prepaid, and properly addressed to the Commonwealth Treasurer, within the time allowed for payment of the taxes. The original receipt must be promptly forwarded to the Commission.

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(b) Unless the Commission establishes another procedure, fees which are to be paid to the Commission and all reports relating thereto must be received by the Commission not later than the due date specified by law or regulation, except that the fees and reports shall be deemed to be timely filed if the casino gaming licensee or casino ~~service provider~~gaming vendor demonstrates to the satisfaction of the Commission that they were deposited in a United States post office or mailbox, with first-class postage prepaid, and properly addressed to the Commission, as the case may be, within the time allowed for payment of the taxes.

(c) The casino gaming licensee or casino ~~service provider~~gaming vendor licensee may elect to report and pay its fees, and file all reports relating thereto, via check or pursuant to an electronic transfer procedure approved by the Commission.

Modified, 1 CMC § 3806(f)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-515 Accounting Records.

(a) The casino gaming licensee, and each other licensee, in such manner as the Chairman may approve or require, shall keep accurate, complete, legible, and permanent records of all transactions pertaining to revenue that is taxable or subject to fees under the Commonwealth Code and these regulations. Each licensee that keeps permanent records in a computerized or microfiche fashion shall provide the Division of Audit and/or Division of Compliance~~divisions of Audit and Compliance~~, or the Department of Finance's applicable tax and license division, upon request, with a detailed index to the microfiche or computer record that is indexed by department and date.

(b) The casino gaming licensee shall keep general accounting records on a double entry system of accounting, maintaining detailed, supporting, subsidiary records, including:

- (1) Detailed records identifying all revenues, all expenses, all assets, all liabilities, and equity for each establishment;
- (2) Detailed records of all markers, IOU's, returned checks, hold checks, or other similar credit instruments accepted by the licensee;
- (3) Individual and statistical game records to reflect statistical drop, statistical win, and the percentage of statistical win to statistical drop by table for each table game, and to reflect statistical drop, statistical win, and the percentage of statistical win to statistical drop for each type of table game, either by each shift or other accounting period approved by the Commission, and individual and statistical game records reflecting similar information for all other games;
- (4) Slot analysis reports which, by each machine, compare actual hold percentages to theoretical hold percentages;
- (5) Journal entries prepared by the licensee and its independent accountant;
- (6) All information pertaining to any promotional, discount, or VIP service type programs;

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- (7) All information pertaining to any junket or junket-type operators or programs including, but not limited to all contracts and agreements of any kind, all money schedules, settlement sheets, and reports or written communications of any kind between the licensee and any junket operator, junket player or junket patron of any type; and
- (8) Any other records that the Commission specifically requires to be maintained.
- (c) The casino gaming licensee shall create and maintain records sufficient to accurately reflect gross income and expenses relating to its operations which are subject of these regulations. Every other licensee shall create and maintain records sufficient to accurately reflect gross income and expenses relating to its operations which are subject of these regulations.
- (d) If the casino gaming licensee fails to keep the records used by it to calculate gross gaming revenue, the Commission may compute and determine the amount of taxable revenue upon the basis of an audit conducted by the Division of Audit and/or Division of Compliance~~divisions of Audit and Compliance~~, or any other division, upon the basis of any information within the Commission's possession, or upon statistical analysis.
- (e) Casino employee or casino key employee licensees must maintain such revenue and tax records as the Commission requires be maintained, in addition to any records required by the Department of Finance.

Modified, 1 CMC § 3806(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-525 Records of Ownership.

- (a) Each corporate licensee or corporate owner of a casino gaming licensee shall keep on the premises of the casino gaming licensee, or shall provide to the ~~the~~ Divisions of Audit, Division of Compliance, the Division of Enforcement & Investigations, or the Division of Permit & Licensing Administration, upon request, the following documents pertaining to the corporation:
- (1) A certified copy of the articles of incorporation and any amendments;
  - (2) A copy of the bylaws and any amendments;
  - (3) A copy of the license issued by the Commonwealth Secretary of Finance authorizing the corporation to transact business in the Commonwealth;
  - (4) A list of all current and former officers and directors;
  - (5) Minutes of all meetings of the stockholders which pertain to the casino gaming licensee;
  - (6) Minutes of all meetings of the directors which pertain to the casino gaming licensee;
  - (7) A list of all stockholders listing each stockholder's name, address, the number of shares held, and the date the shares were acquired;
  - (8) The stock certificate ledger;

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- (9) A record of all transfers of the corporation's stock; and
- (10) A record of amounts paid to the corporation for issuance of stock and other capital contributions.
- (b) Each partnership licensee shall keep on the premises of its gaming establishment, or provide to the ~~the~~ Divisions of Audit, Division of ~~and~~ Compliance, the Division of Enforcement & Investigations, or the Division of Permit & Licensing Administration, upon request, the following documents pertaining to the partnership:
- (1) A copy of the partnership agreement and, if applicable, the certificate of limited partnership;
- (2) A list of the partners, including their names, addresses, the percentage of interest held by each, the amount and date of each capital contribution of each partner, the date the interest was acquired, and the salary paid by the partnership; and
- (3) A record of all withdrawals of partnership funds or assets.
- (c) Each casino gaming licensee which is a LLC licensee shall keep on the premises of its establishment, or shall provide to the Division of Audit, the Division of Compliance ~~divisions of Audit and Compliance~~, the Division of Enforcement & Investigations, or the Division of Permit & Licensing Administration, upon request, the following documents pertaining to the LLC:
- (1) A certified copy of the articles of organization and any amendments;
- (2) A copy of the operating agreement and any amendments;
- (3) A copy of the license issued by the Commonwealth Secretary of Commerce authorizing the LLC to transact business in the Commonwealth;
- (4) A list of all current and former Members and Managers;
- (5) Minutes of all meetings of the Members;
- (6) Minutes of all meetings of the LLC;
- (7) A list of all persons with any distributional interest in the LLC listing each person's name, address, the percentage of distributional interest owned or controlled by the person, and the date the interest was acquired;
- (8) The stock certificate ledger;
- (9) A record of all transfers of any beneficial interest in the LLC; and
- (10) A record of amounts paid to the LLC as capital contributions.
- (d) The operating agreement of any limited liability company which has been granted a casino gaming license must be in writing and shall include any language required by the Commonwealth Casino Commission by order as well as language substantially as follows:
- (1) Notwithstanding anything to the contrary expressed or implied in the articles or this agreement, the sale, assignment, transfer, pledge, or other disposition of any interest in the limited liability company is ineffective unless approved in advance by the Commonwealth Casino Commission. If at any time the Commission finds that a member which owns any such interest is unsuitable to hold that interest, the Commission shall immediately notify the limited liability company of that fact. The limited liability company shall, within ten days from the date that it receives the notice from the Commission, return to the unsuitable member the amount of his capital

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account as reflected on the books of the limited liability company. Beginning on the date when the Commission serves notice of a determination of unsuitability, pursuant to the preceding sentence, upon the limited liability company, it is unlawful for the unsuitable member: (A) To receive any share of the distribution of profits or cash or any other property of, or payments upon dissolution of, the limited liability company, other than a return of capital as required above; (B) To exercise directly or through a trustee or nominee, any voting right conferred by such interest; (C) To participate in the management of the business and affairs of the limited liability company; or (D) To receive any remuneration in any form from the limited liability company, for services rendered or otherwise.

(2) Any member that is found unsuitable by the Commission shall return all evidence of any ownership in the limited liability company to the limited liability company, at which time the limited liability company shall within ten days, after the limited liability company receives notice from the Commission, return to the member in cash, the amount of his capital account as reflected on the books of the limited liability company, and the unsuitable member shall no longer have any direct or indirect interest in the limited liability company.”

Modified, 1 CMC § 3806(e)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-530 Record Retention; Noncompliance.

Each licensee shall provide the Divisions of Audit, the Division of ~~and~~ Compliance, the Division of Enforcement & Investigations, or the Division of Permit & Licensing Administration, upon request, with the records required to be maintained by these regulations. Unless the Commission approves or requires otherwise in writing, each licensee shall retain all such records within the Commonwealth for at least five years after they are made. Failure to keep and provide such records is an unsuitable method of operation.

Modified, 1 CMC § 3806(e)–(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-550 Gross Revenue Computations.

(a) For each table game, gross revenue equals the closing table game bankroll plus credit slips for cash, chips, tokens, or personal/payroll checks returned to the casino cage, plus drop, less opening table game bankroll, fills to the table, money transfers issued from the game through the use of a cashless wagering system.

(b) For each slot machine, gross revenue equals drop less fills to the machine and jackpot payouts. Additionally, the initial hopper load is not a fill and does not affect gross revenue. The difference between the initial hopper load and the total amount that is in the hopper at the end of the licensee’s fiscal year must be adjusted accordingly as an

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addition to or subtraction from the drop for that year. If a casino gaming licensee does not make such adjustments, or makes inaccurate adjustments, the Division of Audit and/or Division of Compliance ~~divisions of Audit and Compliance~~ may compute an estimated total amount in the slot machine hoppers and may make reasonable adjustments to gross revenue during the course of an audit.

(c) For each counter game, gross revenue equals:

(1) The counter games write on events or games that occur during the month or will occur in subsequent months, less counter games payout during the month (“cash basis”); or

(2) Counter games write on events or games that occur during the counter games write plus money, not previously included in gross revenue that was accepted by the licensee in previous months on events or games occurring during the month, less counter games payouts during the month (“modified accrual basis”) to patrons on winning wagers.

(d) For each card game and any other game in which the licensee is not a party to a wager, gross revenue equals all money received by the casino gaming licensee as compensation for conducting the game.

(e) In computing gross revenue for a slot machines, keno and bingo, the actual cost to the casino gaming licensee, its agent or employee, or a person controlling, controlled by, or under common control with the licensee, of any personal property distributed as losses to patrons may be deducted from winnings (other than costs of travel, lodging, services, food, and beverages) if the licensee maintains detailed documents supporting the deduction.

(f) If the casino gaming licensee provides periodic payments to satisfy a payout resulting from a wager, the initial installment payment when paid and the actual cost of a payment plan approved by the Commission and funded by the licensee may be deducted from winnings. For any funding method which merely guarantees the licensee’s performance and under which the licensee makes payments directly out of cash flow (e.g., irrevocable letters of credits, surety bonds, or other similar methods), the licensee may only deduct such payments when paid to the patron.

(g) The casino gaming licensee shall not exclude money paid out on wagers that are knowingly accepted by the licensee in violation of the Commonwealth Code or these regulations from gross revenue.

(h) If in any month the amount of casino gross gaming revenue is less than zero dollars, the licensee may deduct the excess in the succeeding months, until the loss is fully offset against casino gross gaming revenue.

(i) Payout receipts and wagering vouchers issued at a game or gaming device shall be deducted from gross revenue as jackpot payouts in the month the receipts or vouchers are issued by the game or gaming device. Payout receipts and wagering

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vouchers deducted from gross revenue that are not redeemed within sixty days of issuance shall be included in gross revenue. An unredeemed payout receipt or wagering voucher previously included in gross revenue may be deducted from gross revenue in the month redeemed. For purposes of this section, the term “slot machine” means a gaming device for which gross revenue is calculated pursuant to the method described under subsection (b). Such receipts and wagering vouchers shall be deemed expired if not redeemed on or before the expiration date printed on the payout receipt or wagering voucher or within 180 days of issuance, whichever period is less. Licensees may redeem expired receipts and wagering vouchers in their sole discretion but may not deduct amounts paid out from gross revenue.

(j) A record of all expired payout receipts and wagering vouchers shall be created and maintained in accordance with the record keeping requirements set forth by the Commission.

(k) Any amounts paid or rebated to players or patrons in the form of comps, commissions or the like are a cost of doing business and shall not be deducted from gross revenue.

Modified, 1 CMC § 3806(a), (d)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

Commission Comment: The Commission renumbered the second subsection (j) to (k) pursuant to 1 CMC § 3806(a).

### § 175-10.1-560 Minimum Bankroll Requirements.

(a) The Commission may adopt or revise a bankroll formula that specifies the minimum bankroll requirements applicable to the casino gaming licensee, along with instructions for computing available bankroll. The formula adopted by the Commission may require the licensee to maintain a number of days of cash on hand, utilize a debt-to-service ratio, or utilize any other ratio the Commission deems fit.

(b) The casino gaming licensee shall maintain in accordance with the bankroll formula adopted by the Commission pursuant to the requirements of this section, cash or cash equivalents in an amount sufficient to reasonably protect the licensee’s patrons against defaults in gaming debts owed by the licensee. If at any time the licensee’s available cash or cash equivalents should be less than the amount required by this section, the licensee shall immediately notify the Commission of this deficiency and shall also detail the means by which the licensee shall comply with the minimum bankroll requirements. Failure to maintain the minimum bankroll required by this section or failure to notify the Commission as required by this section, is an unsuitable method of operation.

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(c) Records reflecting accurate, monthly computations of bankroll requirements and actual bankroll available shall be maintained by the casino gaming licensee, and mailed to the Commission monthly.

(d) The casino licensee shall maintain an unencumbered irrevocable letter of credit from a financial institution acceptable to the Commission in the amount of fifteen million dollars (\$15,000,000), or some other higher amount required by the Commission, to ensure payment to winning players.

(e) The casino licensee shall not accept any wager for which it does not have funds readily available to pay.

Modified, 1 CMC § 3806(e)–(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### **§ 175-10.1-565 Treatment of Credit for Purposes of Computing Gross Revenue.**

(a) The casino gaming licensee shall:

(1) Document, prior to extending gaming credit, that it:

(i) Has received information from a bona fide credit-reporting agency that the patron has an established credit history that is not entirely derogatory; or

(ii) Has received information from a legal business that has extended credit to the patron that the patron has an established credit history that is not entirely derogatory; or

(iii) Has received information from a financial institution at which the patron maintains an account that the patron has an established credit history that is not entirely derogatory; or

(iv) Has examined records of its previous credit transactions with the patron showing that the patron has paid substantially all of his credit instruments and otherwise documents that it has a reasonable basis for placing the amount or sum placed at the patron's disposal; or

(v) Was informed by another licensee that extended gaming credit to the patron that the patron has previously paid substantially all of the debt to the other licensee and the licensee otherwise documents that it has a reasonable basis for placing the amount or sum placed at the patron's disposal; or

(vi) If no credit information was available from any of the sources listed in subsections(a)(1)(i)–(v) for a patron who is not a resident of the United States, the licensee has received, in writing, information from an agent or employee of the licensee who has personal knowledge of the patron's credit reputation or financial resources that there is a reasonable basis for extending credit in the amount or sum placed at the patron's disposal;

(vii) In the case of personal checks, has examined and has recorded the patron's valid driver's license or, if a driver's license cannot be obtained, some other document normally acceptable as a means of identification when cashing checks, and has recorded a bank check guarantee card number or credit card number or has documented one of the credit checks set forth in subsections (a)(1)(i)–(vi);

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(viii) In the case of third party checks for which cash, chips, or tokens have been issued to the patron or which were accepted in payment of another credit instrument, has examined and has recorded the patron's valid driver's license, or if a driver's license cannot be obtained, some other document normally acceptable as a means of identification when cashing checks and has, for the check's maker or drawer, performed and documented one of the credit checks set forth in subsections (a)(1)(i)–(vi);

(ix) In the case of guaranteed drafts, has complied with the issuance and acceptance procedures promulgated by the issuer.

(2) Ensure that the patron to whom the credit is extended either signs the credit instrument when credit is extended;

(3) Obtain and record the patron's address before extending the credit.

(b) The casino gaming licensee shall, after extending credit, document that it has attempted to collect payment from the patron at least once on or before the ninetieth day from the issuance of credit and thereafter once every thirty days until it is collected.

(c) The casino gaming licensee shall furnish the credit instrument to the Commission within thirty days after the Commission's request, unless the licensee has independent, written, and reliable verification that the credit instrument is in the possession of a court, governmental agency, or financial institution; has been returned to the patron upon partial payment of the instrument; has been returned to the patron upon the licensee's good faith belief that it had entered into a valid settlement and the licensee provides a copy of the original credit instrument and a document created contemporaneously with the settlement that contains the information required by this section; has been stolen and the licensee has made a written report of the theft to an appropriate law enforcement agency, other than the Commission having jurisdiction to investigate the theft; or the Chairman waives the requirements of the subsection because the credit instrument cannot be produced because of any other circumstances beyond the licensee's control.

(1) Theft reports made pursuant to subsection (c) must be made within thirty days of the licensee's discovery of the theft and must include general information about the alleged crime, the amount of financial loss sustained, the date of the alleged theft, and the names of employees or agents of the licensee who may be contacted for further information. The licensee shall furnish to the Division of Audit and/or Division of Compliance ~~divisions of Audit and Compliance~~ a copy of theft reports made pursuant to this paragraph within thirty days of its request.

(2) If the licensee has returned a credit instrument upon partial payment, consolidation, or redemption of the debt, it shall issue a new "substituted" credit instrument in place of the original and shall furnish the substituted credit instrument to the Commission within thirty days of its request, unless the licensee has independent, written, and reliable verification that the substituted credit instrument cannot be produced because it is in the possession of a court, governmental agency, or financial institution; has been stolen and the licensee has made a written report of the theft to an appropriate law enforcement agency, other than the Commission, having jurisdiction to investigate the theft; or the Commission waives the requirements of subsection (c)(2)

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because the substituted credit instrument cannot be produced because of any other circumstances beyond the licensee's control.

(d) The casino gaming licensee shall submit a written report of a forgery, if any, of the patron's signature on the instrument to an appropriate law enforcement agency, other than the Commission, having jurisdiction to investigate the forgery. The report must include general information about the alleged crime, the amount of financial loss sustained, the date of the alleged forgery, and identification of employees or agents of the licensee who may be contacted for further information. The licensee shall furnish a copy of forgery reports made pursuant to this paragraph to the Division of Audit, Division of Compliance, and/or divisions of Audit and Compliance ~~and the Division of Enforcement & Investigations~~ within thirty days of its request.

(e) The casino gaming licensee shall permit the Commission within thirty days of its request to confirm in writing with the patron the existence of the debt, the amount of the original credit instrument, and the unpaid balance, if any.

(f) The casino gaming licensee shall retain all documents showing, and otherwise make detailed records of, compliance with this subsection, and furnish them to the Division of Audit and/or Division of Compliance ~~Divisions of Audit and Compliance~~ within thirty days after its request.

(g) The casino gaming licensee shall include in gross revenue all or any portion of any paid balance on any credit instrument.

(h) The casino gaming licensee shall include in gross revenue all of an unpaid balance on any credit instrument unless the Commission determines that, with respect to that credit instrument, the licensee has complied with the requirements of this part and these regulations and that the public interest will be served if the unpaid balance is not included in gross revenue.

Modified, 1 CMC § 3806(a), (d)–(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

Commission Comment: The Commission renumbered the first (d) to (c) pursuant to 1 CMC § 3806(a). The Commission substituted "subsection (c)" for "this paragraph" in (c)(1) and "subsection (c)(2)" for "this subparagraph" in (c)(2) pursuant to 1 CMC § 3806(d).

### § 175-10.1-570 Handling of Cash.

(a) Each gaming employee, owner, or licensee who receives currency of the United States (other than permitted tips or gratuities) from a patron in the gaming area of a gaming establishment shall promptly place the currency in the locked box in the table or, in the case of a cashier, in the appropriate place in the cashier's cage, or on those games which do not have a locked box or on card game tables, in an appropriate place on the table, in the cash register, or other repository approved by the Commission.

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(b) For every payment of United States or foreign currency received by the casino licensee, or any of its agents, officers, directors, members, employees, or affiliates, outside of the United States in relation to a gaming debt owed to the casino gaming licensee or a casino gaming-related deposit made to the casino gaming licensee, a Currency Payment/Deposit Report that has been adopted by the Executive Director must be submitted to the Commission within thirty (30) days after the receipt of such payment or deposit.

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-580 Petitions for Redetermination; Procedures.

(a) A licensee filing a petition for redetermination with the Commission shall serve a copy of the petition on the Executive Director, the Secretary of Finance and the Attorney General, and pay the petition fee listed in § 175-10.1-1225(e)(2).

(b) A licensee shall, within thirty days after the petition is filed:

(1) Pay all taxes, fees, penalties, or interest not disputed in the petition, and submit a schedule to the Division of Audit and/or Division of Compliance ~~divisions of Audit and Compliance~~ that contains its calculation of the interest due on non-disputed assessments;

(2) File with the Commission a memorandum of points and authorities in support of a redetermination, and serve a copy of the memorandum on the Executive Director, the Secretary of Finance and the Attorney General; and

(3) File with the Commission a certification that it has complied with the requirements of subsections (a) and (b).

(c) The Executive Director shall, within thirty days after service of the licensee's memorandum, file a memorandum of points and authorities in opposition to the licensee's petition and shall serve a copy on the licensee. The licensee may, within fifteen days after service of the Executive Director's memorandum, file a reply memorandum.

(d) The Executive Director and the licensee may stipulate to extend the time periods specified in this section if their stipulation to that effect is filed with the Commission before the expiration of the pertinent time period. The Commission may extend the time periods specified in this section upon motion and for good cause shown.

(e) The Commission may, at its discretion, deny a petition for redetermination if the licensee fails to comply with the requirements of this section or these regulations.

Modified, 1 CMC § 3806(d)-(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-590 Compliance Committee.

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(a) The licensee shall develop and maintain a Compliance Committee to ensure compliance with the Bank Secrecy Act (BSA), all applicable Internal Revenue Service laws and policies, all federal and Commonwealth laws and regulations, the Minimum Internal Control Standards, and the licensee's Internal Controls. The Compliance Committee shall report to the Chief Executive Officer of the licensee.

(b) The Committee must have at least one independent person, acceptable to the Commission, not employed by the Company, (but who may be a paid outside consultant to the Company), who must have knowledge of applicable gaming laws and regulations. Notwithstanding the non-employee status of the independent member(s), the Executive Director may require the independent member(s) to secure licensure as if they were casino key employees. ~~or vendors.~~

(c) The Committee shall report to the Commission the finding of any violation of any applicable law, regulation, or internal control standard as well as the action recommended by the Committee and action taken by the licensee to correct the violation.

Modified, 1 CMC § 3806(e)-(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### **§ 175-10.1-595 Additional Documents for Ongoing Financial Suitability.**

(a) As part of the Commission's process to monitor the ongoing financial suitability of the Casino Gaming Licensee, the Commission requires that the Casino Gaming Licensee submit to the Commission, on an annual basis, a Projected Cashflow Statement and an Operational Budget Schedule within 30 days before the beginning of the projected calendar year. Furthermore, the Commission requires that the Casino Gaming Licensee submit to the Commission, within 30 days after each calendar quarter, updated reports comparing the projected amounts to the actual amounts for the prior quarter(s) of the projected year and provide explanations for any variances between the projected and actual amounts of greater than + or - twenty-five percent (25%).

(b) On the tenth of each month, the Casino Gaming Licensee shall submit to the Commission all monthly capital investment expenditures with supporting documentations to satisfy the two billion dollar (\$2,000,000,000) minimum initial investment requirement as mandated by 4 CMC § 2306(e).

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 40 Com. Reg. 40566, 40571 (Feb. 28, 2018); Amdts Proposed 39 Com. Reg. 40308 (Oct. 28, 2017); Adopted 40 Com. Reg. 40566 (Feb. 28, 2018); Proposed 39 Com. Reg. 40308 (Oct. 28, 2017).

## **Part 600 - CASINO LICENSE**

### **§ 175-10.1-601 Casino License Agreement Compliance.**

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The casino licensee shall comply with the requirements as set forth in the Casino License Agreement, and all amendments made thereto, entered into between the Commonwealth Lottery Commission and the casino gaming licensee. Failure to comply is an unsuitable method of operation and a major offense subject to penalty, including but not limited to license revocation.

### ~~§ 175-10.1-601 — Commission Authority over the Casino License.~~

~~The Commission has the authority for the approval of all casino operations and gaming activities conducted under the casino license granted by the Lottery Commission including, but not limited to the establishment of gaming rules and regulations. The authority of the Commission includes the ability to suspend or revoke the casino license for violation of the regulations or the Act.~~

~~Modified, 1 CMC § 3806(f).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

### ~~§ 175-10.1-605 — Term of the Casino License.~~

~~(a) — The casino license is valid for an initial term of twenty five years starting on the license issuance date of August 12, 2014 and ending at 11:59 p.m. on August 11, 2039.~~

~~(b) — The casino licensee has an option to extend the initial term for an additional consecutive period of fifteen years prior to the expiration of the initial term.~~

~~Modified, 1 CMC § 3806(e) (f).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

### ~~§ 175-10.1-610 — Annual License Fee.~~

~~(a) — The annual license fee for the casino license shall be fifteen million dollars.~~

~~(b) — The annual license fee shall be paid every year to the Commonwealth Treasurer each August 12<sup>th</sup> for the entire term of the casino license, except for any pre-payments of the annual license fee for any particular year as required by law or other agreement, in which case payment for such particular year will not be required.~~

~~(c) — The annual license fee amount shall be adjusted every five years based on the cumulative change in the consumer price index announced by the Commonwealth Department of Commerce for the island of Saipan since the license issuance date.~~

~~Modified, 1 CMC § 3806(e) (f).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

### ~~§ 175-10.1-615 — Pre-payments of Annual License Fee.~~

~~(a) — Pursuant to Public Law 18-56, the licensee has prepaid thirty million dollars of~~

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~~the annual license fees reflecting payments of year one and prepayment of year five of the license term.~~

~~(b) — Licensee shall pay five million dollars of the annual license fee for the second year within fifteen days after the Commission authorizes the temporary live training facility and the remaining ten million dollars of the annual license fee for the second year within fifteen days of the execution of the public land lease between the Department of Public Lands and licensee for the area commonly known as the Samoan Housing in Garapan for construction of the initial gaming facility referred to in § 175-10.1-635. Both payments shall be made prior to August 12, 2015 and shall comprise full payment for the second year of the annual license fee.~~

~~(c) — Additionally, the licensee agrees to make a pre-payment of the annual license fee for the eighth year of the license term, being a minimum of fifteen million dollars within sixty days from the opening of the initial gaming facility referred to in § 175-10.1-635.~~

~~(d) — In every case of pre-payment of the annual license fee for any particular year, there will be no requirement for payment of the annual license fee for such particular year except for any adjustment based on the change in the consumer price index referred to in § 175-10.1-610(c).~~

~~Modified, 1 CMC § 3806(e) (g).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

### ~~§ 175-10.1-620 — Licensee Assurances.~~

~~(a) — The award of the casino license to Imperial Pacific International (CNMI) LLC as a licensee was based on the information and assurances provided by the licensee in: (1) the casino resort developer application that was submitted by the licensee in April 2014; (2) the subsequent business plan that was submitted in May 2014 (“Business Plan”), and information provided to Commonwealth Consultants (collectively “Licensee Proposal and Assurances”). The Commonwealth has relied on the accuracy and trustworthiness of the Licensee Proposal and assurances in the awarding of the casino license and they were incorporated as a material element of the casino license agreement.~~

~~(b) — All of the terms, promises and assurances provided in the Licensee Proposal and assurances are binding on Imperial Pacific International (CNMI) LLC, as the casino gaming licensee. These terms, promises and assurances include, but are not limited to the following specific proposed new construction development requirements:~~

- ~~(1) — 2,004 hotel guest rooms;~~
- ~~(2) — 17,000 square meters of total gaming floor area;~~
- ~~(3) — 13,532 square meters of food and beverage outlets (at least 23 outlets);~~
- ~~(4) — 15,000 square meters of retail space;~~
- ~~(5) — 600 seat theatre;~~
- ~~(6) — 9,094 square meters of meeting space including ballroom;~~
- ~~(7) — Wedding chapel;~~

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~~(8) — 200 villas;  
(9) — 1,050 square meters of fitness area;  
(10) — \$100,000,000 themed entertainment facility; and  
(11) — 1,900 square meters of spa facility,  
(collectively “Licensee Development Proposal Requirements” or “Proposal Requirements”).~~

~~(c) — The casino gaming licensee is solely responsible for obtaining all required government approvals, permits and licenses required to honor its obligation to construct the Proposal Requirements.~~

~~(d) — Nothing in this Part prohibits the casino gaming licensee from developing beyond the requirements of the licensee development proposal requirements (“Licensee Additions”).~~

~~Modified, 1 CMC § 3806(f).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

### ~~§ 175-10.1-625 — Development Sites.~~

~~(a) — The casino gaming licensee is authorized to use up to a total of three development sites to obtain the required land necessary for the full development of the initial gaming site, licensee development proposal requirements, and any licensee additions.~~

~~(b) — All gaming activities authorized under the casino license are strictly limited to the approved development sites and the Temporary Facility referred to in Part 800.~~

~~(c) — All development at these three development sites is to be done in a manner that balances the need for protection of island culture environment and the need for economic development. Development shall be done in a manner that preserves, enhances, and is consistent with maintaining a serene island culture environment.~~

~~(d) — The term development site is defined as a single parcel of property or a grouping of adjoining connected parcels that presents a unified uninterrupted parcel that is under the control of the licensee. Individual parcels controlled by the licensee that are separated only by a public right of way shall be considered as a single development site.~~

~~Modified, 1 CMC § 3806(e)–(f).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

### ~~§ 175-10.1-630 — Integrated Resort (Phase One).~~

~~(a) — The casino licensee shall build an integrated resort as Phase one (“Phase One”) of the licensee development proposal requirements. For purposes of this license agreement, the term “Integrated Resort” is defined as a large commercial endeavor in which multiple~~

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~~functions of: accommodations, entertainment, retail, service providers, and casino facilities are integrated at a single development site. The total area where actual gaming takes place shall be no more than 20% of the gross floor area of the integrated resort.~~

~~(b) — All structures and associated elements of the integrated resort required herein are to be of a uniformly high luxury standard. All guest rooms shall be of similar quality as established by Triple AAA lodging criteria standards for four or five star developments, with associated guest services of similar quality.~~

~~Modified, 1 CMC § 3806(e) - (f).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

### ~~§ 175-10.1-635 — Initial Gaming Facility.~~

~~(a) — The casino licensee shall construct or refurbish an initial gaming facility which is a structure with guest rooms and services of five star quality.~~

~~(b) — The initial gaming facility shall have a minimum of 250 rooms.~~

~~(c) — The structures associated with the initial gaming facility shall be considered as one of the allowed development sites referred to in § 175-10.1-625.~~

~~(d) — The initial gaming facility must be fully constructed and operations must begin no later than August 31, 2018.~~

~~Modified, 1 CMC § 3806(e) - (g).~~

~~History: Amdts Adopted 40 Com. Reg. 40560 (Jan. 28, 2018); Amdts Proposed 39 Com. Reg. 39755 (July 28, 2017); Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

### ~~§ 175-10.1-640 — Development Requirements (Phase One).~~

~~(a) — Phase One shall result in the establishment of a fully functional integrated resort and include at a minimum the following elements and associated support components at a single development site:~~

~~(1) — An 800 room four or five star luxury hotel;~~

~~(2) — A \$100,000,000 themed entertainment facility with amphitheater;~~

~~(3) — 5,372 square meters of food and beverage outlets;~~

~~(4) — 2,500 square meters of meeting space (including indoor seating space for 600 persons);~~

~~(5) — 5,000 square meters of retail shops;~~

~~(6) — Wedding chapel;~~

~~(7) — 500 square meter spa/fitness area;~~

~~(8) — 10,000 square meters of gaming area (which includes back of house areas); and~~

~~(9) — Associated parking, site improvements, landscaping, furnishings, fixtures, utilities and infrastructure.~~

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~~(b) — The casino licensee shall complete Phase One within thirty six months of land acquisition but not later than January 12, 2018.~~

~~(e) — Phase One must include the construction of a one hundred million dollar themed entertainment facility which may include show elements. The themed facility shall be an integral part of the unifying design of Phase One which shall be reflected throughout the integrated resort. The themed facility shall provide family entertainment that complements the proposed integrated resort as an iconic development. The themed facility shall reflect the high end luxury style required in Phase One of the integrated resort.~~

~~(d) — Failing to complete Phase One when required is an unsuitable method of operation. The Commission may take into account force majeure conditions outside the casino gaming licensee's control.~~

~~Modified, 1 CMC § 3806(e) (f).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

### ~~§ 175-10.1-645 — Development Proposal Requirements (Phase Two).~~

~~(a) — All the components of the licensee development proposal requirements that were not completed in phase one shall be completed by August 12, 2022.~~

~~(b) — Failing to complete phase two when required is an unsuitable method of operation. The Commission may take into account force majeure conditions outside the casino gaming licensee's control.~~

~~Modified, 1 CMC § 3806(f).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

### ~~§ 175-10.1-650 — Liquidated Damages.~~

~~(a) — The casino gaming licensee will pay a liquidated damage charge of one hundred thousand dollars per calendar day for any delay in achieving completion of Phase One or Phase Two of the project.~~

~~(b) — The casino licensee shall pay all assessed liquidated damages within ten business days of imposition and receipt of notice from the Commonwealth.~~

~~(c) — The casino licensee agrees that the liquidated damages are not fines or penalties.~~

~~(d) — Failing to complete either Phase as required by the license agreement and these regulations is an unsuitable method of operation; failing to pay any liquidated damage when due is an unsuitable method of operation. The Commission may take into account force majeure conditions outside the casino gaming licensee's control.~~

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~~Modified, 1 CMC § 3806(e) (f).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

### ~~§ 175-10.1-655 — Local Training and Hiring Requirement.~~

~~(a) — The casino gaming licensee shall promote training and hiring of permanent United States residents in a proactive endeavor to achieve an objective of having citizens of the United States and permanent United States residents comprise at least 65% of all employees (“Resident Employment Objective”).~~

~~(b) — In furtherance of this requirement, the casino gaming licensee shall work with the Commonwealth Department of Labor to develop an annual plan (“Annual Plan”) evaluating: employment needs, local condition and challenges, current residency status of employees, and the provision of a proactive plan to achieve the resident employment objective.~~

~~(c) — This plan to achieve the resident employment objective shall include the funding by the casino gaming licensee of necessary training through local educational and trade institutions to provide required skills.~~

~~(d) — The casino gaming licensee will provide quarterly reports to the Commission and the Department of Labor on progress in meeting the resident employment objective.~~

~~(e) — Failing to file a report when due is an unsuitable method of operation.~~

~~(f) — Failing to abide by the annual plan is an unsuitable method of operation.~~

~~Modified, 1 CMC § 3806(e) (f).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

### ~~§ 175-10.1-660 — Community Benefit Fund.~~

~~(a) — Within sixty days of commencing construction work on the first hotel in the integrated resort, the licensee shall contribute twenty million dollars towards its community benefits programs to benefit: education, scholarships, public infrastructure, health care, and government employee retirement benefits, as may be determined in consultation with the Governor.~~

~~(b) — Thereafter, upon the first full year of operation of the casino gaming licensee’s first hotel in the integrated resort, licensee shall annually contribute twenty million dollars to be used for community benefit programs to benefit: education, scholarships, public infrastructure, health care, and government employee retirement benefits, as may be determined in consultation with the Governor.~~

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~~(e) — All funds contributed by the casino gaming licensee to the community benefit contribution shall remain under the possession and control of the casino gaming licensee until distributed to selected programs or recipients.~~

~~Modified, 1 CMC § 3806(e) (f).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

### ~~§ 175-10.1-665 — Requirement for Compliance with Applicable Laws.~~

~~(a) — The continuing validity of this casino gaming license is conditional upon the casino gaming licensee's compliance with applicable laws, rules, and regulations of the Commonwealth and the United States.~~

~~(b) — The failure to comply with an applicable law, rule, or regulation of the Commonwealth or the United States or a minimum internal control standard or an internal control standard is an unsuitable method of operation; each noncompliant action or omission is a distinct violation subject to penalty.~~

~~(c) — The casino gaming license shall be interpreted under the laws of the Commonwealth of the Northern Mariana Islands and the exclusive jurisdiction of the courts hereof.~~

~~Modified, 1 CMC § 3806(f).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

### ~~§ 175-10.1-670 — Transfer, Assignment, or Encumbrance Prohibited.~~

~~(a) — Neither the casino gaming license nor the duties entailed may be transferred, encumbered, assigned, pledged, or otherwise alienated without the express written authorization of the Commission (collectively “license transfer”) except in the case of encumbrances related to the casino gaming licensee financing by financing parties, agencies and institutions as may permitted by the Commission.~~

~~(b) — In instances where the casino gaming license is to be encumbered in relation to financing, confidential notice shall be provided to the Commission. Encumbrance of this license for purposes of financing shall have no effect on authority of the Commission to suspend or revoke this license nor shall it provide an encumbering party the right to operate the associated facilities without specific Commission approval.~~

~~(c) — Any attempted transfer or assignment without such consent and approval shall be void.~~

~~(d) — Any such proposed license transfer shall be subject to thorough review to determine that it is not inconsistent with the intent of the Act or the regulations.~~

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~~(e) — Any change in ownership of the casino gaming licensee shall be considered a license transfer except where the change of ownership or common control is that of a publicly held corporation that is traded on an established exchange, provided the increase in ownership or common control of an individual or entity is less than, or does not provide, 10% of total equity, control or shares of the licensee.~~

~~(f) — Subject to the preceding requirements, any transfer of the casino gaming license shall bind the transferees to all terms and conditions of the transferor.~~

~~(g) — Nothing in this section shall prevent the casino gaming licensee from contracting with independent agencies to perform designated functions subject to any required review and licensing requirements.~~

~~(h) — The Commission may deem any person who owns or controls any percentage of the casino gaming licensee, or owns or controls any percentage of any entity which owns or controls the casino gaming licensee, unsuitable and suspend operations of the casino gaming licensee until such time as all persons who own or control the casino gaming licensee or any entity which owns or controls the casino gaming licensee are deemed suitable.~~

~~Modified, 1 CMC § 3806(e) - (f).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

### ~~§ 175-10.1-675 — License Suspension or Revocation.~~

~~(a) — The casino gaming licensee is bound to comply with all terms and conditions of The casino license and a violation of its requirements shall be considered a breach thereof. A material breach thereof is grounds for suspension or revocation of the casino license. Unless otherwise indicated in the license agreement, the procedures established by the Commonwealth Administrative Procedure Act shall apply to proceedings for suspension or revocation of the casino license.~~

~~(b) — Any one or more of the following events shall constitute material breach of the license agreement (“material breach”) and grounds for casino gaming license revocation or suspension as the Commission sees fit:~~

~~(1) — Failure to pay any amount due and payable hereunder upon the date when such payment is due;~~

~~(2) — Failure to materially comply with licensee development proposal requirements or the associated implementation schedules;~~

~~(3) — Material violation of the laws of the Commonwealth or the United States;~~

~~(4) — Failure to observe or perform any material obligation or covenant under the casino license agreement;~~

~~(5) — Violation of material elements of the regulations established by the Commonwealth Casino Commission;~~

~~(6) — Unauthorized transfer of the casino gaming license;~~

~~(7) — The appointment of a receiver to take possession of all or substantially all of the~~

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~~casino gaming licensee's assets, or the filing of a voluntary or involuntary bankruptcy petition in bankruptcy by the casino gaming licensee or its creditors, if such appointment, assignment, or petition remains undischarged for a period of thirty days; and~~

~~(8) — The appointment of a receiver to take possession of all or substantially all of the assets of the owner of the casino gaming licensee, or the filing of a voluntary or involuntary bankruptcy petition in bankruptcy by the owner of the casino gaming licensee or its creditors, if such appointment, assignment, or petition remains undischarged for a period of thirty days.~~

~~(e) — Upon the occurrence of a material breach, the Commission may, but shall not be required to: (1) suspend or revoke the casino license agreement and some or all of the licenses granted pursuant to the Act and the regulations and or cancel all associated duties and obligations; or (2) pursue any other remedy available at law or in equity.~~

~~(d) — The Commission may impose civil penalties for the violation of any provision of the Act or any regulation or order issued pursuant to the Act. No penalty may exceed fifty thousand dollars. The range of lesser penalties for minor, intermediate violations and major violations is in Part 2500. The Commission may suspend, reduce, or rescind any penalty imposed pursuant to this section and according to any and all due process protections.~~

~~(e) — Notwithstanding the foregoing, the Commission shall not revoke or suspend this license agreement unless written notice to the licensee has been provided of the intention and the licensee has been provided an adequate and reasonable period to cure the issue identified.~~

~~(f) — In the event of casino license revocation, any prepayment of the annual license Fee shall be forfeited to the Commonwealth.~~

~~(g) — In the event of casino license revocation, the Commonwealth may institute any and all legal proceedings it deems appropriate in courts of its choosing to assert any and all claims against the former licensee and other parties.~~

~~Modified, 1 CMC § 3806(e) (f).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

### **§ 175-10.1-705      The Casino.**

Every casino on an approved development site shall:

(a) Contain closed circuit surveillance systems and security as approved by the Commission;

(b) Contain specifically designated and secure areas for the inspection, repair, and storage of gaming equipment as approved by the Commission;

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- (c) Contain a ~~count room~~count room and such other secure facilities as approved by the Commission for the inspection, counting, and storage of cash, coins, tokens, checks, dice, cards, chips, and other representatives of value;
- (d) Contain such facilities in the ceiling of the casino room commonly referred to as an “eye-in-the-sky” appropriate to permit direct overhead visual surveillance of all gaming therein as approved by the Commission; provided, however, that the Commission may exempt from its requirements any casino room in any building if its satisfied that same contains an acceptable approved alternative and that such exemption would not be inimical to Commission;
- (e) Contain a specially designated office, located on the casino floor, for the exclusive use by the Commission for administrative, enforcement and regulatory purposes as approved by the Commission. Such dedicated surveillance office shall include the use of such desks, chairs, monitors, camera controls, electronic video and audio recording devices, other reasonable accommodations and access to the approved surveillance system deemed necessary by the Commission for the Commission to properly enforce the applicable federal and Commonwealth laws and these regulations. The desks, chairs, monitors, camera controls, electronic video and audio recording devices, other reasonable accommodations and access to the approved surveillance system deemed necessary by the Commission provided to the Commission by the licensee for official use by the Commission remain at all times property of the licensee.

Modified, 1 CMC § 3806(f)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-805 Applicability of Regulations.

- (a) The casino licensee may not begin operation of the temporary live training facility authorized by §175-10.1-801 until the Commission has promulgated all regulations necessary for the proper regulation of the temporary live training facility, and the Commission has informed the licensee, in writing, that it may proceed with live operations.
- (b) Employees of the temporary live training facility must receive a license as if they were an employee of the casino gaming licensee pursuant to the regulations found in §175-10.1-1901 et seq. All regulations, restrictions and obligations which apply to casino employees and casino key employees apply to employees and key employees of the temporary live training facility.
- (c) ~~Service providers~~Casino Gaming Vendors of the temporary live training facility must receive a license as if they were a ~~service provider~~gaming vendor of a casino licensee pursuant to the regulations found in §175-10.1-1301 et seq. All regulations,

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restrictions, and obligations which apply to casino ~~service providers~~gaming vendors apply to ~~service providers~~casino gaming vendors of the temporary live training facility.

(d) All regulations dealing with the casino gaming licensee and the operation of gaming by the casino gaming licensee apply to the operation of the temporary live training facility.

Modified, 1 CMC § 3806(f)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-905 ~~Casino Service Provider~~Gaming Vendor Licenses.

(a) No casino ~~service provider~~gaming vendor license ~~or vendor license~~ shall be issued unless the individual qualification of each of the following persons shall have first been established to the satisfaction of the Commission: Each such casino ~~service provider~~gaming vendor enterprise, its owners, its management personnel, its supervisory personnel, and its principal employees.

(b) Each person in subsection (a) must be qualified in accordance with the standards for casino employees found in § 175-10.1-920.

Modified, 1 CMC § 3806(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-920 ~~Licensee~~ Standards.

(a) General and Affirmative Criteria:

(1) It shall be the affirmative responsibility of each applicant for any license, certificate, finding, registration, or permit available under these regulations, or renewal thereof, and licensee to establish to the satisfaction of the Commission by clear and convincing evidence his individual qualifications;

(2) Any applicant or licensee shall truthfully and completely provide all information required and satisfy all requests for information pertaining to qualification;

(3) All applicants and licensees shall have the continuing obligation to provide any assistance or information required and to cooperate in any inquiry or investigation conducted by the Commission;

(4) Each applicant shall produce such information, documentation, and assurances concerning financial background and resources as may be required to establish by clear and convincing evidence the financial stability and integrity of the applicant including but not limited to bank references, business and personal income, tax returns, and other reports filed with governmental agencies;

(5) Each applicant shall produce such information, documentation, and assurances as may be necessary to establish by clear and convincing evidence the integrity of all financial backers, investors, mortgagees, bondholders and holders of indentures, notes or

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other evidence of indebtedness either proposed or in effect. The integrity of financial sources shall be judged upon the same standards as the applicant. The applicant shall produce whatever information documentation and assurances as may be required to establish the adequacy of financial resources to be entrusted with the privilege of conducting gaming in the Commonwealth;

(6) Each applicant shall produce such information, documentation, and assurances as may be required to establish by clear and convincing evidence the applicant's good character, honesty, and integrity. Such information shall include but not be limited to family, habits, character, reputation, criminal and arrest record, business activities, financial affairs, personal, professional and business associates covering a five year period immediately preceding the filing of the application;

(7) Each applicant shall produce such information, documentation, and assurances to establish by clear and convincing evidence that the applicant has sufficient business ability and casino experience to establish the likelihood of the ability to abide by the Act and regulations; and

(8) Each applicant shall complete the form concerning child support promulgated pursuant to § 175-10.1-925.

(b) **Disqualification Criteria.** The Commission shall deny any license, certificate, finding, registration, permit or renewal thereof (if such renewal is permitted by the Commission or Executive Director), including but not limited to a casino key employee license or casino employee license to any applicant who is disqualified on the basis of any of the following:

(1) Failure of the application to prove by clear and convincing evidence that the applicant is qualified in accordance with the provisions of the Act and the regulations to the satisfaction of the Commission.

(2) Failure of the applicant to provide truthful and complete information, documentation, or assurances requested by the Commission or failure of the applicant to reveal any fact material to qualification or the supplying of information which is untrue or misleading as to any material fact.

(3) Conviction of the applicant or any person required to be qualified, of any offenses in any jurisdiction which would be the same or similar as:

(i) 6 CMC § 1101, Murder or 6 CMC § 1102, Manslaughter;

(ii) 6 CMC § 1203, Aggravated Assault or Battery and 6 CMC 1203, Assault with A Dangerous Weapon;

(iii) 6 CMC § 1301, Sexual Assault in the First Degree; 6 CMC § 1302, Sexual Assault in the Second Degree; or 6 CMC § 1303, Sexual Assault in the Third Degree;

(iv) 6 CMC § 1306, Sexual Assault of a Minor in the First Degree; 6 CMC § 1307, Sexual Assault of a Minor in the Second Degree; or 6 CMC § 1308, Sexual Assault of a Minor in the Third Degree

(v) 6 CMC § 1314, Unlawful Exploitation of a Minor;

(vi) 6 CMC § 1323, Child pornography;

(vii) 6 CMC § 1411, Robbery;

(viii) 6 CMC § 1421, Kidnapping;

(ix) 6 CMC § 1471, Stalking in the First Degree;

(x) 6 CMC § 1501 et seq., Anti-Trafficking Act (any count);

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- (xi) 6 CMC § 1601 et seq., Theft (any count punishable by 6 CMC § 1601(b)(1)–(2));
- (xii) 6 CMC § 1609, Theft of Utility Services (any count punishable by 1609(d)(1)–(3));
- (xiii) 6 CMC § 1701 et seq., Forgery and Related Offenses (any count 6 CMC §§ 1701–1707);
- (xiv) 6 CMC § 1722, Identity Theft and 6 CMC § 1723, Aggravated Identity Theft;
- (xv) 6 CMC § 1801, Burglary
- (xvi) 6 CMC § 1802, Arson and Related Offenses
- (xvii) 6 CMC § 2141, Drug Trafficking punishable by 6 CMC § 2141(b) (except THC or marijuana)
- (xviii) 6 CMC § 1142, Drug Possession punishable by 6 CMC § 2141(b) (excludes marijuana)
- (xix) 6 CMC § 2103, Importation of Contraband
- (xx) 6 CMC § 3113, Terroristic Threatening
- (xxi) 6 CMC § 2141(a) and (b)(1), Offenses and penalties for illegal drug use
- (xxii) 6 CMC § 2143, Commercial offenses-drugs offenses
- (xxiii) 6 CMC § 3155, Gambling offenses prohibited
- (xxiv) 6 CMC § 3201, Bribery
- (xxv) 6 CMC § 3302, Obstructing justice
- (xxvi) 6 CMC § 3303, Obstructing justice-interference of services
- (xxvii) 6 CMC § 3304, Tampering with judicial records or process
- (xxviii) 6 CMC § 3305, Tampering with jury
- (xxix) 6 CMC § 3366, Perjury
- (xxx) 6 CMC § 3501 et seq., Terrorism (any charge)

(4) Any other offenses under CNMI law, federal law, or any other jurisdiction which indicates that licensure of the applicant would be inimical to the policy of the Commission and to casino operations; however, that the automatic disqualification provisions of subsection (b) shall not apply with regard to any conviction which did not occur within the five-year period immediately preceding the application for licensure for a casino employee or casino ~~service provider~~ gaming vendor, or within 10 years for a casino key employee license, a junket operator license, or any other class of licensee the Commission may by order determine, or any conviction which has been the subject of an executive pardon or judicial order of expungement. The five-year period and ten-year period are calculated beginning from the day after the convict's last day of post-conviction supervision (including probation or parole or required registry as a sex offender under federal, Commonwealth, territorial, state, or tribal law). Convictions which occurred outside the five-year period immediately preceding the application for licensure, convictions which were pardoned, and convictions that were expunged may still be considered by the Commission as evidence of unsuitability for licensure.

(5) Current prosecution or pending charges in any jurisdiction of the applicant or of any person who is required to be qualified under this regulation for any of the offenses enumerated above; provided, however that at the request of the applicant or person charged, the Commission shall defer discussion upon such application during the pendency of such charge.

(6)(i) The identification of the applicant or any person who is required to be qualified under this regulation as a career offender or a member of a career offender cartel or an

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associate of a career offender or career offender cartel in such a manner which creates a reasonable belief that the association is of such a nature as to be inimical to the policies of the rules and regulations and a casino operations.

(ii) For purposes of this section, career offender shall be defined as any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain, utilizing such methods as are deemed criminal of the public policy of the Commonwealth. A career offender cartel shall be defined as any group of persons who operate together.

(7) The applicant or any person who is required to be qualified under the rules and regulations as a condition of a gaming license may be denied for commission of any act or acts which would constitute any offense under subsections (b)(3) or (b)(4), even if such conduct has not or may not be prosecuted under the criminal laws of the CNMI.

Modified, 1 CMC § 3806(e)–(g).

History: Amdts Adopted 40 Com. Reg. 40566, 40571 (Feb. 28, 2018); Amdts Proposed 39 Com. Reg. 40308 (Oct. 28, 2017) and 39 Com. Reg. 39773 (July 28, 2017); Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-925 Licensee, Certificate or Permittee Standards (Child Support).

(a) The Executive Director shall promulgate a form which provides the applicant for any license, certificate, registration, or permit available under the Act or these regulations, or renewal thereof, with an opportunity to indicate, under penalty of perjury, that:

- (1) The applicant is not subject to a court order for the support of a child;
- (2) The applicant is subject to a court order for the support of one or more children and is in compliance with the order or is in compliance with a plan approved by the Attorney General or his designee or other public agency enforcing the order for the repayment of the amount owed pursuant to the order; or
- (3) The applicant is subject to a court order for the support of one or more children and is not in compliance with the order or a plan approved by the Attorney General or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

(b) The form referred to in subsection (a) shall include: (1) an explanation that “court order” includes any court of competent jurisdiction and not just the courts of the Commonwealth; (2) a statement that the application for the issuance or renewal of the license, certificate, or permit will be denied if the applicant does not indicate on the statement which of the provisions of subsection (a)(1)–(3) applies to the applicant; and (3) a space for the signature of the applicant. The failure of the form to strictly comply with this requirement does not invalidate the form used by the Executive Director or release the applicant from the requirement of providing truthful and complete information.

(c) Disqualification Criteria: Child Support. The Commission shall deny any license, certificate, finding, or permit available pursuant to these regulations or any renewal

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thereof, including but not limited to casino key employee licenses or casino employee licenses to any applicant who: (1) fails to submit the statement required pursuant to § 175-10.1-920(a)(8), or (2) indicates on the statement submitted pursuant to § 175-10.1-920(a)(8) that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the Attorney General or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

(d) The Executive Director shall object to the licensure of, or seek the revocation of any license, certificate, finding, registration, or permit available under these regulations of any person found to have provided incomplete or untruthful information on the statement required by § 175-10.1-920(a)(8).

Modified, 1 CMC § 3806(f)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

Commission Comment: The Commission changed “subsection (a)(8)” to “§ 175-10.1-920(a)(8)” in (c) pursuant to 1 CMC § 3806(d).

### § 175-10.1-930 **Casino Non-Gaming Vendor Vendor Registration Licensee.**

The Commission may, by order, provide for the ~~licensing~~ registration of other types of individuals (other than patrons) who the Commission determines should be ~~registered~~ licensed because of their association with or presence in the casino, and set and charge fees therefore. Such ~~registrants~~ licensees shall be held to the standards of § 175-10.1-920.

Modified, 1 CMC § 3806(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-1015 **Procedures for Enrollment.**

(a) An attorney or accountant meeting the qualifications described in § 175-10.1-1010(a)(1)–(2) shall be deemed automatically enrolled at the time the attorney or accountant first appears for or performs any act of representation on behalf of a client in any matter before the Commission.

(b) Other individuals must submit an application for enrollment to the Commission together with proof of eligibility for enrollment. The Commission will consider the application at a public meeting, and may either grant or deny the application, or request additional information from the applicant. Only natural persons may enroll to practice before the Commission.

(c) Prior to enrollment, any person other than one described in § 175-10.1-1010(a)(1)–(2) must pay an enrollment application fee of five hundred dollars (\$500) and two hundred fifty dollars (\$250) on every October 1 thereafter.

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Modified, 1 CMC § 3806(d)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

Commission Comment: The Commission changed “(a)(1) or (a)(2) above” to “§ 175-10.1-1010(a)(1)–(2)” in (c) pursuant to 1 CMC § 3806(d).

### § 175-10.1-1035 Reinstatement.

(a) Any attorney or accountant whose enrollment is suspended under § 175-10.1-030(a)(1) shall be deemed automatically reinstated to practice before the Commission at the time he is reinstated to practice law or accounting by the applicable licensing authority.

(b) Any agent whose enrollment is suspended or revoked under § 175-10.1-030(b) may be reinstated by the Commission, upon application, if the grounds for the suspension or revocation are subsequently removed by a reversal of the conviction, or for other good cause shown. An applicant for reinstatement shall be afforded an opportunity for a hearing before the Commission on the application, and shall pay all reasonable costs of the proceeding and a new enrollment fee of five hundred dollars (\$500).

Modified, 1 CMC § 3806(e)–(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-1120 Inspection, Monitoring, and Periodic Investigations.

The Commission or its authorized representatives may inspect and monitor at any time, the licensed premises of a licensed casino and the premises of any casino ~~service provider~~ gaming vendor licensee or casino non-gaming ~~vendor~~ registrant licensee. The Commission must investigate, not later than one year after the commencement of operations in a casino or temporary live training facility, and thereafter at intervals of its choosing the following:

(a) Whether or not the casino gaming licensee is a suitable person to continue to hold a casino license;

(b) Whether or not the casino gaming licensee is complying with these regulations, the Act and any applicable law or regulation;

(c) Whether or not the casino gaming licensee is complying with the casino license issued by the Lottery Commission;

(d) Whether or not the casino gaming licensee, casino employees or casino ~~service~~

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~~providers gaming vendor licensee or casino non-gaming vendor vendor registrant licensee~~ are complying with all agreements which are required under these regulations and the Act and any subsequent amendments thereto;

(e) Whether or not it is in the public interest that the casino gaming licensee or casino ~~service gaming provider vendor licensees~~ or casino ~~non-gaming vendor vendor registrant licensee~~ should continue in force.

Modified, 1 CMC § 3806(e)-(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-1130 Consent to Examination of Accounts and Records.

(a) Each applicant and licensee shall, in writing consent to the examination of all accounts, bank accounts, and records in his possession or under his control and authorize all third parties in possession or with control of such accounts or records to allow such examination thereof as may be deemed necessary by the Commission.

(b) The casino gaming licensee must sign an authorization to inspect its bank account records upon demand of the Commission.

(c) The casino gaming licensee must maintain an account in a bank in the CNMI or in the United States of America into which are deposited its revenues from all gaming activities. Said deposits must be made within ~~five~~ fifteen working days of receipt of said revenues by the casino licensee. Said deposits must be made into the domestic or United States bank account within ~~five~~ fifteen working days of receipt of said revenues by the licensee's parent company or any affiliate thereof, if the Commission or Executive Director by Order allow receipt of funds by the parent company or an affiliate.

(d) The Commission may waive any or all of these requirements as it deems prudent.

Modified, 1 CMC § 3806(e)-(g).

History: Amdts Adopted 40 Com. Reg. 40566, 40571 (Feb. 28, 2018); Amdts Proposed 39 Com. Reg. 39773 (July 28, 2017); Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

## Part 1200 - FEES

### § 175-10.1-1201 General Description of Fees and Deposit Policy.

(a) The Commission shall establish fees for the application issuance and renewal of all licenses pursuant to the Act.

(b) The differing treatment of these license categories reflects a recognition and

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judgment that casino applicants and licensees benefit directly or indirectly from all aspects of the regulatory process and are best suited to bear the largest share of the costs incurred by the Commission in implementing that process. Moreover, the actual cost of investigation and considering applications for individual employee licenses and casino ~~service provider~~gaming vendor licenses may exceed the amount which those applicants and licensees may fairly be required to pay as fees. The fee structure established by these rules and regulations is designed to respond to these policies and problems.

(c) To the extent reasonably possible, each applicant or licensee should pay the investigatory or regulatory costs attributable to their application or license.

(d) Unless otherwise specifically exempted by the Commission, all application fees are fully earned when received by the Commonwealth Treasury or the Commission. The withdrawal of the application by the applicant or the denial of the license by the Commission is not grounds for a rebate of any portion of any application fee.

Modified, 1 CMC § 3806(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-1215 Special Fee Assessments for Other Purpose.

All investigation fees required of the casino licensee, persons who have ownership of the entity which owns or controls the casino licensee, potential transferees, ~~service providers~~gaming vendors, non-gaming vendors~~vendors~~, junket operators, casino key employees, and casino employee must be shouldered by the applicant or employer of the applicant. In cases where further investigation is warranted, the Commission may require additional funds for the completion of the investigation process. The Commission may impose other additional fees as it deems necessary.

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-1225 Schedule of Fees.

(a) Calculation of casino regulatory fee: The casino regulatory fee will be a flat fee at a fixed rate of three million dollars annually (\$3,000,000) with a 5% increase every five years for the following twenty years. After the twentieth year, the maximum casino regulatory fee will be reached and maintained for the remaining duration until the end of the exclusive casino license term, including all extensions of the casino license.

(b) Casino non-gaming vendor~~vendor~~ registration~~license~~. No casino non-gaming vendor~~vendor~~ registration~~license~~ shall be issued or renewed unless the applicant shall have first paid in full a ~~license~~-registration fee of two thousand dollars (\$2,000) for the duration of the current ~~fiscal~~ year and the next two ~~fiscal~~ years thereafter. A renewal fee must be remitted, in full, thirty (30) days prior to the expiration of its current

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~~license registration. to the Commission by October 1st of the third fiscal year after the original application and every third October 1st thereafter.~~

(c) ~~Casino service provider~~gaming vendor license. No ~~casino service provider~~gaming vendor license shall be issued or renewed unless the applicant shall have first paid in full a license fee of five thousand dollars ~~(\$5,000)~~ for the duration of the current fiscal year and the next fiscal year thereafter. A biannual renewal fee must be remitted, in full, to the Commission by October 1st of the second fiscal year after the original application and every second October 1st thereafter.

(d) Other Fees:

(1) Fee for provisional ~~service provider~~gaming vendor license is two thousand five hundred dollars ~~(\$2,500)~~(\$500).

(2) License replacement fee is twenty dollars (\$20).

(3) Agent enrollment fee is five hundred dollars (\$500).

(4) Declaratory ruling notification list fee is one hundred dollars (\$100).

~~(5) Fee for Provisional casino vendor license is one thousand dollars.~~

(5) Other fees may be assessed by the Commission as deemed appropriate and/or listed in a Supplemental Statement of Fees published by the Commission.

Modified, 1 CMC § 3806(e)-(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### **Part 1300 - CASINO SERVICE PROVIDERS GAMING VENDORS AND CASINO NON-GAMING VENDORS**

#### **§ 175-10.1-1301 Definitions.**

The following words and terms, when used in this part, have the following meaning unless otherwise indicated.

(a) “Gaming equipment” means any mechanical, electrical, or electronic contrivance or machine used in connection with gaming or any game and includes, without limitation, roulette wheels, roulette tables, big six wheels, craps tables, tables for card games, layouts, slot machines, cards, dice, chips, plaques, card dealing shoes, drop boxes, and other devices, machines, equipment, items, or articles determined by the Commission to be so utilized in gaming as to require licensing of the manufacturers, distributors, or services or as to require Commission approval in order to contribute to the integrity of the gaming industry.

(b) “Gaming equipment distributor” means any person who distributes, sells, supplies, or markets gaming equipment.

(c) “Gaming equipment industry” means any gaming equipment manufacturer, and any producers or assemblers of gaming equipment(s).

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- (d) “Gaming equipment manufacturer” means any person who manufactures gaming equipment.
- (e) “Gaming equipment servicer” means any person who maintains, services, or repairs gaming equipment.
- (f) “Sales representative” means any person owning an interest in, employed by, or representing a casino ~~service provider~~ gaming vendor or enterprise, who solicits the goods and services or business thereof.

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### **§ 175-10.1-1305 ~~Service Provider~~ Gaming Vendor and Vendor License and Non-Gaming Vendor ~~Vendor Registration Requirements.~~**

(a) Except as otherwise provided for herein, any enterprise that provides goods or services related to, or transacts business related with, casino or gaming activity with the casino licensee, its employees or agents must be licensed by the Commission. The following enterprises must also be licensed as a casino ~~service provider~~ gaming vendor:

- (1) Any form of enterprise which manufactures, supplies, or distributes devices, machines, equipment, items, or articles specifically designed for use in the operation of a casino or needed to conduct a game including, but not limited to, roulette wheels, roulette tables, big six wheels, craps tables, tables for card games, layouts, slot machines, cards, dice, gaming chips, gaming plaques, slot tokens, card dealing shoes, and drop boxes; or
- (2) Any form of enterprise which provides maintenance, service, or repair pertaining to devices, machines, equipment, items, or articles specifically designed for use in the operation of a casino or needed to conduct a game; or
- (3) Any form of enterprise which provides service directly related to the operation, regulation, or management of a casino including, but not limited to, gaming schools teaching gaming and either playing or dealing techniques, casino security enterprises, casino credit collection enterprises; or
- (4) Any form of enterprise which provides such other goods or services determined by the Commission to be so utilized in or incidental to gaming or casino activity as to require licensing in order to contribute to the integrity of the gaming industry in the Commonwealth.

(b) The Commission may require ~~registration~~ licensure as a casino non-gaming vendor ~~vendor~~ of any other person or entity which provides, or is likely to provide, any ~~gaming or nongaming~~ non-gaming services of any kind to the casino licensee or its affiliated companies in an amount greater than two hundred fifty thousand dollars (\$250,000) per ~~fiscal or calendar year~~ trailing twelve months.

(c) The casino licensee shall not buy, purchase, rent, lease, or obtain any good or service from any person or entity who must be registered as a casino non-gaming vendor ~~vendor~~ with the Commission ~~licensed~~ pursuant to this part if such person is not in possession of a current, valid registration ~~license~~. The casino gaming licensee shall immediately terminate its association and business dealings with a person ~~licensed~~

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~~pursuant to this Part upon notification from the Commission that the person's license of such service provider gaming vendor license or casino non-gaming vendor registration has been suspended or revoked.~~

(d) The casino gaming licensee shall ensure that all contracts entered into with any vendor include a clause that requires the vendor to apply for a casino ~~service provider gaming vendor license~~ or casino ~~non-gaming vendor registration license~~ upon demand of the Commission, and a clause cancelling and voiding the contract if the provider either does not seek, or seeks but does not receive, a casino ~~service provider gaming vendor license~~ or casino ~~non-gaming vendor registration license~~ if demanded by the Commission.

(e) ~~Registration as a casino non-gaming vendor pursuant to subsection (b) is not required for the following persons provided they engage solely in the following transactions, unless otherwise required by the Executive Director. Casino vendor licenses pursuant to subsection (b) are not required for the following persons provided they engage solely in the following transactions:~~

- (1) Landlords renting to the casino licensee or its affiliated companies;
- (2) Landowners selling real estate to the casino licensee or its affiliated companies;
- (3) Financial companies providing banking services to the casino licensee or its affiliated companies;
- (4) Airlines and Travel Agencies selling airfare to the casino licensee or its affiliated companies;
- (5) Insurance companies selling insurance policies to the casino licensee or its affiliated companies;
- (6) Hotels renting rooms to the casino licensee or its affiliated companies;
- (7) Agencies or political subdivisions of the Commonwealth government;
- (8) Regulated public utilities;
- (9) Attorneys providing legal services;
- (10) Accountants providing accountancy services;
- (11) Insurance companies underwriting risk or selling policies of insurance;
- (12) Shipping companies providing transportation of goods;
- (13) Telecommunication companies providing communication service;
- (14) Charitable donations to recognized non-profit organizations;
- (15) Approved educational/training institutions;
- (16) Recipients of the Community Benefit Fund as described in the Casino License Agreement.

Modified, 1 CMC § 3806(e)-(g).

History: Amdts Adopted 39 Com. Reg. 39761 (July 28, 2017); Amdts Proposed 39 Com. Reg. 39169 (Jan. 30, 2017); Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-1310 Standards for Qualifications.

(a) The general rules and regulations relating to standards for qualification set forth in Part 900 and the regulations are incorporated herein.

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(b) Each applicant required to be licensed as a casino licensee, casino ~~service provider~~gaming vendor, casino employee, casino key employee, or registered as a casino vendor ~~non-gaming vendor~~ in accordance with these regulations including gaming schools, must, prior to the issuance of any casino ~~service provider~~gaming vendor license or other license issued by the Commission, produce such information, documentation, and assurances to establish by clear and convincing evidence:

- (1) The financial stability, integrity, and responsibility of the applicant;
- (2) The applicant's good character, honesty, and integrity;
- (3) That the applicant, either himself or through his employees, has sufficient business ability and experience to establish, operate, and maintain his enterprise with reasonable prospects for successful operation;
- (4) That all owners, management and supervisory personnel, principal employees and sales representatives qualify under the standards established for qualification of a casino key employee;
- (5) The integrity of all financial backers, investors, mortgagees, bondholders, and holders of indentures, notes or other evidence of indebtedness, either in effect or proposed, which bears any relationship to the enterprise; and
- (6) The integrity of all officers, directors, and trustees of the applicant.

(c) Each applicant required to be licensed as a casino service provider or registered as a casino vendor in accordance with these Regulation shall, prior to the issuance of any casino service provider license or casino vendor registration ~~or vendor license~~, produce such information and documentation, including without limitation as to the generality of the foregoing its financial books and records, assurances to establish by clear and convincing evidence its good character, honesty, and integrity.

(d) Any enterprise directed to file an application for a casino service ~~provider or casino vendor license~~ provider license or casino vendor registration pursuant to these regulations may request permission from the Commission to submit a modified form of such application. The Commission, in its discretion, may permit such modification if the enterprise can demonstrate to the Commission's satisfaction that securities issued are listed, or are approved for listing upon notice of issuance, on the New York Stock Exchange the NASDAQ, or the American Stock Exchange or any other major foreign stock exchange.

(e) Any modifications of a casino service ~~provider or casino vendor license~~ provider license or casino vendor registration application permitted pursuant to this section may be in any form deemed appropriate by the Commission except that the application for modification must include the following:

- (1) The appropriate Personal History Disclosure Forms for all those individuals required to so file by the Commission;
- (2) Copies of all filings required by the United States Securities and Exchange Commission including all proxy statements and quarterly reports issued by the applicant during the two immediately preceding fiscal years or reports filed pursuant to the requirements of another regulatory body dealing with securities;

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- (3) Properly executed Consents to Inspections, Waivers of Liability for Disclosures of Information and Consents to Examination of Accounts and Records in forms as promulgated by the Commission;
- (4) Payment of the fee required by § 175-10.1-1225(d); and
- (5) Any other information or documentation required at any time by the Commission.

Modified, 1 CMC § 3806(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-1315 Disqualification Criteria.

A casino service provider license, a provisional casino service provider license,~~a provisional casino vendor license,~~ or a casino vendor registration license must be denied to any applicant for a casino service provider license or casino vendor registration license, be they provisional or otherwise, who has failed to prove by clear and convincing evidence that he or any of the persons who must be qualified under § 175-10.1-905(a) possesses the qualifications and requirements set forth in § 175-10.1-920 and § 175-10.1-925 and any other section of these Regulations.

Modified, 1 CMC § 3806(f)-(g).

History: Amdts Adopted 40 Com. Reg. 40566, 40571 (Feb. 28, 2018); Amdts Proposed 39 Com. Reg. 39773 (July 28, 2017); Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-1320 Application; Investigation; Supplementary Information.

- (a) Each applicant must apply by completing an application package promulgated by the Commission and tendering payment of the amount listed in § 175-10.1-1225.
- (b) The Commission may inquire or investigate an applicant, licensee, registrant, or any person involved with an applicant, ~~or licensee, or registrant~~ as it deems appropriate either at the time of the initial application and licensure or registration or at any time thereafter. It is the continuing duty of all applicants and licensees to provide full cooperation to the Commission in the conduct of such inquiry or investigation and to provide any supplementary information requested by the Commission.

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-1325 Renewal of Licenses and Registrations.

- (a) An application for renewal of a license or registrations shall be filed annually no later than thirty days prior to the expiration of its license or registration. The application for renewal of a license or registration must be accompanied by the promulgated fee and needs to contain only that information which represents or reflects changes, deletions, additions, or modifications to the information previously filed with the Commission.

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(b) A change in any item that was a condition of the original license, ~~or registration, or of a license~~ renewal must be approved by the Commission. A change in ownership shall invalidate any approval previously given by the Commission. The proposed new owner is required to submit an application for licensure or registration and evidence that he is qualified for licensure or registration.

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-1330 Record Keeping.

(a) All casino service provider licensees or casino vendor registrants~~licensees~~ must maintain adequate records of business operations which shall be made available to the Commission upon request; the records must be maintained in a place secure from theft, loss, or destruction. Adequate records include:

- (1) All correspondence with the Commission and other governmental agencies on the local, Commonwealth, and national level;
- (2) All correspondence concerning the realty, construction, maintenance, or business of a proposed or existing casino or related facility;
- (3) All copies of promotional material and advertisement;
- (4) All personnel files of each employees or agent of the licensee, including sales representatives; and
- (5) All financial records of all transactions of the enterprise including, but not limited to those concerning the realty, construction, maintenance, or business in any way related to a proposed or existing casino or related facility.

(b) Adequate records as listed in subsection (a) must be held and remain available for inspection for at least seven years.

Modified, 1 CMC § 3806(d)-(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-1360 Cause for Suspension, Failure to Renew, or Revocation of a License or Registration.

Any of the following is cause for suspension, refusal to renew, or revocation of a casino service provider license or casino vendor registration~~license~~; refusal to renew or a revocation may be issued for sufficient cause, so as those listed but not limited to:

- (a) Violation of any provision of the Act or these regulations;
- (b) Conduct which would disqualify the applicant, or any other person required to be qualified, if such person were applying for original licensure;
- (c) Failure to comply with all applicable Commonwealth, federal, state, and local

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statutes, ordinances, and regulations;

(d) A material departure from any representation made in the application for licensure;

(e) Conduct by the licensee which involves issuance or acceptance of political favors, kickbacks, undue pressure, manipulation or inducement of a public official for political, regulatory, or financial gain;

(f) Any other action or inaction by the licensee which causes the Commission to question the licensee's integrity, honesty, or which, in the Commission's sole judgment tends to discredit the Commonwealth or the Commonwealth's gaming industry.

Modified, 1 CMC § 3806(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-1365 Fees.

(a) The fees for a service provider license are listed in Part 1200.

(b) The fees for a provisional service provider license are listed in Part 1200.

(c) The casino regulatory fee is listed in part 1200.

(d) The fees for a casino vendor registrationlicense are listed in Part 1200

~~(e) The fees for a provisional casino vendor license are listed in Part 1200.~~

Modified, 1 CMC § 3806(f)-(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-1375 Casino Service Provider License.

No casino service ~~provider or casino vendor license~~ provider license will be issued unless the individual qualifications of each of the following persons have first been established in accordance with all provisions, including those cited, in the Act and of the regulations:

(a) The enterprise;

(b) If the enterprise is, or if it is to become, a subsidiary, each holding company and each intermediary company which the Commission deems necessary in order to further the purposes of the Act;

(c) Each owner of the enterprise who directly or indirectly holds any beneficial

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interest or ownership in excess of 20% of the enterprise;

- (d) Each owner of a holding company or intermediary company who the Commission determines is necessary in order to further the purposes of the Act;
- (e) Each director of the enterprise except a director who, in the opinion of the Commission, is significantly not involved in or connected with the management or ownership of the enterprise shall not be required to qualify;
- (f) Each officer of the enterprise who is significantly involved in or has authority over the conduct of business directly related to casino or gaming activity and each officer whom the Commission may consider appropriate for qualification in order to ensure the good character, honesty, and integrity of the enterprise;
- (g) Each officer of a holding company or intermediary company whom the Commission may consider appropriate for qualification in order to ensure the good character, honesty, and integrity of the enterprise;
- (h) The management employee supervising the regional or local office which employs the sales representative who will solicit business or deal directly with a casino licensee;
- (i) Each employee who will act as a sales representative or otherwise engage in the solicitation of business from casino licensees; and
- (j) Any other person whom the Commission may consider appropriate for approval or qualification.

Modified, 1 CMC § 3806(a), (e)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-1385 Provisional Casino Service Provider License.

- (a) The Executive Director and Chairman may, in their~~his~~ sole and absolute discretion, issue a provisional service provider license to any person who applies for a license as a casino service provider required by § 175-10.1-1305, provided such applicant also applies for a provisional license pursuant to this section.
- (b) The provisional casino service provider license shall be valid for such time as the applicant's casino service industry license is pending with the Commission for investigation, consideration, determination of suitability, and any other period before the Commission (1) grants the license; or (2) rejects the application.
- (c) If the applicant withdraws his application for a casino service provider license required by § 175-10.1-1305, the provisional license issued by the Executive Director

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pursuant to § 175-10.1-1385(a) shall immediately expire.

(d) In determining whether to issue a provisional service provider license pursuant to § 175-10.1-1385(a), the Executive Director and Chairman must consider whether issuing such provisional license will bring disrepute to the Commonwealth or the gaming industry.

~~(e) The Executive Director shall not issue a provisional service provider license to any provider who is not currently licensed as a casino service provider authorized to transact business with casinos in the State of Nevada or any other U.S. jurisdiction. The Executive Director shall only issue a provisional service provider license to a provider who is licensed as a casino service provider authorized to transact business with casinos in Nevada or any other U.S. jurisdiction only for the limited purpose of providing the exact devices and services the provider is licensed to provide to casinos in the State of Nevada or any other U.S. jurisdiction. No holder of a provisional service provider license may provide any device, machine, service or thing it is not presently licensed to provide to unrestricted licensees in the State of Nevada or any other U.S. jurisdiction.~~

(ef) The Executive Director and Chairman may use the information the applicant supplied with his application for a casino service industry license required by § 175-10.1-1305 in considering whether to issue the provisional license, and may require any additional information he deems necessary for consideration of the issuance of the provisional license.

(fg) The application fee for the provisional license is one half of the amount charged by the Commission for a casino service industry license required by § 175-10.1-1305. This amount must be paid at the time of filing of the application for the license, is a separate fee and will not be credited to any other amount owed by the applicant to the Commission or the Commonwealth.

Modified, 1 CMC § 3806(f)-(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-1390 **Casino Vendor Registration License.**

(a) Any person or entity who is not a holder of a casino service provider license issued pursuant to [§ 175-10.1-1305](#) who transacts more than two hundred fifty thousand dollars (\$250,000) per ~~calendar or fiscal year~~ trailing twelve (12) months with the casino licensee (including any and all of its affiliate companies) must register as a casino vendor ~~obtain from~~ ~~with~~ the Commission ~~a casino vendor license or a provisional casino vendor license.~~

(b) The casino licensee (including any and all of its affiliate companies) shall not transact more than two hundred fifty thousand dollars (\$250,000) per ~~calendar or fiscal year~~ trailing twelve (12) months with any person, entity, or affiliated group of persons or entities if said person, entity or affiliated group of persons or entities has ~~does not~~

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~~registered as possess a valid casino vendor license~~ a casino vendor with the ~~or provisional casino vendor license issued~~ Commission pursuant to these regulations.

(c) ~~Registration as a~~ Casino v~~endor~~~~licenses~~ pursuant to subsection (a) ~~is~~ are not required for the following persons provided they engage solely in the following transactions, ~~unless otherwise required by the Executive Director~~:

- (1) Landlords renting to the casino licensee or its affiliated companies;
- (2) Landowners selling real estate to the casino licensee or its affiliated companies;
- (3) Financial companies providing banking services to the casino licensee or its affiliated companies;
- (4) Airlines selling airfare to the casino licensee or its affiliated companies;
- (5) Insurance companies selling insurance policies to the casino licensee or its affiliated companies;
- (6) Hotels renting rooms to the casino licensee or its affiliated companies;
- (7) Agencies or political subdivisions of the Commonwealth government;
- (8) Regulated public utilities;
- (9) Attorneys providing legal services;
- (10) Accountants providing accountancy services;
- (11) Insurance companies underwriting risk or selling policies of insurance;
- (12) Shipping companies providing transportation of goods;
- (13) Telecommunication companies providing communication service;
- (14) Charitable donations to recognized non-profit organizations;
- (15) Approved educational/training institutions;
- (16) Recipients of the Community Benefit Fund as described in the Casino License Agreement.

Modified, 1 CMC § 3806(e)-(g).

History: Amdts Adopted 39 Com. Reg. 39761 (July 28, 2017); Amdts Proposed 39 Com. Reg. 39169 (Jan. 30, 2017); Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### ~~§ 175-10.1-1395 — Provisional Casino Vendor License.~~

~~(a) — The Executive Director may, in his sole and absolute discretion, issue a provisional service provider license to any person who applies for a license as a casino vendor required by § 175-10.1-1390, provided such applicant also applies for a provisional license pursuant to this section.~~

~~(b) — The provisional casino service provider license shall be valid for such time as the applicant's casino vendor license is pending with the Commission for investigation, consideration, determination of suitability and any other period before the Commission (1) grants the license; or (2) rejects the application.~~

~~(c) — If the applicant withdraws his application for a casino service provider license required by § 175-10.1-1390, the provisional license issued by the Executive Director pursuant to § 175-10.1-1395(a) shall immediately expire.~~

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~~(d) — In determining whether to issue a provisional service provider license pursuant to § 175-10.1-1395(a), the Executive Director must consider whether issuing such vendor license will bring disrepute to the Commonwealth or the gaming industry.~~

~~(e) — The Executive Director shall not issue a provisional vendor license to any provider who must register as a casino service provider or casino service industry license required by § 175-10.1-1305.~~

~~(f) — The Executive Director may use the information the applicant supplied with his application for a casino vendor license required by § 175-10.1-1390 in considering whether to issue the provisional license, and may require any additional information he deems necessary for consideration of the issuance of the provisional license.~~

~~(g) — The application fee for the provisional license is one half of the amount charged by the Commission for a casino vendor license. This amount must be paid at the time of filing of the application for the provisional license, is a separate fee and will not be credited to any other amount owed by the applicant to the Commission or the Commonwealth.~~

~~Modified, 1 CMC § 3806(f).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

### **§ 175-10.1-1525 Revocation of License or Registration; Hearing.**

(a) The Commission will not revoke or suspend any license, registration, or finding of qualification or suitability unless it has first afforded the licensee, registrant, or holder opportunity for a hearing.

(b) Notwithstanding subsection (a), the Executive Director and Chairman may suspend a temporary casino employee license, ~~provisional casino vendor license~~, provisional casino service provider license, provisional junket operator license, or temporary key employee license pursuant to § 175-10.1-1915 without a hearing but notice must be provided to the employee, key employee, or provisional licensee, and the casino licensee of such suspension and the applicant shall be given an opportunity to cure the deficiency promptly.

Modified, 1 CMC § 3806(d), (g).

History: Amdts Adopted 40 Com. Reg. 40566, 40571 (Feb. 28, 2018); Amdts Proposed 39 Com. Reg. 39773 (July 28, 2017); Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### **§ 175-10.1-1530 Emergency Orders; Hearings; Complaints.**

Within five (5) days after the issuance of an emergency order pursuant to ~~these~~

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~~regulation~~these regulations, the Commission will cause a complaint to be filed and served upon the person involved in accordance with the provisions of this Part. Thereafter, the person against whom the emergency order has been issued and served is entitled to a hearing before the Commission. A person may request a hearing in accordance with the provisions of § 175-10.1-1510.

Modified, 1 CMC § 3806(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### **§ 175-10.1-1535 Commencement of Actions.**

(a) An enforcement action against a Person, as that word is defined by §175-10.1-2510 (b), must be filed with the Commission within three (3) years of the accrual of the cause of action. The cause of action accrues at the time the claim arises, or when the Executive Director knows, or by the exercise of reasonable diligence should know, that he has a cause of action, whichever date is later.

(b) In order to facilitate possible settlement, the parties may, by stipulation, toll the limitation listed in (a) above, or any other applicable limitation.

### **§ 175-10.1-1610 Petitions for Declaratory Rulings.**

(a) Any person may petition the Commission for a declaratory ruling.

(b) A petition for a declaratory ruling shall be filed with the Secretary, together with a nonrefundable filing fee in to the Commission in the amount of two hundred dollars (\$200) unless the petitioner is the Commission or a governmental agency or political subdivision of the Commonwealth, in which case there shall be no filing fee. A copy of the petition must be served by the petitioner upon the Attorney General within three working days of the date of filing.

(c) The Secretary shall maintain and keep current a list of persons who have requested notice of petitions for declaratory rulings and shall transmit a copy of such list to a petitioner as soon as practicable after the filing of a petition for declaratory ruling. Persons shall pay a fee of one hundred dollars (\$100) per fiscal year for inclusion on the list, but such fee is waived for governmental agencies and political subdivisions of the Commonwealth. The petitioner shall serve a copy of the petition by personal delivery or first-class mail upon each person on such list no later than seven days after receiving such list and shall provide an affidavit of service to the secretary. Each person receiving a copy of the petition for declaratory ruling may, within seven days after receipt, request the Secretary to provide him notice of the time set for the hearing on the petition for declaratory ruling.

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- (d) The petition for a declaratory ruling must contain:
- (1) The name, business address and telephone number of the petitioner;
  - (2) A statement of the nature of the interest of the petitioner in obtaining the declaratory ruling;
  - (3) A statement identifying the specific statute, regulation or commission decision or order in question;
  - (4) A clear and concise statement of the interpretation or position of the petitioner relative to the statute, regulation, or commission decision or order in question;
  - (5) A description of any contrary interpretation, position, or practice that gives rise to the petition;
  - (6) A statement of the facts and law that support the interpretation of the petitioner;
  - (7) A statement of any contrary legal authority including authority that is binding and merely persuasive;
  - (8) A statement showing why the subject matter is appropriate for Commission action in the form of a declaratory ruling and why the objective of the petitioner cannot reasonably be achieved by other administrative remedy;
  - (9) A statement identifying all persons or groups who the petitioner believes will be affected by the declaratory ruling, including the gaming industry as a whole, and the manner in which the petitioner believes each person will be affected;
  - (10) The signature of the petitioner or his legal representative; and
  - (11) An affidavit of service upon the Attorney General.
- (e) An interested person may not file a petition for declaratory ruling involving questions or matters that are issues in a contested case in which the interested person is a party.

Modified, 1 CMC § 3806(e)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### **§ 175-10.1-1825 Investigation of Conduct of Licensees and Registrants, Generally.**

Any gaming license, including but not limited to: a casino license, a casino service provider license, a casino vendor registration license, a casino employee license, and a key casino employee license is a revocable privilege, and no holder thereof shall be deemed to have acquired any vested rights therein or thereunder. The burden of proving his qualifications to hold any license rests at all times on the licensee. The Commission is charged by law with the duty of observing the conduct of all licensees to the end that licenses shall not be held by unqualified or disqualified persons or unsuitable persons or persons whose operations are conducted in an unsuitable manner.

Modified, 1 CMC § 3806(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

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### § 175-10.1-1835 Access to Premises and Production of Records.

(a) No applicant for any gaming license, including but not limited to: a casino gaming license, a service provider license, a casino employee license, and a key casino employee license, shall neglect or refuse to produce records or evidence or to give information upon proper and lawful demand by a Commission member or any agent of the Commission or shall otherwise interfere, or attempt to interfere, with any proper and lawful efforts by the Commission, or any Commission agent to produce such information.

(b) No licensee or enrolled person shall neglect or refuse to produce records or evidence or to give information upon proper and lawful demand by a Commission member or any agent of the Commission or shall otherwise interfere, or attempt to interfere, with any proper and lawful efforts by the Commission, or any Commission agent to produce such information.

(c) Each licensed manufacturer, licensed distributor or seller, licensed casino, and licensed casino service provider, shall immediately make available for inspection by any Commission member or agent all papers, books, and records produced by any gaming business and all portions of the premises where gaming is conducted or where gambling devices or equipment are manufactured, sold, or distributed. Any Commission member or agent shall be given immediate access to any portion of the premises of any casino licensee or casino service provider for the purpose of inspecting or examining any records or documents required to be kept by such licensee under the regulations and any gaming device or equipment or the conduct of any gaming activity.

(d) Neither the casino licensee nor any applicant for or holder of any license, permit or registration issued by the Commission shall, in any interaction or dealing with the Commission or its staff:

- (1) falsify, conceal, or cover up by any trick, scheme, or device a material fact;
- (2) make any materially false, fictitious, or fraudulent statement or representation;
- (3) make any untrue statement or representation; or
- (4) make or use any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry.

A violation of this section is a major offense which subjects the licensee, applicant or holder to discipline.

Modified, 1 CMC § 3806(f)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-1865 Minimum Working Capital Requirements.

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(a) The Commission, by Order, may adopt or revise a working capital formula that specifies the minimum working capital requirements applicable to the casino licensee, along with instructions for computing available working capital. The formula adopted by the Commission may require the licensee to maintain a number of months of cash on hand, utilize a debt-to-service ratio, or utilize any other ratio the Commission deems fit.

(b) The casino licensee may propose the repeal or revision of any existing working capital formula by submitting a request to the Commission, which shall consider the request at its discretion.

(c) The casino licensee shall maintain in accordance with the working capital formula adopted by the Commission pursuant to the requirements of this section, cash or cash equivalents in an amount sufficient to reasonably protect the licensee's employee's, vendors and creditors against defaults of debts owed by the licensee as they become due. If at any time the licensee's available cash or cash equivalents should be less than the amount required by this section, the licensee or operator shall immediately notify the Commission of this deficiency and shall also detail the means by which the licensee shall comply with the minimum working capital requirements. Failure to maintain the minimum working capital required by this section, or failure to notify the Commission as required by this section, is an unsuitable method of operation.

(d) Records reflecting accurate, monthly computations of working capital requirements and actual working capital available shall be maintained by the casino licensee. The Executive Director, in his sole discretion, may require more frequent computations, and require additional recordkeeping not specified in the formula.

(e) Neither this section nor a formula adopted pursuant to it, alters, amends, supersedes or removes any other condition of any licensee or approval imposed on any licensee by law or regulation, the casino license agreement, or order of any agency.

(f) The Chairman or Executive Director, for good cause shown by the licensee, may waive one or more of the requirements or provisions of the working capital requirements.

(g) The Commission, Chairman or Executive Director, is hereby granted the authority to revoke any waiver granted pursuant to this section for any cause deemed reasonable. Notice of the revocation of a waiver shall be deemed delivered and effective when personally served upon the licensee. If a notice revoking or suspending the waiver of a working capital requirement is issued, the affected licensee may request that the decision of the Chairman or Executive Director be reviewed by the Commission. Such revocation or suspension shall be stayed until the matter is decided by the Commission.

### **§ 175-10.1-1910 Temporary Licensure; Provisional Licensure.**

(a) A person is deemed temporarily licensed as a casino employee upon submission by the casino licensee of an application for licensure to the Commission for the applicant,

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unless otherwise determined by the Commission or the Executive Director. The person to be employed is not the applicant and is merely a beneficiary of the application process. The casino licensee may withdraw the application at any time without notice to or approval from the proposed employee beneficiary.

(b) The application for licensure is an application package, in electronic or paper form, containing all the components of a complete application for registration for a casino employee or a casino key employee or renewal of licensure of the same consisting of, at a minimum:

(1) The online or paper form for application promulgated by the Executive Director for licensure or renewal of licensure as a casino employee or casino key employee in electronic or paper form;

(2) Two sets of fingerprints of the applicant or, if applicable, proof that the applicant's fingerprints were previously submitted electronically or by another means to the Commission;

(3) The applicable fee for licensure or renewal; and

(4) The statement promulgated in § 175-10.1-925.

(c) Temporary licensure as a casino employee is valid for a period of ~~one hundred ninety-eighty~~ ninety calendar days after an application for licensure is received by the Commission, unless objected to by the Executive Director, or otherwise suspended or revoked. The Executive Director may extend the temporary licensure period for an additional ninety calendar days.

(d) The Executive Director may promulgate different forms for casino employees and casino key employee applications.

(e) The Executive Director may, in his sole and absolute discretion, issue a provisional casino key employee license to any person who applies for a license as a casino key employee by § 175-10.1-1905, provided such applicant applies for a provisional license pursuant to this section.

(f) The provisional casino key employee license shall be valid for such time as the applicant's casino key employee license application is pending with the Commission for investigation, consideration, determination of suitability and any other period before the Commission (1) grants the license; or (2) rejects the application.

(g) If the applicant withdraws his application for a casino key employee license required by § 175-10.1-1905, the provisional license issued by the Executive Director pursuant to § 175-10.1-1910(e) shall immediately expire.

(h) In determining whether to issue a provisional casino key employee license pursuant to § 175-10.1-1910(e), the Executive Director must consider whether issuing such license will bring disrepute to the Commonwealth or the gaming industry.

(i) The Executive Director shall not issue a provisional key employee license to any

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person who is not currently licensed as a casino key employee in the CNMI or any other US jurisdiction, but the Executive Director may issue a provisional key employee license to any person who was licensed as a casino key employee any other US jurisdiction within the last five years, but who surrendered their licensure while in good standing upon termination of their employment in the jurisdiction.

(j) The Executive Director may use the information the applicant supplied with his application for a casino key employee license required by § 175-10.1-1905 in considering whether to issue the provisional license, and may require any additional information he deems necessary for consideration of the issuance of the provisional license.

Modified, 1 CMC § 3806(e)-(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### **Part 2000- CHIPS AND TOKENS**

#### **§ 175-10.1-2001 Approval of Chips and Tokens; Applications and Procedures.**

(a) A licensee shall not issue any chips or tokens for use in its gaming establishment, or redeem any such chips or tokens, unless the chips or tokens have been approved in writing by the Commission. A licensee shall not issue any chips or tokens for use in its gaming establishment, or redeem any such chips or tokens, that are modifications of chips or tokens previously approved by the Commission, unless the modifications have been approved in writing.

(b) Applications for approval of chips, tokens, and modifications to previously-approved chips or tokens must be made, processed, and determined in such manner and using such forms as the Commission may prescribe. Only casino licensees or the manufacturer authorized by these licensees to produce the chips or tokens, may apply for such approval. Each application must include, in addition to such other items or information as the Commission may require:

- (1) An exact drawing, in color or in black-and-white, of each side and the edge of the proposed chip or token, drawn to actual size or drawn to larger than actual size and in scale, and showing the measurements of the proposed chip or token in each dimension;
- (2) Written specifications for the proposed chips or tokens;
- (3) The name and address of the manufacturer;
- (4) The licensee's intended use for the proposed chips or tokens; and
- (5) A verification upon oath or notarized affirmation, executed by the chief operating officer of the chip or token manufacturer, or a person with equivalent responsibilities, that it has a written system of internal control, approved by the Commission, which describes in detail the current administrative, accounting, and security procedures which are utilized in the manufacture, storage, and shipment of the chips, tokens, and related material. The written system must include at a minimum, a detailed, narrative

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description of the procedures, and controls implemented to ensure the integrity and security of the manufacturing process, from design through shipment, including but not limited to those procedures and controls designed specifically to:

- (i) Provide for the secure storage or destruction of all pre-production prototypes, samples, production rejects and other ~~nonsellable~~nonsalable product.
- (ii) Provide security over the finished art work, hubs, plates, dies, molds, stamps, and other related items which are used in the manufacturing process.
- (iii) Prevent the unauthorized removal of product from the production facility through the utilization of security devices such as metal detectors, and surveillance cameras.
- (iv) Restrict access to raw materials, work-in-process, and finished goods inventories to authorized personnel.
- (v) Establish procedures for documenting approval of production runs.
- (vi) Establish and maintain a perpetual inventory system which adequately documents the flow of materials through the manufacturing process.
- (vii) Establish procedures which reconcile the raw material used to the finished product on a job-by-job basis. Significant variances are to be documented, investigated by management personnel, and immediately reported to the Commission and to the licensee who authorized the manufacturer to produce the chips or tokens.
- (viii) Provide for quarterly physical inventory counts to be performed by individual(s) independent of the manufacturing process which are reconciled to the perpetual inventory records. Significant variances are to be documented, investigated by management personnel, and immediately reported to the Division of Audit and/or Division of Compliance~~divisions of Audit and Compliance~~.
- (ix) Establish a framework of procedures which provide for the security and accountability of products and materials sent to or received from subcontractors or satellite production facilities.
- (x) Document controls over the shipment of finished product, and
- (xi) Provide such other or additional information as the Commission may require.

(c) The Commission may approve variations from the specific requirements of this regulation if in the opinion of the Commission the alternative controls and procedures meet the objectives of this regulation.

(d) If, after receiving and reviewing the items and information described by this regulation, the Commission is satisfied that the proposed chips, tokens and related information conform to the requirements of this regulation, the Commission shall notify the licensee or the manufacturer authorized by the licensee to produce the chips or tokens in writing and shall request, and the licensee or the manufacturer shall provide a sample of the proposed chips or tokens in final, manufactured form. If the Commission is satisfied that the sample conforms with the requirements of this regulation and with the information submitted with the licensee's application, the Commission shall approve the proposed chips or tokens and notify the licensee in writing. As a condition of approval of chips or tokens issued for use at the licensee's race book, sports pool, or specific table or counter game, the Commission may prohibit the licensee from using the

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chips or tokens other than at the book, pool, or specific game. The Commission may retain the sample chips and tokens submitted pursuant to this Regulation.

(e) At the time of approval of a system of internal control, the Commission may require the manufacturer to provide, and thereafter maintain with the Commission, a revolving fund in an amount determined by the Commission, which amount shall not exceed ten thousand dollars (\$10,000). The Commission and its staff may use the revolving fund at any time without notice, for the purpose of implementing the provisions of this regulation.

Modified, [1 CMC § 3806\(e\)-\(g\)](#).

History: Amdts Adopted 39 Com. Reg. 39761 (July 28, 2017); Amdts Proposed 39 Com. Reg. 39169 (Jan. 30, 2017); Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-2020 Use of Chips and Tokens.

(a) Chips and tokens are solely representatives of value which evidence a debt owed to their custodian by the casino gaming licensee and are not the property of anyone other than the licensee.

(b) The casino gaming licensee uses chips or tokens at its gaming establishment shall:

- (1) Comply with all applicable statutes, regulations, and policies of the Commonwealth and of the United States pertaining to chips or tokens;
- (2) Issue chips and tokens only to patrons of its gaming establishment and only at their request;
- (3) Promptly redeem its own chips and tokens from its patrons by cash or check drawn on an account of the licensee;
- (4) Post conspicuous signs at its establishment notifying patrons that federal law prohibits the use of the licensee's tokens, that Commonwealth law prohibits the use of the licensee's chips, outside the establishment for any monetary purpose whatever, and that the chips and tokens issued by the licensee are the property of the licensee, only; and
- (5) Take reasonable steps, including examining chips and tokens and segregating those issued by other licensees to prevent the issuance to its patrons of chips and tokens issued by any other casino.

(c) The casino gaming licensee shall not accept chips or tokens as payment for any goods or services offered at the licensee's gaming establishment with the exception of the specific use for which the chips or tokens were issued, and shall not give chips or tokens as change in any other transaction. Notwithstanding the foregoing, value chips of five hundred dollars (\$500) or less may be accepted as payment for food or beverage in the gaming areas of the operations of the casino operator licensee's operations in the Commonwealth.

(d) The casino gaming licensee shall not redeem its chips or tokens if presented by a person who the licensee knows or reasonably should know is not a patron of its gaming

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establishment, except that a licensee shall promptly redeem its chips and tokens if presented by an employee or key employee of the licensee who presents the chips and tokens in the normal course of employment.

(e) The casino gaming licensee shall redeem its chips and tokens if presented by an agent of the Commission in the performance of his official duties or on behalf of another governmental agency.

(f) The casino gaming licensee shall not knowingly issue, use, permit the use of, or redeem chips or tokens issued by any other licensee.

(g) Chips whose use is restricted to uses other than at table games or other than at specified table games may be redeemed by the issuing licensee at table games or non-specified table games if the chips are presented by a patron, and the licensee redeems the chips with chips issued for use at the game, places the redeemed chips in the table's drop box, and separates and properly accounts for the redeemed chips during the count performed pursuant to the licensee's system of internal control required by Part 500.

Modified, 1 CMC § 3806(e)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-2305 Persons Ineligible for Employment.

(a) Members of the 18th CNMI Legislature and their immediate family shall not be paid or receive any financial consideration nor shall they be retained as independent contractors or employed directly or indirectly by any casino licensed under this chapter in its current form or as amended, or by said casino's affiliates or agents, for a period of five years beginning from the date of the issuance of said casino's license.

(b) The casino licensed under the Act must certify to the Commission yearly in a document signed by the Casino's Cehief Executive Officer or Operating Officer and Cehief Financial Officer that, to their knowledge after a diligent investigation, no financial consideration or payment has been made to any prohibited person in violation of this regulation.

Modified, 1 CMC § 3806(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-2310 Commission Ineligible for Employment.

(a) No member, employee, or agent of the Commission shall knowingly be an employee of or have any business or financial association with or interest in any casino or casino service provider licensee or casino vendor registrant licensee under this title or any business reasonably related to such license.

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(b) Cool off period. No member or employee of the Commission, except clerical employees of the Commission, shall work for or be a consultant to the casino licensee or any poker, pachinko, or electronic gaming facility in the Commonwealth, which is regulated by the Commission for a period of one year after separation from the Commission.

Modified, 1 CMC § 3806(e)–(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-2325 Internship Programs.

(a) The casino licensee may enter into approved agreements with approved entities to provide internship training opportunities to qualified interns.

(b) The casino licensee may not enter into any internship agreement that is not an approved agreement and may not enter into any internship agreement with an entity that is not an approved entity.

(c) The casino licensee may provide internship opportunities only to qualified interns. The casino licensee may not provide internship opportunities to interns who are not qualified.

(d) Participation in an approved agreement is a privilege, is not a right of any kind, and is subject to the continuing approval of the Executive Director, who may withdraw or rescind his approval at any time for any reason, with or without prior notice to the casino licensee, the approved entity or the intern.

(e) The Executive Director may charge a fee for applying and/or participating in an approved internship program. Such fees shall be paid by the proposed intern or the entity and shall not exceed fifty dollars (\$50) for fingerprinting and licensure. The proposed intern must provide, at the intern's expense, police clearances as may be required by the Executive Director sufficient to demonstrate good character of the applicant.

(f) For the purpose of this section, the following terms have the following meanings:

- (1) "Approved agreement" or "approved agreements" means an agreement approved by the Executive Director, which will specifically determine the time, place, manner, scope, duration and location of permissible internship activity;
- (2) "Approved entity" or "approved entities" means the Northern Marianas College, the Workforce Investment Agency and any other entity approved by the Executive Director;
- (3) "Qualified intern" or "qualified interns" means a person of at least eighteen years of age deemed suitable by the Executive Director for gaming positions and a person under eighteen years of age deemed suitable by the Executive Director in non-gaming

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positions. In making this determination, the Executive Director shall use the suitability standards in these regulations for casino employment.

Modified, 1 CMC § 3806(e)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-2405 Closing Due to Natural Disasters.

(a) (1) Subsection 175-10.1-2401(b) shall not apply if the Commission authorizes closure of any licensed gaming establishment that temporarily ceases the operation of all licensed games because of natural disaster, fire or other physical destruction of the licensed gaming establishment. In such circumstances, the licensee shall notify the Commission of the circumstances requiring closure of the licensed games pending rebuilding or repair of the premises; the anticipated duration of the closure; and the intent of the licensee to commence operation as soon as rebuilding or repairs have been completed. Upon receipt of such notice, the Commission, if satisfied that the premises are in fact unusable for continuing gaming, may authorize closure for such time as is necessary provided that any and all fees continue to be paid when they become due.

(2) Subsection 175-10.1-2401(b) shall not apply if the Commission authorizes closure of any licensed gaming establishment that temporarily ceases the operation of all licensed games because of pandemic or other continuing event which, in the Commission's judgment, requires closure. In such circumstances, the licensee shall notify the Commission of the circumstances requiring closure of the licensed games pending resolution of the triggering event; the anticipated duration of the closure; and the intent of the licensee to commence operation as soon as conditions have sufficiently improved to allow for opening of the licensed establishment. Upon receipt of such notice, the Commission, if satisfied that the situation is in fact not conducive for continuing gaming, may authorize closure for such time as is necessary provided that any and all fees continue to be paid when they become due.

(b) Any licensee granted temporary closure by the Commission under subsection (a) is a continuing gaming licensee subject to the provisions of the Act and regulations adopted thereunder, and shall also be subject to such conditions, by way of placement of a bond, reporting, or otherwise, as may be deemed necessary by the Commission.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-2510 Definitions.

As used in this Part, unless the context plainly requires a different definition:

(a) “Offense” means a violation of any: federal, state, or Commonwealth law; federal, state or Commonwealth Regulation; any order issued by the Commission; any Internal

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Control Standard approved by the Commission; any provision of the Casino License Agreement, or any Minimum Internal Control Standard ordered by the Commission.

(b) “Person” means a person or business entity who is or who must be licensed, regulated, or registered by the Commission, who has applied to the Commission for licensure or registration, or who holds or is the beneficiary, or who has held or was the beneficiary, of a license issued by the Commission.

Modified, 1 CMC § 3806(f)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-2525 Multiple Offenses from Single Action or Omission.

(a) A single action or omission which violates multiple laws, regulations, orders or the like may be charged as multiple offenses and multiple punishments may be levied for each offense.

(b) By way of example, an action or omission which violates federal law, Commonwealth law, and a Commission regulation is three distinct offenses.

(c) In the case of a continuing violation, each day’s continuance is a separate violation.

Modified, 1 CMC § 3806(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-2540 Mandatory Offense Levels.

(a) Unless the Commission, the Executive Director, or the hearing examiner, as the case may be, determines that substantial aggravating factors exist such that a higher offense level is appropriate, the following are minor offenses: negligently allowing a person under twenty-one to loiter on the gaming floor; failing to affix a required signature to a required report; failing to timely file a report (for fewer than 2 working days~~48 hours~~);

(b) Unless the Commission, the Executive Director, or the hearing examiner, as the case may be, determines that substantial aggravating factors exist such that a higher offense level is appropriate, the following are intermediate offenses: intentionally allowing a person under twenty-one to loiter on the gaming floor; negligently allowing a person under twenty-one to place a wager; failing to timely file a report (for more than 2 working days~~48~~ but fewer than 5 working days~~96 hours~~); failing to make any tax, fee, or penalty payment when due (for fewer than 12 hours);

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(c) The following are major offenses: violating any Order of the Commission; failing to make any tax, fee, or penalty payment when due (for more than 12 hours); each day unpaid being a separate violation; paying a minor a winning wager; intentionally allowing methamphetamine possession or sales on the premises; violating FINSCEN and money laundering-type laws and regulations.

Modified, 1 CMC § 3806(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### **§ 175-10.1-2545 Penalties.**

(a) Each minor offense may be punished by: no punishment; a written warning; a fine not to exceed ten thousand dollars (\$10,000); and/or (in the case of a licensee not the casino operator) suspension of the license for a period not to exceed one month.

(b) Each intermediate offense may be punished by: a fine not to exceed twenty thousand dollars (\$20,000) and/or (in the case of a licensee not the casino operator) suspension of the license for a period not to exceed six months.

(c) Each major offense may be punished by: no punishment; a written warning; a fine not to exceed fifty thousand dollars (\$50,000); and/or (in the case of a licensee not the casino operator) suspension of the license for any period of time up to and including license revocation.

(d) The casino operator license may be suspended or modified at the discretion of the Commission upon a finding that one or more major offenses have occurred.

(e) The casino operator license may be terminated at the discretion of the Commission upon a finding that major offenses have repeatedly occurred or upon a finding that the Casino License Agreement has been materially breached.

(f) Any time a license is suspended for any period of time, the Commission or Executive Director may impose restrictions and conditions of any type deemed necessary which must be followed by the licensee after the period of suspension has ended.

Modified, 1 CMC § 3806(e)-(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### **§ 175-10.1-2560 Executive Director's authority to enter into stipulated agreements.**

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(a) The Executive Director may enter into a stipulated agreement with any Person to settle claims of Offenses. Every stipulated agreement must be submitted to the Commission for confirmation or rejection.

(b) The Commission is not to negotiate with the parties. A stipulated agreement presented to the Commission for confirmation or rejection must be confirmed or rejected in its entirety. The Commission may not alter or amend a stipulated agreement unless such agreement specifically allows for modification by the Commission.

### § 175-10.1-2605      **Licensure and Registration Required.**

(a) All junket operators must be licensed by the Commission.

(b) All junket representatives must be registered with the casino licensee before any junket activity can be conducted at the casino(s) of the casino licensee.

(c) It is an unsuitable method of operation for the casino licensee to permit a junket operator or junket representative to conduct any Junket activity at the casino(s) of the casino licensee, unless the junket operator has been licensed by the Commission and the junket representative has been registered with the casino licensee.

(d) A junket operator must meet with the criteria and standards of Part 900 in applying for a junket operator license. The Commission has absolute discretion to deny, suspend or revoke a junket agent license at any time. A junket operator license shall be valid for two years.

(e) The Commission has authority to grant a provisional junket operator license upon submission by an applicant, to the satisfaction of the Commission, of all required information, fees and forms, and a current license issued for the same or substantially the same activities as the junket activity and issued by a gaming regulatory authority from the United States of America, Australia, South Korea, Macao, Singapore, or any other country as approved by the Commission. The provisional junket operator license shall be valid for a period not to exceed one year. Any person or entity that holds a provisional junket operator license may apply for a regular junket operator license at any time during the period of provisional licensure.

(f) **Mandatory License Requirements.** As a condition of every junket operator license, or provisional junket operator license, the Commission or its authorized representatives may inspect and monitor, at any time and with or without notice, any part of the junket operator, its operations, equipment, records, and related activities and any similar area or activity of the licensed junket operator, within or without the Commonwealth, and that a law enforcement officer may enter any such area as requested by the Commission. The Executive Director may authorize representatives of the Commission.

(g) **Disqualification Criteria.** A junket operator license or a provisional junket operator license, must be denied to any applicant for a junket operator or provisional

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junket operator license who has failed to prove by clear and convincing evidence that he or any of the persons who must be qualified under § 175-10.1-905(a) possesses the qualifications and requirements set forth in § 175-10.1-920 and § 175-10.1-925 and any other section of these Regulations as if they were applicants for any other type of license.

(h) License Transfer. A regular junket operator license or provisional junket operator license may not be transferred without obtaining prior written approval from the Commission.

(i) Ownership. Greater than Twenty-Five percent (25%) ownership interest changes in the licensed junket operator requires written approval or clearance from the Commission. Failure to obtain a written or clearance from the Commission may result in suspension or revocation of junket operator license.

Modified, 1 CMC § 3806(e)–(g).

History: Amdts Adopted 40 Com. Reg. 40566, 40571 (Feb. 28, 2018); Amdts Proposed 39 Com. Reg. 39773 (July 28, 2017); Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-2635 Methods, Procedures, and Forms.

(a) The Commission or the Executive Director shall, by order prescribe methods, procedures, and forms for the delivery and retention of information concerning the conduct of a junket by the casino licensee and persons engaged in junket activity.

(b) The failure to follow any ordered method or procedure or the failure to complete or submit any ordered form is an unsuitable method of operation.

(c) Every junket operator must provide to the Executive Director an exact copy of every tax or other document, form, or return filed with or provided to the Commonwealth's Secretary of Finance, the Department of Finance, or the Division of Revenue and Taxation within three days of such filing or provision, without regard as to whether the document, form or return was filed or provided by the junket operator or on behalf of the operator by an agent or third party.

(d) For every payment of United States or foreign currency received by a junket operator, or any of its agents, officers, directors, members, employees, or affiliates, outside of the United States in relation to a gaming debt owed to the junket operator or a casino gaming-related deposit made to the junket operator, a Currency Payment Report that has been adopted by the Executive Director must be submitted to the Commission within thirty (30) days after the receipt of such payment.

Modified, 1 CMC § 3806(e)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

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### § 175-10.1-2640 Required Fees.

(a) Application for a junket operator license must be submitted to the Commission with a non-proratable, non-refundable license fee of ~~one~~ Five thousand dollars (\$15,000). The Application for a junket operator license must also be accompanied by a non-proratable, non-refundable investigation fee of six thousand dollars (\$6,000).

(b) The regular junket operator license shall be valid for a period of two years unless revoked by the Commission. A non-proratable, non-refundable license fee of ~~one~~ five thousand dollars (\$15,000) shall be payable to the Commission for each renewal. Each renewal application must also be accompanied by a non-proratable, non-refundable investigation fee of six thousand dollars (\$6,000).

(c) The application for a provisional junket operator license must be submitted to the Commission with a non-proratable and non-refundable license fee of ~~one~~ five thousand dollars (\$15,000). The provisional license is valid for one year.

Modified, 1 CMC § 3806(e)-(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### Part 2900 - SELF-EXCLUSION LIST

#### § 175-10.1-2901 Self-Exclusion Policy.

(a) The Executive Director shall provide a procedure whereby a person who acknowledges that he or she has a gambling problem may self-identify and self-exclude himself or herself from the gambling or gaming facilities licensed by the Commission. The procedure shall require self-excluded persons to agree not to enter the facility licensed by the Commission unless the self-excluded person is working and agree to be removed voluntarily from all mailing, marketing and promotional lists and databases.

(b) This policy is to be interpreted broadly and shall apply to any gambling, gaming, or similar facility over which the Commission has jurisdiction.

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

#### § 175-10.1-2905 Establishment of Self-Exclusion List.

(a) Any person who acknowledges that he or she has a gambling problem may request of the ~~Executive Director~~ casino licensee that he or she be excluded voluntarily from the gambling or gaming facilities ~~licensed by the Commission~~ of the casino licensee on a permanent basis, except as limited by § 175-10.1-2935. A person shall be placed on the self-exclusion list upon submission of all information and completion and execution of all forms required under § 175-10.1-2915, ~~as enforced by the Executive Director~~.

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(b) Any person placed on the self-exclusion list shall be prohibited for a minimum of ~~one~~ five year from entering the gambling or gaming facilities licensed ~~by the Commission~~ of the casino licensee. Any gaming regulatory agency in any state or jurisdiction with which the Commission enters into an agreement to share confidentially the information contained in the self-exclusion list may, in its sole discretion, prohibit a person placed on the self-exclusion list from entering any gaming operation within its jurisdiction.

(c) The ~~Executive Director~~ casino licensee shall maintain the self-exclusion list in a confidential manner except it must be provided to the Commission upon request.

Modified, 1 CMC § 3806(e)-(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-2910 Locations to Execute Self-Exclusion Forms.

Any person may seek placement on the self-exclusion list by ~~contacting any agent of the Commission~~ visiting the casino licensee ~~who may be present in any gambling or gaming facility licensed by the Commission when gambling or gaming is conducted, appearing at the offices of the Commission in Gualo' Rai, Saipan, during regular business hours, or appearing before a person designated by the Executive Director~~ casino licensee as a registration agent personnel. Persons who are unable to travel to the ~~Commission office~~ casino licensee due to employment, financial, or medical reasons may request, in writing, for a reasonable accommodation in a manner or at a site and time designated at the sole discretion of the ~~Executive Director~~ casino licensee. Nothing in this section shall require that an accommodation be granted.

Modified, 1 CMC § 3806(f)-(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-2915 Information Required for Placement on the Self-Exclusion List.

(a) The ~~Executive Director~~ casino licensee shall determine the information and forms to be required of a person seeking placement on the self-exclusion list. Such information may include, but not be limited to, the following:

- (1) Full name, including maiden name and alias information;
- (2) Home street address and/or P.O. Box;
- (3) Date of birth;
- (4) Social security number;
- (5) A copy of his or her driver's license;
- (6) A physical description;
- (7) A current photograph;
- (8) A certification that s/he is a problem/disordered gambler and wants to self-ban;

## TITLE 25: COMMONWEALTH CASINO COMMISSION REGULATIONS

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- (9) A certification that s/he agrees that casino has no independent knowledge of the veracity of the claim certified in subsection (a)(8);
- (10) A statement that s/he understands that returning to the premises constitutes a material breach of the contract;
- (11) An agreement to notify the Casino within 24 hours of the breach;
- (12) An admission that his/her presence in the licensed facility when on the self-exclusion list is unlawful and unauthorized;
- (13) An admission that any entry into a facility licensed by the Commission while on the self-exclusion list interferes with the peaceful use and enjoyment of the property of another;
- (14) An admission that his/her presence in the self-exclusion list conclusively demonstrates that s/he has been lawfully advised to leave the licensed facility, and his/her presence in the facility is a refusal to promptly leave the facility; or desist refuses to promptly do so;\* and
- (15) An agreement that his/her failure to comply with this voluntary ban may result in trespass, arrest, and prosecution.

(b) Failure to provide any information or requested admission or to execute any forms deemed necessary by the ~~Executive Director~~ casino licensee may result in a denial of a request for placement on the self-exclusion list.

(c) Such forms shall include a request to waive the liability of the Commission, its agents, and the Commonwealth for any damages that may arise out of any act or omission related to placement or non-placement on or removal or non-removal from the self-exclusion list.

(d) Such form shall require the casino to agree:

- (1) To allow the patron to self-exclude and to remove the patron or have them arrested for trespass in the event the gambler is found on the premises;
- (2) That any losses incurred by a self-excluded gambler following a ban will be donated to the Commonwealth if the casino has been provided an updated self-exclusion list which contains the name of the self-excluded gambler.

\* So in original.

Modified, 1 CMC § 3806(d), (f)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### **§ 175-10.1-2925 Distribution and Availability of Confidential Self-Exclusion List.**

## TITLE 25: COMMONWEALTH CASINO COMMISSION REGULATIONS

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- (a) The casino licensee shall ~~Executive Director shall~~ maintain and keep current the self-exclusion list. The list shall be updated and distributed in its entirety ~~to the licensed casino facility~~ to the Commission on a regular basis.
- (b) Upon placement on the self-exclusion list by the casino licensee ~~Executive Director~~, the name and identifying information of the self-excluded person shall be distributed ~~to the licensed casino~~ to the Commission.
- (c) The licensed casino may not disclose the name of any person on the self-exclusion list to any third party unless specifically authorized by these regulations or required by a court order specifically requiring the release of mental health records and information.
- (d) No owner licensee, applicant or licensed casino employee or casino key employee or casino employee or casino key employee applicant who obtains identifying information about a person on the self-exclusion list from any source may disclose the name or identifying information of the self-excluded person, except as necessary to effectuate, or as specifically permitted by, these regulations.
- (e) Any licensee or applicant for license and any approved casino employee or casino key employee or casino employee or casino key employee applicant who knowingly discloses, authorizes disclosure, permits a disclosure, or otherwise assists in the disclosure of the identity of a person on the self-exclusion list shall be subject to discipline for each disclosure, including but not limited to any disclosure by any of its officers, directors, employees, attorneys, agents and contractors, unless the disclosure complies with the following provisions:
- (1) The disclosure is made on the same need to know basis restriction applicable to mental health information to staff for the sole purpose of effectuating the approved internal control responsibilities.
  - (2) The disclosure is made for the sole purpose of effectuating the self-exclusion program and this Part as to any customer tracking system, customer identification system, chips and token exchange system, financial transactions system, or check and credit system.
  - (3) The disclosure is made in compliance with the approved internal controls.
- (f) Nothing in this section prohibits disclosure of the name of a person on the self-exclusion list to the Commission or its staff or to a person authorized in writing by the self-excluded person on the self-exclusion list to receive such information.

Modified, 1 CMC § 3806(f)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-2935 Request for Removal from the Self-Exclusion List.

## TITLE 25: COMMONWEALTH CASINO COMMISSION REGULATIONS

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(a) Upon the expiration of ~~one~~<sup>five</sup> years from the date of placement on the self-exclusion list, any person who has been placed on the self-exclusion list may request the Executive Director to remove his or her name from the self-exclusion list. The request must be in writing, state with specificity the reason for the request and be submitted to the ~~casino licensee~~<sup>Executive Director</sup> at the ~~Commission's office~~ in Saipan. The request must be based on the elimination of a mental health or medical condition underlying the person's acknowledgment that he or she has been a problem gambler and unable to gamble responsibly. Information as to mental health or medical conditions will be maintained pursuant privacy provisions of the Commonwealth constitution and other applicable federal and Commonwealth laws.

(b) If the ~~casino licensee~~<sup>Executive Director</sup> approves the request, the ~~casino licensee~~<sup>Executive Director</sup> shall inform the ~~Commission~~<sup>casino licensee</sup> of the removal no later than 10 days after approval. If the ~~casino licensee~~<sup>Executive Director</sup> denies the request, the ~~Executive Director~~<sup>casino licensee</sup> shall send to the person who has requested removal a notice of denial of removal from the self-exclusion list by certified mail. The casino licensee may continue to deny gambling privileges to self-excluded persons who have been removed from the list.

(c) A decision whether to remove a person from the self-exclusion list shall be within the discretion of the ~~Executive Director~~<sup>casino licensee</sup>, subject to the fulfillment of all requirements under § 175-10.1-2940 and further subject to the process provided by § 175-10.1-2945.

Modified, 1 CMC § 3806(f)-(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### **§ 175-10.1-2940 Required Information, Recommendations, Forms and Interviews.**

(a) A person requesting removal from the self-exclusion list must, in connection with the request, provide the ~~Executive Director~~<sup>casino licensee</sup> with all of the following:

(1) Documentation as to treatment received for the person's gambling problem, length of treatment, and names and qualifications of treatment providers.

(2) A written recommendation, from a treating physician or qualified mental health professional who is a certified gambling counselor, as to the self-excluded person's capacity to participate in gambling without adverse health and mental health risks or consequences related to gambling. For purposes of this section, "certified gambling counselor" means an individual who has completed a specific course of study in the treatment of problem gambling and has been certified by a certification organization acceptable to the Commission and listed on the Commission's website.

(3) Upon request of the ~~Executive Director~~<sup>casino licensee</sup>, a written recommendation, from a second or subsequent physician or qualified mental health professional who is a certified gambling counselor, as to the self-excluded person's capacity to participate in gambling without adverse health and mental health risks or consequences related to gambling.

## TITLE 25: COMMONWEALTH CASINO COMMISSION REGULATIONS

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- (4) All information required under §175-10.1-2915(a)(1)–(7).
- (5) A statement informing the ~~Executive Director~~casino licensee whether the person has been present at the licensed casino while not working while on the self-exclusion list and, if so, the dates and times of attendance.
- (6) A waiver of liability of the Commission, its agents and the Commonwealth for any damages that may arise out of any act or omission committed by the person as a consequence of his or her removal from the self-exclusion list, including any monetary or other damages sustained in connection with the person's renewal of any gambling or gaming activities of any kind.
- (7) A verified, written consent to the release of all of the person's medical and counseling records related to the proposed removal from the self-exclusion list.
- (8) Any additional information, forms, recommendations, or other materials necessary, as determined by the ~~Executive Director~~casino licensee, to demonstrate the elimination of the mental health or medical condition underlying the person's acknowledgement that he or she has been a problem gambler and unable to gamble responsibly.
- (b) Upon request of the ~~Executive Director~~casino licensee, a person seeking removal from the self-exclusion list shall appear for an interview at an office of the ~~Commission designated by the Executive Director~~ casino licensee during regular business hours. Persons who are unable to travel to the casino licensee ~~a Commission office~~ due to employment, financial or medical reasons may request, in writing, a reasonable accommodation in a manner or at a site and time designated at the sole discretion of the ~~Executive Director~~casino licensee. Nothing in this section shall require that an accommodation be granted.
- (c) The ~~Executive Director~~casino licensee shall ascertain to the extent possible whether a person requesting removal from the self-exclusion list was ever present in the area within the licensed facilities for purposes other than work while on the list.
- (d) The ~~Executive Director~~casino licensee shall not rule on a request for removal from the self-exclusion list until all requirements of this section have been fulfilled.

Modified, 1 CMC § 3806(f)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

Commission Comment: The Commission changed “Subpart” to “section” in (a)(2) pursuant to 1 CMC § 3806(g).

### § 175-10.1-2945 Appeal of a Notice of Denial of Removal.

- (a) A denial by the ~~Executive Director~~casino licensee of a request by a self-excluded person to be removed from the self-exclusion list pursuant to § 175-10.1-2935 shall be subject to review by the Commission upon a verified written petition submitted to the Commission within fifteen days after the issuance of the notice of denial of removal, which shall be deemed to be notice required by § 175-10.1-1420(a).

## TITLE 25: COMMONWEALTH CASINO COMMISSION REGULATIONS

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(b) The petition shall state with specificity facts believed by the petitioner to constitute clear and convincing evidence for removal of his or her name from the self-exclusion list. The petition shall be notarized and shall include a certification in the following form:

The undersigned certifies that the statements set forth in this petition are true and correct, except as to matters in the petition stated to be on information and belief. As to matters stated to be on information and belief, the undersigned certifies that he or she believes these matters to be true and correct.

(c) The Commission shall either deny the petition or set the petition for hearing. The Commission may deny a petition if:

- (1) The petition fails to comply with any of the requirements of subsection (a) or (b);
- (2) The facts contained in the petition are the same or substantially the same facts that the petitioner set forth in a previous petition filed under this section; or
- (3) The petition, assuming all facts contained in it are true and correct, does not establish a prima facie case.

(d) In the event the Commission elects to set the petition for hearing, the procedures specified for other contested cases.

(e) For purposes of hearings conducted under this section, all information, recommendations, forms, records of interviews and other materials, formal and informal, obtained by the ~~Executive Director~~ casino licensee shall be considered official Commission records and therefore admissible into evidence.

(f) All proceedings related to an administrative hearing on a notice of denial of removal shall be closed to members of the public unless otherwise consented to in writing by the self-excluded person or allowed by federal or state law.

(g) The Commission's denial of a petition brought under this section is a final decision of the Commission.

Modified, 1 CMC § 3806(d), (f)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-2965 Third Party Exclusion Procedures.

(a) A person (“applicant”) can apply to the ~~Executive Director~~ casino licensee on behalf of his or her legally married spouse (“patron”) for inclusion into an exclusion program because of concern that the patron is a problem gambler.

(b) Upon receipt of the application, the ~~Executive Director~~ casino licensee may:

## TITLE 25: COMMONWEALTH CASINO COMMISSION REGULATIONS

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- (1) Ask for the name and any available identification of the potential problem gambler from the applicant;
  - (2) Inform the applicant that the casino licensee will, within 30 days of notification from the ~~CCC~~, compare the behavior of the patron to the casino licensee's problem gaming policies, and approach the patron if their gaming history indicates actual or potential harm arising from gambling;
  - (3) Inform the applicant that the casino licensee will mail problem gambling information to the patron if the patron's mailing address is known;
  - (4) Provide the applicant with problem gambling information and details of how to obtain support to the patron for problem gambling;
  - (5) Inform the applicant that neither the ~~CCC~~ Executive Director nor the casino licensee will provide the applicant with any personal information of the patron which comes to the attention of the ~~CCC~~ Executive Director or the casino licensee.
  - (6) The Executive Director may promulgate any needed form or procedure to implement this regulation. The forms shall, at a minimum, ensure that the applicant has the required relationship with the patron and the applicant must state the reasons why the patron should be excluded. The applicant must provide supporting evidence, for example, financial records, proving that the patron's family is in financial difficulty as a result of the patron's gambling activity. The applicant must complete a declaration under penalty of perjury confirming their request for third party exclusion of the patron and listing the reasons therefore.
- (c) Within five days of receipt of an application including the completion of all required forms, the ~~Executive Director~~ casino licensee shall provide the ~~casino licensee~~ Executive Director with a copy of the application and any other relevant information the ~~Executive Director~~ deems relevant.
- (d) Within 25 days of receipt of the information listed in subsection (c), the casino licensee shall:
- (1) Compare the behavior of the patron to the casino licensee's problem gaming policies, and approach the patron if their gaming history indicates actual or potential harm arising from gambling;
  - (2) Attempt to meet with the patron to determine if sufficient facts and evidence exist to warrant the exclusion of the patron as a problem gambler. The patron may be afforded an opportunity to explain why the patron should not be excluded. The casino licensee may make further enquiries before making a decision about excluding the patron;
  - (3) Hand deliver problem gambling information to the patron if he visits the casino or mail problem gambling information to the patron if the patron's mailing address is known;
  - (4) Decide whether the patron will be excluded if the patron chooses not to self-exclude;
  - (5) Inform the Executive Director of the results of the activities listed in subsections (1)–(4).
- (e) Exclusion Decision.

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(1) If the patron decides to self-exclude, the casino licensee shall immediately inform the Executive Director ~~CCC~~ of that fact and the casino licensee shall immediately provide to the patron the self-exclusion forms required by this Part.

(2) If the patron does not wish to self-exclude, the casino licensee shall decide whether or not to proceed with the exclusion of the patron.

(f) Notification of exclusion. If the casino licensee determines that the patron should be excluded, it shall provide the patron with written notification thereof.

(g) Ending the Exclusion. After at least six months~~two years~~, the patron can apply to have the ban lifted and the exclusion terminated.

(1) The patron must provide evidence that his or her gambling is under control and done for reasons other than compulsion. This may be in the form of a supporting letter from a medical professional or certified gambling counselor.

(2) The patron shall be required to undertake an assessment interview with the casino licensee prior to the ban being lifted and termination of the exclusion.

(3) At least ten days prior to the termination of the exclusion, the casino licensee must notify the Commission.

Modified, 1 CMC § 3806(e)-(g).

History: Adopted 40 Com. Reg. 40910 (Aug. 28, 2018); Proposed 40 Com. Reg. 40590 (Mar. 28, 2018).

### **Part 3000 - PATRON DISPUTES**

#### **§ 175-10.1-3001 Investigation and Decision of Executive Director.**

(a) Whenever the casino licensee, or its employee, refuses payment of alleged winnings to a patron, the licensee and the patron are unable to resolve the dispute to the satisfaction of the patron and the dispute involves:

(1) At least five hundred dollars (\$500), the licensee shall immediately notify the Executive Director; or

(2) Less than five hundred dollars (\$500), the licensee shall inform the patron of his right to request that the Executive Director conduct an investigation.

(b) The Executive Director shall conduct whatever investigation is deemed necessary and shall determine whether payment should be made. Thereafter, the Executive Director shall issue an appropriate order. This order shall not constitute a waiver, suspension, or modification of the requirements of the Commission regulations, which remain in full force and effect. Issuance of this order is not an election by the Commission, Executive Director, or the Commonwealth to forego any civil or any criminal action otherwise authorized by any other applicable law or regulation.

(c) The Executive Director shall provide written notice to the Commission, the licensee and the patron of his decision resolving the dispute within thirty days after the date the Executive Director first receives notification from the licensee or a request to conduct an investigation from the patron.

## TITLE 25: COMMONWEALTH CASINO COMMISSION REGULATIONS

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(d) Failure to notify the Executive Director or patron as provided in subsection (a) is an unsuitable method of operation.

(e) The decision of the Executive Director is effective on the date the aggrieved party receives notice of the decision. The date of receipt is presumed to be the date specified on the return receipt, if the notice was mailed.

(f) Notice of the decision of the Executive Director shall be deemed sufficient if it is mailed to the last known address of the licensee and patron. The date of mailing may be proven by a certificate signed by an employee of the Executive Director that specifies the time the notice was mailed. The notice is presumed to have been received by the licensee or the patron five days after it is deposited with the United States Postal Service with the postage thereon prepaid.

Modified, 1 CMC § 3806(e)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

### § 175-10.1-3005 Construction.

This Part should be liberally construed to achieve fair, just, equitable, and expedient resolutions of all patron disputes.

Modified, 1 CMC § 3806(a).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

Commission Comment: The Commission changed (a) to a leading paragraph pursuant to 1 CMC § 3806(a).



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



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

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

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

**THE TERMS AND SUBSTANCE:** The proposed amendments are set forth to provide modifications and clarifications on commercial uses and activities on Managaha Island under the Department of Public Lands.

**THE SUBJECTS AND ISSUES INVOLVED:** These proposed amendments:

1. Replace references to the Marianas Public Land Corporation with the Department of Public Lands as the responsible agency for the commercial use of Managaha and address the Department as such.
2. Clarify that landing fees will be collected by the Department and shall not be allocated to the Concessionaire aside from reimbursements of expenses for approved upkeep, repair, maintenance and improvements of Managaha.
3. Increase the Landing Fee for tourists and non-residents from five dollars (\$5.00) to ten dollars (\$10.00).
4. Establish the collective maximum capacity of tourist arrivals from concessionaire, boat and tour operators on Managaha to not exceed one thousand (1,000) visitors at one time.
5. Designate the Office of Homeland Security or DPL as authorized agencies to declare closure of the island in the event of typhoon condition 2, tropical storm condition 2, or inclement weather when necessary.
6. Specify that lifeguards must be trained and certified in the Commonwealth or in the United States.
7. Increase the DPL ranger personnel from two (2) to six (6) people.
8. Expand lifeguard jurisdiction to supervise all swimming activity in the designated swimming zone and along all beach areas surrounding the Island during normal hours of operation.
9. Establish NMIAC § 145-30-315 to address camping regulations for interested parties and designate camping grounds on the Island including \$25 refundable security deposit and \$25 nightly camping fee.
10. Allow the presence of service dogs.
11. Provide an alternate landing site if the main pier is unsuitable for landing.
12. Expanding the definition of commercial photography to videography and filmography.
13. Require DPL approval before harvesting plants from Managaha for medicinal purposes.
14. Provide additional details and definitions of formerly mentioned terms for clarity.
15. Attach a map of the Managaha Designated Concession Area as Exhibit #1.

P.O. Box 500380, Saipan, MP 96950 ● 2<sup>nd</sup> Floor, Joeten Dandan Commercial Building  
Website: [www.dpl.gov.mp](http://www.dpl.gov.mp) ● E-mail: [dpl@dpl.gov.mp](mailto:dpl@dpl.gov.mp) ● Facebook: [www.facebook.com/DPLCNMI](https://www.facebook.com/DPLCNMI)  
Tel: (670) 234-3751/52/53/54 ● Fax: (670) 234-3755

OFFICE OF THE ATTORNEY GENERAL  
Civil Division  
**RECEIVED**  
BY EW DATE 12/14/20

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

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


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

Submitted by:   
MARIANNE CONCEPCION-TEREGEYO  
Secretary, Department of Public Lands

01 DEC 2020  
Date

Received and filed by:   
MATILDA A. ROSARIO  
Special Assistant for Administration

12/14/2020  
Date

Filed and Recorded by:   
ESTHER SN NESBITT  
Commonwealth Registrar

12/15/2020  
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 proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, 1 CMC § 2153(f) (publication of rules and regulations).

Dated the 15 day of Dec, 2020.

  
Hon. EDWARD MANIBUSAN  
Attorney General



Commonwealth gi Sangkattan na Islas Mariãnas  
Ofisinan Gubietnu  
**DIPÁTTAMENTUN TANU' PUPBLIKU**



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

**I AKSION NI MA'INTENSIONA PARA U MA'ADÁPTA ESTI I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA DISPUES DI MAKUNSIDEDERA I UPIÑON PUPBLIKU:** I Commonwealth gi Sangkattan Siha na Islas Mariãnas, Dipáttamentun Tanu' Pupbliku (“I Dipáttamentu”) ha intensiona para u amenda iyon-ñiha regulasion ni kumunsisti yan i mañechettun na manmapropo ni na amenda siha, sigun para i maneran i Ákton Atministrasion Procedure, 1 CMC §9104(a). I amenda siha para u ifektibu gi halum dies (10) dihas dispues di adáptasion yan publikasion gi halum i Rehistran Commonwealth. (1 CMC § 9105(b))

**ÁTURIDÁT:** I Dipáttamentu gai aturidát para u adápta i areklamentu yan regulasion siha para u na adilánta i ubligasion yan responsabilidát-ñiha sigun para Attikulu IX nu i Konstitusion Commonwealth yan 1 CMC §2801 et. seq.

**I TEMA YAN SUSTÁNSIAN I PALÁBRA SIHA:** I manmapropo ni na amenda siha manmapega mo’na para u pribeni mudifikasion yan klarifikasion gi isan kumisiát yan aktibidát siha gi Islan Mañagáha gi pápa’ i Dipáttamentun Tanu’ Pupbliku.

**I SUHETU NI MASUMÁRIA YAN ASUNTU NI TINEKKA:** Esti i mapropo ni na amenda siha:

1. Tulaika i na’an “Marianas Public Land Corporation” para Dipáttamentun Tanu’ Pupbliku komu responsáppli na ahensia para i isan kumisiát nu Mañagáha yan para matungo’ña taiguihi i Dipáttamentu.
2. Na’kláru na i ápas puetto siempri marikohi ginin i Dipáttamentu yan debi na ti u pega guatu gi “Concessionaire” fuera di apás i gástu para i inapruban inadahi, arekla, mantieni yan fina’máulik nu Mañagáha.
3. Aomenta i Ápas Puetto para pasiadot yan i ti manresidenti siha ginin singku pesos (\$5.00) para dies pesos (\$10.00).
4. Istaplesi i mäs chi’ña na kapasidát nu finattu pasiadot ginin “concessionaire,” boti yan “tour operators” gi Mañagáha para ti u upus mit (1,000) na bisita siha gi un biáhi.
5. Disikna i Ufisinan “Homeland Security” pat i DPL komu manaturisa na ahensia siha para u diklára i ma’uchum nu i isla gi halum sinisedin nu pakyu “condition 2, tropical storm condition 2,” o sino “inclement weather” yanggin nisisáriu.
6. Na’kláru na i “lifeguards” debi na u mamahayo’ yan settifikáo gi halum i Commonwealth pat gi halum i Estádus Unidus.
7. Aomenta i DPL “ranger personnel” gi dos (2) para sais (6) na táotáo.
8. Aomenta i “lifeguardad jurisdiction” para u maneha todú i aktibidát nangu gi halum madisikna na “swimming zone” yan gi todú uriyayun i kántun tásin i Isla gi durántin “normal hours of operation.”
9. Istaplesi NMIAC § 145-30-315 para u “address” i regulasion kampamentu para i manintires na pattidá siha yan disikna lugát kapamentu gi isla ingklusu bentisingku pesos (\$25) “refundable” na “security deposit” yan bentisingku (\$25) kada puengi na ápas kapamentu.
10. Sedi i setbisiun ga’lágú para u gaigi.
11. Pribeni tinahguin lugát puetto yanggin i primet na pantalán ti sumietbi para puetto.
12. Aomenta i sustánsian i palabra nu kumisiát fotografía para “videography” yan fiomografia.

13. Nisisita inapruuban DPL ántis di un gutai tinanum ginin Mañagâha para ámut na rason.
14. Pribeni mäs imfotmasion yan sustánsian i palabra siha gi mamensiona na tema para klináru.
15. Na'chettun i mâpan nu Madisikna na Árian "Concession" Mañagâha komu "Exhibit #1."

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


**PARA U MAPRIBENIYI UPIÑON SIHA:** Na'hâlum pat intrega i upiñon-mu siha guatu gi Dipâttamentun Tanu' Pupbliku Attn: Sekretâria, giya sanpapa' na "address," fax o sino "email address." I upiñon siha debi na u fanhâlum gi halum trenta (30) dihas ginin esti na nutisian pupublikasion. Put fabot na'hâlum iyo'-mu imfotmasion, views pat atgmentu siha. (1 CMC § 9104(a)(2)).

I Dipâttamentun Tanu' Pupbliku ha aprueba i mañechettun Maproponi na Regulasion siha gi fetcha ni malista gi sanpapa'.

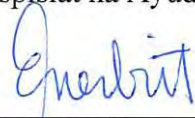
Nina'hâlum as:   
 MARIANNE CONCEPCION-TEREGEYO  
 Sekretâria, Dipâttamentun Tanu' Pupbliku

01 DEC 2020

Fetcha

Rinisibi yan pine'lu as:   
 MATILDA A. ROSARIO  
 Ispisiât na Ayudânti para i Atministrasion

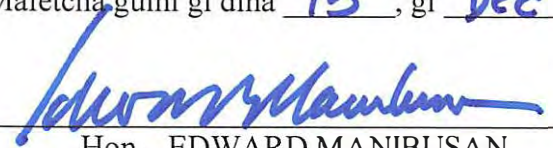
12/14/2020  
 Fetcha

Pine'lu yan Nonota as:   
 ESTHER SN NESBITT  
 Rehistran Commonwealth

12/15/2020  
 Fetcha

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

Mafetcha guini gi diha 15, gi Dec, 2020.

  
 Hon. EDWARD MANIBUSAN  
 Abugâdu Henerât



Commonwealth Téel Falúw kka Efáng Ilól Marianas  
Bwulasiyol Soulemelem  
Bwulasiyol Ammwelil Faluweer Toulap



ARONGORONGOL TOULAP REEL POMMWOL LIIWELIL MWÓGHUTUGHUT NGÁLI  
BWULASIYOL AMMWELIL FALUWEER TOULAP

**MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI POMMWOL ALLÉGH ME MWÓGHUTUGHUT MWIRIL AAR AMWURI FÓÓS SÁNGI TOULAP:** Commonwealth Téel Falúw kka Efáng Ilól Marianas (“Bwulasiyo we”) re mángemángil rebwe liiweli mwóghutughut Ilól abwungubwung ngáli pommwol liiwel ikka e appasch, sáangi mwóghutughutúl Administrative Procedure Act, 1 CMC § 9104(a). Ebwe bwunguló liiwel kkal seigh (10) ráál mwiril aal adóptááli me akkatééwowul me Ilól Commonwealth Register. (1 CMC § 9105(b))

**BWÁNGIL:** Eyoor bwángil Bwulasiyo reel ebwe adóptááli allégh me mwóghutughut reel igha ebwe tééló mmwal reel angaang me lemelem sáangi Article XI reel Alléghúl Commonwealth me 1 CMC §2801 et. seq.

**KKAPASAL ME AWEEWEL:** Ebwe tééló mmwal pommwol liiwel kkal reel ebwe ayoora siiwel me ebwe ffat reel yááyál “commercial” me mwóghutughut wóól Ghalaghaal faal Bwulasiyol Ammwelil Faluweer Toulap.

**KKAPASAL ME ÓUTOL:** Ikkaal pommwol liiwel:

1. Siiweli “reference” ngáli Marianas Public Land fengál me Bwulasiyol Ammwelil Faluweer Toulap bwe iir bwulasiyol lemelem ngáli yááyál “commercial” reel Ghalaghaal me faingi ngáli Bwulasiyo bwe i schagh.
2. Ebwe ffat bwe “landing fees” ikka re bweibwogh sáangi Bwulasiyo essóbw mwet ngáli “Concessionaire” ese toolong óbwóssul “reimbursements of expenses for approved upkeep”, ammwelil, “maintenance” me “improvements” ngáli Ghalaghaal.
3. Ebwe lapaló “landing Fee” ngáliir “tourists” me “non-residents” sáangi limoow dóóla (\$5.00) ngáli seigh dóóla (\$10.00).
4. Itittiwel “collective maximum capacity” atol aar tooló “tourist” sáangi “concessionaire”, bwoot me “tour operators” wóól Ghalaghaal nge essóbw aluuló sangaras schóól bisita ngáre “visitors” ghal ffal eew.
5. E lo bwe Bwulasiyol Homeland Security ngáre DPL bwe iir bwulasiyol lemelem reel rebwe aronga ngáre ebwe ttit falúw bwulul malúmal “condition 2”, “tropical storm condition 2”, ngáre “inclement weather” ngáre e ffil.
6. Ebwe ffat bwe eyoor sóssót me ammwelil Ilól Commonwealth ngáre Ilól United States.
7. Ebwe lapaló “DPL ranger personnel” sáangi rúuschay ngáre olomal aramas.
8. Aschéélapayló lemelemil “lifeguard” reel rebwe amwuri mwóghutughutúl áf Ilól “designated swimming zone” me arol alongal leppi ikka e bwáliiy Falúw Ilól “normal hours of operation”.
9. Ebwe itittiw NMHC § 145-30-315 reel ebwe yoor féféfélil “camping regulations” ngáliir schóó kka re mwuschel me ayoorai “designated camping grounds” wóól Falúw ebwe schuulong \$25 “refundable security deposit” me \$25 “nightly camping fee”.
10. Mweiti ngáliir reel ebwe lo “service dogs”.
11. Ebwe yoor eew “alternate landing site” ngáre e tutto bwe ese ffil “main pier” ngáli “landing”.
12. Aschéélapayló weewel “commercial photography” ngáli “videography” me “filmography”.
13. Ebwe yoor átirow sáangi DPL mmwalil iyo ebwe bweibwogh filooris sáangi Ghalaghaal ngáli yááyál sáfey.

14. Ayoorai maas kkapasal me weewel kkapas ikka e lo reel ebwe ffat.  
 15. Ebwe appasch móopal “Managaha Designated Concession Area as Exhibit #1”.


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

**REEL ISIISILONGOL KKPAS:** Afanga ngáre bwughiló yóómw ischil kkapas ngáli Bwulasiyol Ammwelil Faluweer Toulap Attn: Secretary, reel féféél iye e lo faal, fax ngáre email address. Ebwe toolong ischil kkapas llól eliigh ráal mwiril aal akkatééwow arongorong yeel. Isiisilong yóómw data, views, ngáre angúungú. (1 CMC § 9104(a)(2)).

Bwulasiyol Ammwelil Faluweer Toulap ra átirowa Pommwol Mwóghutughut ikka e appasch wóol ráal iye e lo faal.

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

01 DEC 2020  
 Ráal

Bwughiyal:   
 MATILDA A. ROSARIO  
 Special Assistant ngáli Administration


12/14/2020  
 Ráal

Ammwelil:   
 ESTHER SN NESBITT  
 Commonwealth Registrar

12/15/2020  
 Ráal

Sáangi 1 CMC § 2153(e) (sáangi átirowal AG reel mwóghutughut bwe aa ffil reel fféerúl) me 1 CMC § 9104(a)(3) (sáangi átirowal AG) reel pommwol mwóghutughut ikka e appasch bwe ra takkal amwuri fischiiy me átirow bwe aa ffil reel fféerúl me legal sufficiency sáangi Soulemelemil Allégh Lapalalpal CNMI me ebwe akkatééwow, 1 CMC § 2153(f) (arongowowul allégh me mwóghutughut.)

Aghikkilátiw wóol 15 ráalil Dec, 2020

  
 Hon. EDWARD MANIBUSAN  
 Soulemelemil Allégh Lapalap

Commonwealth of the Northern Mariana Islands  
Department of Public Lands Commercial  
Use of Managaha Island Rules and  
Regulations  
Chapter 145-30

**Part 001 - General Provisions**

**§ 145-30-001 Findings**

The ~~Corporation~~Department of Public Lands (DPL) makes the following findings in support of the regulations in this subchapter:

(a) ~~The Corporation DPL~~ has the authority to manage and dispose of public lands, including Managaha Island, under article XI, § 3 of the CNMI Constitution. Managaha Island is to be maintained as an uninhabited place and used only for cultural and recreational purposes under article XIV, § 2 of the CNMI Constitution.

(b) The recreational and cultural use of Managaha Island is threatened unless there is upkeep maintenance of daily trash collection and removal, sanitary toilet facilities, the provision of water and electricity to run those facilities, shelter, and the improvement and maintenance of the facilities and pier.

(c) ~~The Corporation DPL~~ must resort to the private sector to provide the necessary facilities and to repair, operate, and maintain them. This can only be accomplished if a private company is granted the right to engage in limited commercial activity on the ~~island~~Island and there is a source of funding for the costs incurred in repairs, maintenance and the delivery of services.

(d) Commercial activity which provides food, beverages, beach equipment, water sports equipment and tours will promote the use of Managaha Island as a recreational oriented site, thus serving the constitutional objectives in management. There is, however, a need to limit the amount of commercial activity on Managaha Island in order to protect its resources. The presence of numerous competing concessions will result in difficulties in island management and the maintenance of island facilities. And, the proliferation of concession stands will lead to the loss of scenic beauty and tranquility. Therefore, it is determined that commercial competition on the ~~island~~Island will be eliminated. ~~One main~~A concessionaire will be responsible for commercial activities as well as island maintenance and the provision of public services. The sales and rental activities of that ~~concessionaire~~Concessionaire shall be limited to a designated area. In addition, in order to ensure that Northern Mariana descent entrepreneurs will participate in the commercial activities on Managaha Island, ~~up to three~~ limited subconcessions will be granted in the areas of food service, human powered watercraft and wind powered watercraft as approved by both the DPL and the Concessionaire.

~~(e) — Since December 1, 1989, the main concession pavilion has been rebuilt to provide a better quality facility with sanitary cooking facilities, seating that is covered from the rain and the sun, public showers, clean restrooms, and a first aid room. The food subconcession pavilion has been rebuilt to replace termite and weather damaged beams with new members of better quality. All the public pala-palas have been rebuilt with new materials. The septic tank system was redesigned as were the well and the plumbing; the electrical system was replaced; and, the generator was housed in a soundproofed building. The cost of these repairs is greater than \$900,000.00. All of this work will improve the recreational and cultural use of the island by residents and tourists alike.~~

~~(f)~~ — The Managaha pier has been renovated to prevent injuries to users and the eventual total loss of the pier through storm damage. The cost of completion of this project is approximately \$350,000.00.

~~(g)~~(e) There has been a landscaping and revegetation project to protect the ~~island~~ Island from erosion, to provide more shade to users, and to eliminate noxious plants. This project is ongoing. In addition, there are the continuous costs of security, power generation, pump operation, cleanup, lifeguards, free transportation to local residents and maintenance of ~~island~~ Island facilities and infrastructure.

~~(h)~~(f) In order to fund these repairs, improvements, and ~~ongoing~~ operational costs to run the deep water well, power and waste water facilities, the ~~Corporation~~ DPL has determined that a landing and user fee shall be charged to ~~all boat and tour operators that bring~~ tourists to Managaha Island. ~~This is because the economic benefits derived from these expenditures primarily accrue to boat and tour operators. These fees shall be used only to fund or reimburse the main concessionaire for the provision of certain services and benefits to the public.~~ Portion of the economic benefits derived from the landing and user fee shall be used to fund or reimburse the Concessionaire for providing operational cost as stated herein.

~~(i)~~(g) The regulations in this subchapter shall set forth the limitations on commercial activities on Managaha Island, the responsibilities of the ~~main concessionaire~~ Concessionaire in providing public benefits, and the collection and use of the landing and user fees.

#### § 145-30-005 Policy

It is the policy of ~~MPLC the DPL~~, as mandated by ~~article~~ Article XI, § 3 and ~~article~~ Article XIV, § 2, of the Constitution of the Commonwealth of the Northern Mariana Islands, to permit concessions on the island only under carefully controlled safeguards against unregulated and indiscriminate use so that heavy visitation by tourists will not unduly impair the Island's resources. Concession activities shall be limited to those necessary and appropriate for public use and enjoyment of the ~~island~~ Island and that are consistent to the highest practical degree with the preservation and conservation of the Island.

#### § 145-30-010 Purpose

The purpose of the rules and regulations in this subchapter is to set forth certain restrictions on commercial activities on Managaha Island; to publish regulations for the use of the Managaha pier; to establish a landing and user fee for the use of the pier by commercial operators; to set forth rules governing commercial photography on the ~~island~~ Island and for other miscellaneous purposes related to these activities.

#### § 145-30-015 Definitions

~~(a)~~ “Boat and Tour Operators”: Any person(s) who transports tourist(s) to the island for any type of fee or other compensation.

~~(a)~~(b) “Commercial Activity”: Any activity conducted on the island ~~Island~~ for profit (or resulting in profit) by an enterprise or person required to have a business license to conduct the activity.

~~(c)~~ “Commercial photography”: The taking of photographs, films or videos from any type of camera device of any article of commerce or models for the purpose of commercial advertising and shall include all photography to be used for advertisements or for public entertainment and all photography for which a

fee is paid, either to the model or actor, or to the photographer. It shall not include any photography by government agencies done on behalf of the Marianas Visitors Authority for the promotion of tourism in the Northern Marianas Islands.

~~(b)(d)~~ “Commercial Concession”: Any facility which prepares, delivers, sells or provides food or beverages on the ~~island~~ Island; any facility which rents or sells water sports equipment, recreational equipment, or beach equipment and related supplies; any operation which conducts tours on the ~~island~~ Island or from the ~~island~~ Island; and, any merchant which sells goods or services of any nature on the island.

~~(a)~~ —“Corporation”: ~~The Marianas Public Land Corporation (“MPLC”)~~.

~~(e)~~ —“~~Designated~~ Concessionaire”: ~~Whoever the Corporation designates DPL awards the Special Recreational Concession to with a formal Agreement who has the exclusive right to operate all commercial concessions on the island~~ Island, provide island maintenance, and provide other provision of public services under the Agreement terms. This term includes both the concessionaire and subconcessionaires.

~~(e)(f)~~ —“Department”: Department of Public Lands (“DPL”)

~~(d)(g)~~ —“Designated Concession Area”: That portion of the main pavilion and other areas delineated in exhibit #1 of the Special Recreational Concession Agreement.

~~(e)(h)~~ —“Island”: Managaha Island.

~~(f)~~ —“Boat and Tour Operators”: ~~Any person who transports tourists to the island for any type of fee or other compensation.~~

~~(i)~~ —“Regulation”: Commercial use of the Managaha Island Rules and Regulations

~~(j)~~ —“Resident”: A person who is domiciled in the CNMI.

~~(k)~~ —“Subconcessionaire”: A subcontracted company with a permit from DPL, approved by both DPL and the Concessionaire, to provide commercial activities such as food service, human powered watercraft or wind powered watercraft on Mangaha Island. etc., under the Special Recreational Concession Agreement.

~~(g)(l)~~ —“Tourist”: A person who is not a resident of the CNMI.

## **Part 100 - Commercial Use of the Island**

### **§ 145-30-101 Uses and Privileges**

(a) All commercial activity including conveniences such as food, beverages, recreational equipment and the like shall only be provided by ~~one-the main concessionaire~~ Concessionaire and ~~three a limited number of subconcessionaires mutually agreed upon by DPL and the Concessionaire.~~ Outside food and beverages brought in by visitors shall only be allowed for personal consumption.

(b) Any commercial activity shall take place only in the designated concession area.

(c) The exclusive right to operate all commercial concessions does not include the exclusive right to provide transportation to and from the ~~island Island~~; provided, however, that if the ~~Corporation Department, Coastal Resources Management Office (CRMO), or in consultation with~~ any other agency, determines that the number of tourists visiting the ~~island Island~~ must at any present or future time be limited, then the ~~concessionaire Concessionaire~~ shall ~~have the right to~~ carry the ~~full~~ amount of passengers permitted under the restriction, ~~unless the Corporation reasonably determines that the concessionaire is not capable of such a capacity. In such a case, the concessionaire shall be permitted to carry that number of passengers it is capable of carrying.~~ This, however, is subject to the ~~concessionaire's Concessionaire's~~ privilege of providing transportation to that number of passengers it is entitled to serve meals to, so long as the number of passengers permitted to be carried to Managaha Island is no fewer than number permitted under any current CRM permit for the ~~island Island~~. To ensure the Island does not result in negative environmental impact in terms of public safety, in no event shall the Concessionaire, boat and tour operators collectively exceed 1,000 passengers on the Island at a time.

### § 145-30-105 Enforcement of Regulations

(a) ~~MPLC DPL~~ through its ~~Executive Compliance Division~~ Director or ~~its-his/her~~ designee, shall be responsible for the enforcement of the regulations in this subchapter.

(b) ~~MPLC DPL~~ shall provide any person determined to have violated the regulations in this chapter with written notice of the nature of the violation and the corrective action to be taken.

(c) If, after a reasonable time to comply ~~having has~~ passed, the violation continues or is repeated, ~~MPLC DPL~~ may take appropriate corrective measures. In the case of boat and tour operators, this may include ~~the loss of the license to~~ banning from use of the pier after last completed trip.

(d) Any person aggrieved by a decision or order of ~~MPLC DPL~~ made pursuant to this section may appeal such decision or order to the ~~Board of Directors of MPLC DPL Secretary~~, within ten days thereof. The ~~Board DPL Secretary~~ shall promptly afford such person notice of, and the opportunity to be heard, at a hearing within 30 days after filing the appeal and the ~~Board of Directors DPL Secretary's~~ decision shall be released not more than ~~twenty forty-five~~ days after the final hearing.

### § 145-30-110 Management and Maintenance of Island

(a) It shall be the responsibility of the ~~concessionaire Concessionaire~~ to perform the following services for the public's benefit:

- (1) Clean up of trash on entire ~~island Island~~ and dispose of it on a daily basis;
- (2) Maintain the toilet and locker room facilities located within the main pavilion and the shower facilities near the pavilion in clean order and good operating condition;
- (3) Maintain the other improvements within the exclusive concession area;
- (4) Provide security services on the ~~island Island~~;
- (5) Provide ~~free of charge to local residents, on a 24-hour advance reservation basis, 20% of the seating capacity on regularly scheduled daily round trips to the island Island free of charge for local passengers; and if~~ If the full 20% is not so utilized, then the ~~designated concessionaire Concessionaire shall may~~ provide ~~free of charge to local residents,~~ the remainder of that number of seats available to non-residents upon request, if available and not committed to other persons; however, priority of the 20% must be given to local passengers;
- (6) Maintain the landscaping of the vegetation of the ~~island Island~~;
- (7) ~~Provide a lifeguard to supervise the activities of those persons using the roped-off swimming zone on the west side of the island north of the main pier during the concessionaire's daylight~~

~~operating hours. Provide lifeguards to monitor, patrol, and supervise the activities of people swimming, snorkeling and all other water-related activities at all beach areas surrounding the Island during normal hours of operation.~~

~~(8) Provide hourly announcements regarding swimming safety, marine protected area actions, general water safety, closing hours, or other announcements as deemed necessary.~~

(b) A subconcessionaire shall perform the following services for the public's benefit:

(1) Maintain the improvements within ~~its~~their concession area. This includes the pala pala and its improvements provided to the subconcession for meals;

(2) Take appropriate measures to ~~ie~~nsure the safety of ~~its customers~~ Managaha Visitors. A subconcessionaire renting watercraft or equipment shall keep its customers under observation at all times and shall maintain in operating condition the means to rescue them should trouble occur.

### § 145-30-115 Storm Conditions

When typhoon condition no. 2 or tropical storm condition 2 is declared, or when the ~~Executive Director of the Corporation Office of Homeland Security or the Department~~ determines that it is unsafe to land passengers at the Managaha pier due to inclement weather, the ~~concessionaire~~Concessionaire shall be ~~relieved of its obligations to operate~~ authorized the closure of Managaha Island and to first secure operating utilities on the island Island, including water, power, toilets, lifeguard services, ranger station, and public security before leaving the Island unless it is deemed unsafe to do so. The ~~concessionaire~~ Concessionaire shall take reasonable measures to protect the main pavilion, ~~and~~ generator house, storage, and reverse osmosis room from storm damage; and ensure that ~~The~~ subconcessionaires shall also secure their property against any damages.

### § 145-30-120 Hours of Operation

The ~~designated concessionaire~~Concessionaire shall operate its concession between ~~7:00–8:00~~ a.m. and 5:00 p.m. daily or as preapproved by the DPL Secretary. The ~~designated concessionaire~~Concessionaire may operate at night after providing a written request to the ~~Corporation Department~~ at least ~~24.36~~ hours in advance, prepaying the landing fee, and receiving a written consent. Boat and tour operators are prohibited from landing tourists on the ~~island~~ Island outside of these hours without the prior written consent of the ~~Corporation Department~~.

### § 145-30-125 Signs and Advertisements on the Premises

(a) The ~~concessionaire~~Concessionaire may display, erect, install, paint or place any signs or other advertisements on or about the exterior of the building only within the ~~exclusive designated~~ concession area, as it deems necessary and proper in the conduct of its activities. The ~~Corporation Department~~, however, reserves the right to order the ~~concessionaire~~Concessionaire to remove signs, displays, advertisements or decorations if they are, in the opinion of the ~~Corporation Department~~, offensive to the public, ~~are~~ detrimental to the appearance of the ~~island~~ Island, or ~~are~~ unrelated to the use of the ~~island~~ Island. The ~~Corporation Department~~ shall provide five (5) calendar days' notice to the Concessionaire to remove ~~the non-offensive signs, to the concessionaire, or a 24-hour notice if it is deemed offensive by the Department~~. If the signs are not removed within the ~~given fifteen days allotted time~~ after receipt of the written notice, the ~~Corporation Department~~ reserves the right to enter the main building concession within the designated concession area and remove ~~them~~ the sign at the expense of the ~~concessionaire~~Concessionaire.

(b) Subconcessionaires are restricted to advertising within their ~~premises~~. As used in this section, "premises" means the pala pala closest to the dock for the food subconcession and the free-standing stalls

for the wind powered and human powered watercraft subconcessions.

(c) CNMI Government agencies may erect, install, paint or place sign(s) for educational, cultural, and safety purposes with the expressed written consent of DPL.

(e)(d) No advertisements shall be permitted anywhere else on the island Island or its pier, except as provided in this section.

#### § 145-30-130 Government Requirements

The ~~designated concessionaire~~ Concessionaire shall procure all necessary business licenses, food handling permits, and other certificates required by the government and its agencies for their daily operations on Managaha Island. The ~~designated concessionaires~~ Concessionaires shall observe and comply with the provisions of all laws and rules and regulations with respect to their operation on Managaha Island.

#### § 145-30-135 Public Security

(a) The ~~concessionaire~~ Concessionaire is responsible for providing a security guard services to patrol the ~~island Island at night outside of the normal hours of operation~~. The security guard shall use ~~its~~ their best efforts to protect the public facilities and the property-properties and belongings-to of the ~~concessionaire~~ Concessionaire, the subconcessionaires and the ~~Corporation-Department~~ from theft and vandalism. ~~However, the concessionaire and MPLC shall assume no responsibility for any property damage which may occur which does not occur through their own acts or negligent failure to act.~~

(b) ~~The concessionaire shall provide a lifeguard to supervise the activities of those persons using the roped-off swimming zone on the west side of the island north of the main pier, during the concessionaire's daylight operating hours. The lifeguard shall be trained in first aid and water safety. The Concessionaire shall provide lifeguards to monitor, patrol, and supervise the activities of people swimming, snorkeling and all water-related activities at all beach areas surrounding the Island during normal hours of operation. All lifeguards shall be trained and certified in the Commonwealth or any U.S. jurisdiction in administering first aid and water safety.~~

(c) Subconcessionaires responsible for ~~selling or renting~~ wind powered and human powered watercrafts shall be responsible for watching the users of their watercrafts and shall have the means to rescue them in the event that they are in trouble. ~~The concessionaire and the Corporation shall not be responsible for lifeguarding the activities of users of watercraft or swimmers outside of the swimming zone.~~

(d) The ~~concessionaire-Department~~ shall ~~hire~~ keep on staff two-six rangers/enforcement officers to assist with the enforcement of this regulation. It shall be the duty of the enforcement officers to enforce these regulations, maintain public security, ~~and~~ record the daily landings of tourists ~~for the purpose of,~~ and collecting user landing fees during normal hours of operations.

(e) In order to ensure public safety and the effective enforcement of the regulations, the Concessionaire and all subconcessionaires, tourists, visitors, and boat and tour operators shall cooperate with the rangers/~~compliance enforcement~~ officers on Managaha Island and follow the directives of such officers. The rangers/~~compliance enforcement~~ officers shall have access at all times to the areas of operation of the Concessionaire and subconcessionaires on the ~~island Island~~ for the purpose of providing security or recording of landing and user fees.

(f) DPL, the Concessionaire and subconcessionaires shall assume no responsibility for any damage or loss of a visitor's personal property which may occur on the Island or pier through their own acts or negligent failure to act.

## Part 200 - The Managaha Pier

### § 145-30-201 Applicable Regulations

In addition to the regulations contained in this part, any applicable federal and CNMI regulations shall govern water and pier use.

### § 145-30-205 Use of Pier

(a) The engines of any vessel lying at the pier shall not be tried or tested except as part of routine predeparture warming up of engines.

(b) No person shall make any repairs or do any kind of manufacturing, construction, or maintenance work in the vicinity of the pier or on a vessel lying at the pier without ~~MPLC's~~ DPL's written consent.

(c) The pier is only to be used for the loading and unloading of passengers, ~~without the express written permission of the Corporation.~~ Each vessel is required to provide sufficient staff and equipment, including gangplank or other ~~device~~ devices, to ensure the safe loading and unloading of its passengers.

(d) With the exception of service dogs, no fowl, animal, or livestock of any kind shall be ~~present on any vessel lying at the pier permitted to disembark on the Island.~~

(e) No rubbish, swill, garbage, or refuse shall be present on any vessel lying at the pier unless it is being removed from the ~~island~~ Island and is protected from spillage in proper containers.

(f) Smoking is prohibited on the pier and on vessels lying at the pier.

(g) The transferring of fuel between tanks or from boat to boat while lying at the pier is prohibited.

(h) No substance of any kind shall be deposited on the pier or dumped over the side of any vessel while lying at the pier except with the prior expressed ed written permission of the ~~Corporation~~ Department.

(i) All Commonwealth Ports Authority Harbor Regulations [NMIAC, title 40, subchapter 20.1] not inconsistent with the regulations in this part are adopted and compliance with those regulations is required.

(j) Whenever, under applicable federal or Commonwealth regulation or statute, a person is required to report, a simultaneous written report shall be made to the ~~Executive Director~~ Secretary of the ~~Corporation~~ Department. Reporting to the ~~Corporation~~ Department, however does not relieve a person from filing required reports with other authorities.

(k) The pier is under the supervision and control of the ~~Corporation~~ Department and is maintained for the use of all boat and tour operators with priority given to Concessionaire's commercial boat and tour operators. ~~R~~recreational boaters may only use the pier to load and unload passengers if such use does not interfere.

(l) All vessels ~~licensed to carry passengers shall land~~ may dock at the pier for loading and unloading of passengers, supplies and equipment only. ~~No licensed vessels may land on any part of the beach without the prior written permission of MPLC. If it is deemed unsafe to dock on the pier due to high-surf or rough weather conditions, all licensed and unlicensed vessels may, with prior consent of DPL, land on the northern part of the Island to load and offload passengers. The Concessionaire and the Department shall not assume responsibility for any and all injuries, losses, or damages to persons or property which may occur on or around the Island, including those incurred on vessels at the Island.~~

(m) No vessel may lie at the pier except when actively loading and unloading passengers unless approval is first obtained from the DPL ranger/compliance enforcement officers.

(n) All vessels using the pier shall ~~follow obey~~ the instructions of the DPL rangers/compliance enforcement officers.

(o) ~~A Boat~~ and tour operators ~~is are~~ primarily responsible for the return of all passengers ~~it they~~ brings to the ~~island~~ Island and ~~it~~ may not depart the pier without first making arrangements for the complete accountability and safe return of all its passengers and their belongings brought to the island.

(p) ~~Anyone~~ person found causing damage to the pier is responsible for the cost of repair ~~excepting for~~ normal wear and tear.

(q) The captain of any commercial vessel or owner or operator of any private vessel must remain on board the vessel while lying at the pier.

(r) Diving ~~or climbing~~ from or climbing on any part of the pier or vessel lying at the pier is prohibited. Swimming, snorkeling, diving or use of any floatation device within 50-200 feet of any part of the pier or a vessel lying at the pier is also prohibited. Each vessel approaching the pier is responsible for keeping a lookout to prevent collision with persons in the water surrounding the pier and island.

#### § 145-30-210 Collection of Landing and User Fees

(a) The ~~Corporation~~ Department or its designee shall charge a landing and user fee from all ~~boat and tour operators who bring~~ tourists arriving on to the island Island.

(b) The landing and user fee shall be ~~five at least~~ \$10.00 (ten dollars) per tourist ~~dispatched to landing on the island~~ Island adjusted upwards for inflation using the US CPI index every five years.

(c) The ~~Corporation~~ Department or its designee shall be responsible for collecting the daily landing and user fees and recording the number of passengers landed by each boat and tour operator on the ~~island~~ Island. These records shall contain issuance of receipts by DPL to visiting tourists, the signature of the private boats, and tour operators. The Department shall be responsible for depositing the landing and user fees on its banking account.

(d) There shall not be an extra charge for multiple landings of a tourist if occurring in a single day provided that the visitor presents dated proof of receipt upon reentry.

(e) A systematic method of collection of the fees on a monthly basis shall be developed by the ~~concessionaire~~ Department. ~~With the prior approval of the Corporation, a boat~~ Boat and tour operators may be billed for collection by DPL on a monthly basis.

(f) The landing and user fees shall be used only for reimbursements for cost of the construction, maintenance, repair, and/or upkeep of the improvements, infrastructure, pier, appearance, safety, and cleanliness of Managaha Island. All revenue unused by DPL by the end of fiscal year shall be remitted to the Marianas Public Land Trust (MPLT). The landing and user fees shall be reviewed annually to ensure that it is used only for the purposes expressed herein above.

(g) All fees and charges payable under the regulations in this chapter shall be paid when they are incurred or, with the prior written consent of MPLC-DPL, within thirty days of demand ~~therefore~~ thereof. In the event that such fees and charges are not paid within thirty days of demand, such fees and charges shall bear interest at the rate of 12% per annum from the date that the demand was made; and in addition, all costs of collection, including attorney fees, shall be paid to MPLC-DPL or its designee.

## Part 300 - Other Activities

### § 145-30-301 Cultural Events

The Island of Managaha is a unique cultural and recreational resource for the people of the Commonwealth. The Corporation-Department reserves the right to entirely close or limit the number of tourists to Managaha so that the ~~island-Island~~ may be used for a bona fide cultural event.

(a) Any party desiring to use the ~~island-Island~~ for a cultural event shall so inform the Corporation Department at least sixty (60) days in advance of the event. The notice shall include a description of the event, an explanation of the cultural significance of the event and the number expected to attend. The Corporation Department, in its sole discretion, shall determine whether or not the event should be allowed and if so, what restrictions should apply. This notice requirement shall not apply to traditional Chief Aghurubw day events held annually at the Carolinian Pavilion.

(b) The Corporation-Department shall notify the ~~designated-concessionaire-Concessionaire~~ no less than thirty (30) days prior to such limited access or closure. The Corporation-Department shall endeavor to work with the ~~designated-concessionaire-Concessionaire~~ to schedule such an event for a time with the least impact on the ~~designated-concessionaire's-Concessionaire's~~ business with the limits set by cultural practices.

### § 145-30-305 Commercial Cinematography, Videography and Photography

(a) The ~~Corporation Department~~ finds that it is common for hotels on Saipan to charge commercial cinematographers, videographers and photographers for the use of their premises as locations for filming, videoing, and photography to be used in public advertisements or entertainment. ~~Further charging for this commercial use of Managaha Island will provide funds for the daily maintenance and upkeep of the island.~~ A photography fee shall be established for Managaha in accordance with the following criteria:

- (1) The direct and indirect cost to the Corporation-Department of maintaining the ~~island-Island~~;
- (2) The benefit to the commercial photographer;
- (3) The public policy or interest served;
- (4) The comparable photographic fees assessed by the private sector;
- (5) Other pertinent factors.

(b) No picture may be filmed or photographed, and no television production or sound-track made on the ~~island-Island~~ by any person other than amateur or bona fide newsreel and news television photographers and soundmen, unless written permission has been obtained from the ~~Corporation Department~~.

(c) The taking of photographs, films, or videos of any article ~~of-for~~ commerce or models for the purpose of commercial advertising without a written permit from the ~~Corporation-Department~~ is prohibited.

~~(d) — The Corporation-Department shall charge a fee of \$500.00 per day, or portion thereof, delineated in the DPL Temporary Occupancy Rules and Regulations, NMIAC §145-70, for engaging in commercial cinematography, videography, and photography on Managaha Island.~~

~~(e) — All fees recovered through the issuance of such permits shall be forwarded to the concessionaire to be placed in a special account for only such fees. The concessionaire shall use these fees only for the construction, maintenance, repair, and/or upkeep of the improvements, infrastructure, appearance, safety, and cleanliness of Managaha Island. The concessionaire shall provide to the Corporation a semi-annual accounting of the use of the funds in the special account.~~

~~(f) — “Commercial photography” is defined as the taking of photographs, films or videos of any article of commerce or models for the purpose of commercial advertising and shall include all photography to be used for advertisements or for public entertainment and all photography for which a fee is paid, either to the model or actor, or to the photographer. It shall not include any photography by government agencies or done on behalf of the Marianas Visitors Bureau for the promotion of tourism in the Northern Marianas Islands.~~

#### **§ 145-30-310 Collection of Medicinal Plants**

(a) Harvesting of plants for traditional Chamorro or Carolinian medicinal use is permitted, subject to obtaining DPL’s written approval and provided that such activity does not damage the plant.

(b) People harvesting medicinal plants are responsible for maintenance of the affected area. All plant remnants and other refuse shall be disposed of in a proper fashion in containers located at the various pala palas.

(c) As the ecology of the ~~island-Island~~ is fragile and in need of protection, the use of medicinal plants shall be limited to citizens of the Commonwealth.

#### **§ 145-30-315 Camping**

The Department shall allow temporary camping on the Island to citizens and residents of the Commonwealth for a maximum of twenty-five (25) people per night (adult and children). The camping permits must be submitted and approved by the Department prior to arrival on Managaha. DPL shall collect a refundable security deposit of \$25.00 per permit with a nonrefundable \$25.00 fee per night. Campers may use the designated pavilions to hold camping activities, with the exception of the following areas:

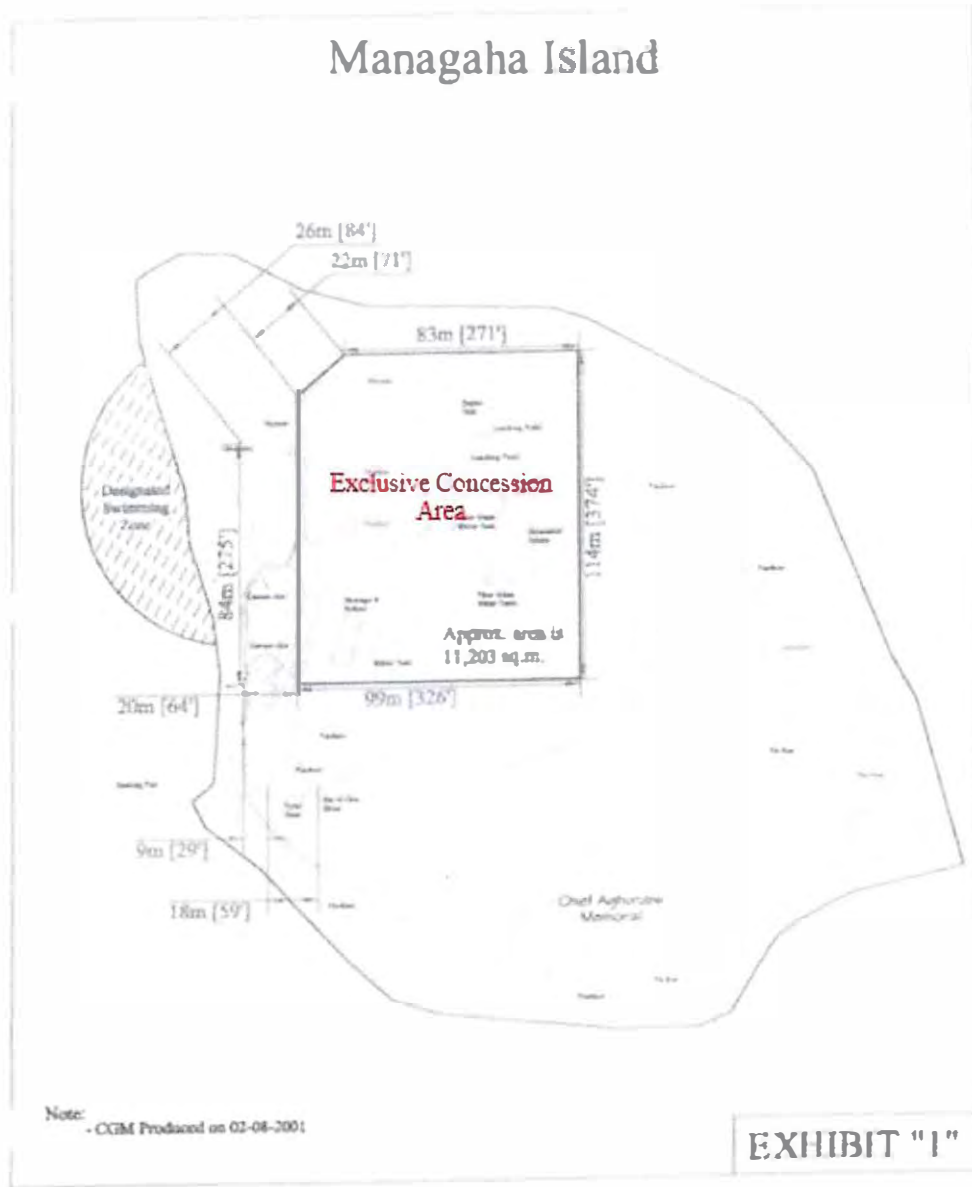
- (a) Main Exclusive Concession areas;
- (b) Pavilion near the statue of Chief Aghurubw; and
- (c) Pavilion fronting the pier

Campers are not allowed to start bonfires or bring and use any type of fireworks or firearms during the camping event. DPL shall allow overnight stay to government agencies and educational institutions for wildlife and environmental research studies, or other purposes with written approval from the DPL Secretary.

**Appendix A**

**Exhibit 1**  
Exclusive Concession Area

DEPARTMENT OF PUBLIC LANDS  
P.O. BOX 500380 SAIPAN, MP 96950



**Part 400 - Miscellaneous Provisions**

**§ 145-30-401 Waiver**

The ~~Corporation Department~~, upon a showing of good cause, may waive the enforcement of the regulations in this chapter; provided that no restrictive provision of the Constitution or statute shall be waived.

**§ 145-30-405 Discrimination Prohibited**

The use and enjoyment of the ~~island~~ Island and the facilities shall not be in support of any policy which discriminates against anyone based upon race, creed, sex, color, national origin, or any physical handicap.

**§ 145-30-410 Effective Date**

The rules and regulations promulgated in this chapter shall be effective and have full force and effect ~~of law thirty days after their publication~~ upon adoption into the Commonwealth Register.



# Commonwealth Healthcare Corporation

Commonwealth of the Northern Mariana Islands

1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950



## **PUBLIC NOTICE OF PROPOSED AMENDMENTS TO THE CHCC CHARGEMASTER FOR COVID-19 VACCINATIONS AND TREATMENT (MONOCLONAL ANTIBODIES) AND ONE OTHER FEE**

**INTENDED ACTION TO ADOPT THESE PROPOSED REVISIONS TO THE RULES AND REGULATIONS:** The Commonwealth Healthcare Corporation (CHCC) intends to adopt as permanent the attached additional Chargemaster pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The additional Chargemaster will become effective 10 days after adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

**AUTHORITY:** The Board of Trustees may prepare and adopt rules and regulations to assure delivery of quality health care and medical services and the financial viability of the Corporation that will best promote and serve its purposes. 3 CMC Section 2826(c).

**THE TERMS AND SUBSTANCE:** These are new fees that have arisen due to the widespread distribution of the Covid-19 virus vaccination, availability of treatment for Covid 19 using Monoclonal Antibodies, and one other fee.

**THE SUBJECTS AND ISSUES INVOLVED:** New COVID-19 vaccination fees, treatment option with Monoclonal Antibodies, and one other fee.

**DIRECTIONS FOR FILING AND PUBLICATION:** This Notice of Proposed Amendments to the Chargemaster 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 and will be codified at NMIAC Sections 140-10.8-101. (1 CMC § 9104(a)(1)) Copies are available upon request from Tiffany Sablan, Director of Revenue.

**TO PROVIDE COMMENTS:** Send or deliver your comments to Tiffany Sablan, Director of Revenue, [tiffany.sablan@dph.gov.mp](mailto:tiffany.sablan@dph.gov.mp), Attn: *Amendments to the Chargemaster, COVID-19 Vaccination and Other Fees* at the above address, fax or email address, with the subject line "Amendments to the Chargemaster, COVID-19 Vaccination and Other Fees." Comments are due within 30 days from the date of publication of this notice. Please submit your data, views or arguments. (1 CMC § 9104(a)(2)).

These proposed amendments to the Chargemaster, COVID-19 Vaccination and Other Fees were approved by the CHCC Board of Trustees and the CHCC CEO.

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P.O. Box 500409 CK, Saipan, MP 96950  
Telephone: (670) 236-8201/2 FAX: (670) 233-8756

Submitted by: Esther L. Muna 12/22/2020  
ESTHER L. MUNA Date  
Chief Executive Officer

Lauri B. Ogumoro 12/22/2020  
LAURIB. OGUMORO Date  
Chair, CHCC Board of Trustees

Filed and Recorded by: Esther Sn. Nesbitt 12-24-20  
ESTHER SN. NESBITT Date  
Commonwealth Register <sup>SA</sup>

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

Dated the 24<sup>th</sup> day of December, 2020.

Edward E. Manibusan  
EDWARD E. MANIBUSAN  
Attorney General

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P.O. Box 500409 CK, Saipan, MP 96950  
Telephone: (670) 236-8201/2 FAX: (670) 233-8756

CPT	MOD	Description	Reason for change	New Price	Comments
81229		CYTOGENOM CONST MICROARRAY COPY NUMBER&SNP VAR	NEW	\$ 3,480.00	
91300		SARSCOV2 VACCINE DIL RECON 30 MCG/0.3 ML IM USE	NEW	\$ -	Pfizer-Biontech Covid-19 Vaccine. A fee will be assigned once Medicare identifies the reimbursement rate.
91301		SARSCOV2 VACCINE 100 MCG/0.5 ML IM USE	NEW	\$ -	Moderna Covid-19 Vaccine. A fee will be assigned once Medicare identifies the reimbursement rate.
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0002A		IMM ADMN SARSCOV2 30MCG/0.3ML DIL RECON 2ND DOSE	NEW	\$ 85.17	
0011A		IMM ADMN SARSCOV2 100 MCG/0.5 ML 1ST DOSE	NEW	\$ 50.82	
0012A		IMM ADMN SARSCOV2 100 MCG/0.5 ML 2ND DOSE	NEW	\$ 85.17	
Q0239		INJECTION, BAMLANIVIMAB, 700 MG	NEW	\$ -	A fee will be assigned once Medicare identifies the reimbursement rate.
M0239		INTRAVENOUS INFUSION, BAMLANIVIMAB	NEW	\$ 928.80	



# Commonwealth Healthcare Corporation

Commonwealth gi Sangkattan na Islas Marianâs Siha  
1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950



## NUTISIAN PUPBLIKU NU I MANMAPROPONI NA TINULAIKA NU TODU CHCC CHARGEMASTER YAN NUEBU NA ÂPAS NU YAN ABANDONA YAN TINULAIKA NU TODU NMIAC SUBCHAPTER 140-10.8, PRUGRÂMAN MEDIKÂT YAN OTTRU SIHA NA KLÂSEN ÂPAS

AKSION NI MA INTENSIONA PARA U MA ADÂPTA ESTE SIHA I MANMAPROPONI NI MARIBISA SIHA PARA I AREKLAMENTU YAN REGULASION SIHA: I Commonwealth Healthcare Corporation (CHCC) ma intensiona para u ma adâpta kumu petmanienti i mañechettun siha nuebu na Chargemaster Âpas siha, kumu para i procedures nu i Âktun Administrative Procedure, I CMC 9104(a). I tinulaikan todû i Chargemaster yan i nuebu na Âpas BEH siha siempre ifektibu dies (10) dihas dispues di adâptasion yan publikasion giya i Rehistran Commonwealth. (I CMC § 9105(b))

ATURIDÂT: I inetnon i trustees siha siña ma pripâra yan ma adâpta areklamentu yan regulasion siha para u mana siguru i linakngus nu i kuâlidat na health care yan setbision Medikât siha yan i financial viability nu i Corporation ya siempre u ma hâtsa yan sietbe i intension siha. 3 CMC Seksiona 2826 (c).

I TEMA YAN SUSTÂNSIA I PALÂBRA SIHA: I nuebu na CHCC Chargemaster esta ma kumpli i tinulaika yan nuebu. I prisenti NMIAC Subchapter 140-10.8, Prugrâman i Medikât yan ottru siha na klâsen âpas siempre man ma abandona yan ma tulaika todû. Pâtti sientu siempre para i nuebu na Chargemaster.

I SUHETU YAN MANERA NI SUMÂSAONAO SIHA: Todû i âpas CHCC siha man inafekta ginen esti i ma abandona yan tinulaika. Pot fãbot attan i nuebu na CHCC Chargemaster.

DIREKSION PARA U MA POLU YAN MA PUPBLIKA: Este na nutisia nu i man ma abandona yan tinulaika ni manmapropo ni pot i Regulasion siha debi na u ma pupblika gi hâlum i Rehistran Commonwealth gi hâlum seksiona gi hilu' i manmapropo ni yan nuebu na man ma adâpta na regulasion siha (I CMC §9102(a)(1)) yan u mapega gi hâlum man kumbieni na lugât siha giya i civic center yan gi hâlum Ufisinan gubietnu gi kada distritun senatorial parehu yan gi lingguâhi natibu. (I CMC §9104 (a)(1)). Mana guahayi kopia siha yanggin man gâgao ginen as Tiffany Sablan, Direktot nu i Revenue.

PARA U MAPRIBENIYI UPIÑON SIHA: Na hâlom pat na hânao i upiñon mu guatu as Tiffany Sablan, Direktot i Revenue, [tiffany.sablan@dph.gov.mp](mailto:tiffany.sablan@dph.gov.mp), Atension: Nuebu na âpas Chargemaster guâtu gi sanhilu na address, fax pat email address, yan i râyan suhetu "Nuebu na Âpas Chargemaster." I upiñon man ma ekspekta gi hâlum trenta (30) dihas ni tinatiyi gi fetcha nu i

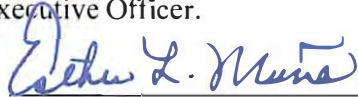
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P.O. Box 500409 CK, Saipan, MP 96950  
Telephone: (670) 236-8201/2 FAX: (670) 233-8756

publikasion ni este na nutisia. Pot fabot na hãlom i infotmasion, upiñon pat ågumientu siha. (I CMC § 9104(a)(2)).

Esti i manmaproponi i abandona yan tinulaika ma aprueba ginen i CHCC Board of Trustees yan i CHCC Chief Executive Officer.

Nina hãlum as:



ESTHER L. MUNA  
Chief Executive Officer

12/22/2020

Fetcha

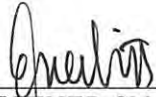


LAURI B. OGUMORO  
Chair, CHCC Board of Trustees

12/22/2020

Fetcha

Pine'lo yan Ninota as:



ESTHER SN. NESBITT  
Rehistran Commonwealth

12.24.20

Fetcha

Sigun i I CMC § 2153 § (Inapruedan regulasion siha ni Abugãdu Hinerãt na para u macho'gui kumu fotma) yan I CMC § 9104(a)(3) (hinentan inaprueba kumu fotma yan sufisienti ligãt ginen i CNMI Abugãdu Hinerãt yan debi na u ma publika, I CMC § 2153(f) (publikasion areklamentu yan regulasion siha).

Mafetch gi 24<sup>th</sup> diha Dec, 2020.



EDWARD E. MANIBUSAN  
Abugãdu Hinerãt

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Telephone: (670) 236-8201/2 FAX: (670) 233-8756

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81229		CYTOGENOM CONST MICROARRAY COPY NUMBER&SNP VAR	NEW	\$ 3,480.00	
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# Commonwealth Healthcare Corporation

Commonwealth of the Northern Mariana Islands  
1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950



## ARONGORONGOL TOULAP REEL POMMWOLSIIWEL NGÁLI ALONGAL AAR CHCC CHARGEMASTER ME FFÉL

MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI POMMWOL SIIWEL KAL NGÁLI ALLÉGH ME MWÓGHUT: Commonwealth Healthcare Corporation (CHCC) re mángemángil rebwe adóptááli bwe ebwe lléghló fféerúl mille e appasch bwe ffél Listal Alillis ikka re ayoorai ngáliir Toulap ngáre Chargemaster me Bwulasiyol Environmental Health (BEH) Fees, sáangi mwóghutughutúl Administrative Procedures Act, 1 CMC § 9104(a). Siiwel ngáli alongal Chargemaster me ffél Óbwóssul BEH ebwe bwunguló seigh ráál mwiril aar adóptááli me akkatééwowul me llól Commonwealth register. (1 CMC § 9105(b))

BWÁNGIL: Eyoor bwángil Board-il Trustees reel rebwe ammwela me adóptááli allégh me mwóghutughut bwe ebwe alúghúw ghatchúl health care me alillisil medical me financial viability reel Corporation bwe ebwe ghatch me fféerú mwóghutughutúl. 3 CMC Tálil 2826(c).

KKAPASAL ME AWEEWEL: Ra takkal siiweli me fféerú sefáaliy ffél CHCC Chargemaster, fengál me Óbwóssul Bwulasiyol.

KKAPASAL ME ÓUTOL: Alongal óbwóssul CHCC e siiweli mereel mille re bwughi sefáaliy me siiwelil. Amwuri Ffél CHCC Chargemaster me Óbwóss mereel Bwulasiyol Environmental Health iye e appasch.


AMMWELIL REEL AKKATÉÉWOWUL ME ARONGOWOWUL: Arongorongol Pommwol mille re Bwughi SefáAliy me Liiweli reel Mwóghutughut ebwe akkatééwow me llól Commonwealth Register llól tálil ffél me Pommwol mwóghutughut ikka ra adóptáánil (1 CMC § 9102(a)(1)) me appaschetá llól civic center me bwal llól Bwulasiyol gobetnameento llól senatorial district, fengál reel English me mwáliyaasch y will be codified at NMIAC Sections 140-10.8-101 and 140-10.8-201. (1 CMC § 9104(a)(1)) Emmwelil ubwe bweibwogh pappidil yeel tingór ngáli Tiffany Sablan, Direkktoodil Revenue.

REEL ISIISILONGOL KKAPAS: Afanga ngáre bwughiló yóómw ischil kkapas ngáli Tiffany Sablan, Direkktoodil Revenue, [tiffany.sablan@dph.gov.mp](mailto:tiffany.sablan@dph.gov.mp), Attn: Amendments to Chargemaster me BEH Fees reel féléféel iye e lo weiláng, fax ngáre email address, ebwe lo wóól subject line bwe “Amendments to Chargemaster and BEH Fees.” Ischil kkapas ebwe toolong llól eliigh ráál mwiril aal akkatééwow arongorong yeel. Isiisilong yóómw data, views ngáre angingi. (1 CMC § 9104(a)(2)).

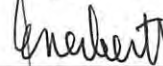
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Telephone: (670) 236-8201/2 FAX: (670) 233-8756

Pommwol milikka re bwughi sefáaliy me siiweli aa átirow sáangi CHCC Board-il trustees me CHCC Chief Executive Officer.


Isáliyalong:  12/22/2020  
ESTHER L. MUNA  
Chief Executive Officer Ráál

 12/22/2020  
LAURI B. OGUMORO  
Chair, CHCC Board of Trustees Ráál

Ammwelil:  12-24-20  
ESTHER SN. NESBITT  
Commonwealth Register Ráál

Sáangi I CMC § 2153(e) (sáangi átirowal AG reel mwóghutughut kkal bwe aa ffil reel fféerúl) me I CMC § 9104(a)(3) (sáangi átirowal AG) reel Pommwol mwóghutughut ikka e appasch bwe ra takkal amwuri fischiiy me átirowa bwe aa lléghló reel fféerúl me legal sufficiency sáangi Soulemelemil Allégh Lapalap CNMI me ebwe akkatééwow, I CMC § 2153(f) (akkatééwowul allégh me mwóghutughut).

Aghikkilátiw wóol 24<sup>th</sup> ráálil DC, 2020.

  
EDWARD E. MANIBUSAN  
Soulemelemil Allégh Lapalap

---

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