

GUAM RULES AND REGULATIONS

TITLE 18

LAND MANAGEMENT

UPDATED THROUGH FEBRUARY 9, 2022

**TITLE 18
LAND MANAGEMENT**

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- Chapter 1 Department of Land Management.
- Chapter 2 Land Transfer Board.
- Chapter 3 Guam Land Use Commission.
- Chapter 4 Subdivision and Development Review Committee.
- Chapter 5 Public Lands Subdivision Committee.
- Chapter 6 The Senator Paul Bordallo Rules and Regulations for The Chamorro Land Trust Commission.
- Chapter 6A The Senator Paul Bordallo Rules and Regulations for The Chamorro Land Trust Commission Effective February 9, 2022.
- Chapter 7 Guam Territorial Seashore Protection Commission.
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**CHAPTER 1
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**ARTICLE 1
UNIFORM TRIANGULATION SYSTEM - REGULATIONS**

- § 1100. Authority.

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- § 1110. Appendix A - Uniform Specifications: Preparation of Maps from Surveys.

NOTE: Rule-making authority cited for formulation of regulations governing land surveys in Guam by the Director of Land Management, 21 GCA § § 60501, 60503 and 60505.

§ 1100. Authority.

These Regulations are prescribed in compliance with 21 GCA § 60503, and supplement the provisions of that Chapter.

§ 1101. Application.

These Regulations apply to all land surveys conducted in Guam; provided, however, that in cases of surveys made for military purposes by personnel of the Armed Forces or those conducting surveys pursuant to contract with the Armed Forces, they apply only to the extent that no map will be entitled to recordation unless it is based on a survey which complies with these Regulations and the uniform specifications required by 21 GCA § 60501(b) and § 60505(b). attached hereto.

§ 1102. Surveys, By Whom Conducted.

Every land survey must be conducted by a land surveyor duly registered in accordance with 21 GCA Chapter 60, or by persons exempt from registration as provided in said Title.

§ 1103. Surveys, Basis of.

Every land survey must be based upon and have a minimum of one corner of the land survey physically referenced to the Guam

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Geodetic Triangulation Net established pursuant to 21 GCA Chapter 60 Article 5.

§ 1104. Corners, Markings.

Every corner of a land survey must be marked by a permanent monument or marker bearing the registration number of the surveyor or an identifying mark approved by the Territorial Surveyor. Reference monuments may be set where it is physically impossible to set the true corner or in cases where the destruction of a corner is imminent due to construction. The true corner should be placed by the surveyor when practical.

§ 1105. Preservation of Records.

Every surveyor must preserve as permanent records all of his field notes and all computations made therefrom, so catalogued and filed as to be readily available.

§ 1106. Measurement.

All surveying measuring devices shall be tested and calibrated at regular intervals of not less than six (6) months using the testing facilities established by the Director of Land Management in accordance with 21 GCA § 60513, or under the supervision or direction of the Territorial Surveyor. An appropriate certificate as to degree of accuracy, signed by the Territorial Surveyor, shall be issued for each item of equipment tested or calibrated.

The minimum accuracy of measurements shall be one (1) part in ten thousand (10,000) on all property lines of boundary or interior survey. Preliminary or reconnaissance surveys shall maintain an accuracy of not less than one (1) part in five thousand (5,000), except in those cases where general information only is to be obtained and no precise monumented corners are to be created.

A circuit of levels between precise bench marks or a circuit closed upon the initial bench mark shall not differ more than 0.02 foot multiplied by the square root of the number of miles in the circuit, and in no case to exceed 0.05 foot, except in levels for preliminary or rough stadia control, in which case the allowable error of closure may be 0.10 foot.

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Accuracy of measurement in triangulation dimensions shall conform with the standards set by the United States Coast and Geodetic Survey.

In the case of any survey required for purposes of registration under the Land Title Registration Act, the surveyor must comply with any additional requirements imposed by the Superior Court.

The Department of Land Management will maintain a “Manual of Instructions for Survey of Lands and Preparation of Plans in the territory of Guam” to supplement these Regulations and to provide recommended methods to meet these Regulations.

§ 1107. Information to be Furnished.

The surveyor must furnish to his client a correct technical description of the land surveyed and/or clear and legible copies of a map or plot conforming to the “Uniform Specifications: Preparation of Maps from Surveys” prescribed by authority of 21 GCA § 60505.

§ 1108. Complaints.

Any person who believes himself to be aggrieved by the failure of a surveyor to comply with these Regulations may submit his complaint to the Director of Land Management or his delegate, and in all cases the Director of Land Management or his delegate, shall forward such complaints to the Board of Engineering and Architectural Examiners for appropriate proceedings under 21 GCA § 60504.

§ 1109. Effective Date.

These Regulations will become effective upon approval of the Governor, and copies will be maintained and made available as provided by 21 GCA § 60504.

§ 1110. Appendix A - Uniform Specifications: Preparation of Maps from Surveys.

(a) Authority. These specifications are prescribed in compliance with 21 GCA § 60505, and supplement the provisions of that Chapter.

(b) Application. No map (the term includes plat, sketch or other plane pictorial representation of land) will be accepted for

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recording unless it is prepared in accordance with these specifications and is based upon a survey which complies with all applicable laws and regulations.

(c) Materials. All maps must be drawn on linen, film or other suitable material, which is durable and dimensionally stable and de-signed for drafting or drawing purposes. Only India Ink or equally permanent black drawing medium may be used.

(d) Dimensions and scale:

(1) Maps shall be drawn on sheets measuring twenty-two by twenty-nine inches (22" x 29"), including a one inch (1") margin at the top, bottom and right side and a two inch (2") margin at the left side. If the land surveyed is so large that a map thereof conforming to these specifications cannot be drawn on one sheet measuring twenty-two by twenty-nine inches (22" x 29"), the map shall be drawn in sections and additional sheets used. All sections shall be of the same scale and shall bear clearly identified match-lines so that the sections can be accurately connected. Each sheet shall show its number and the total number of sheets (for example: Sheet 1 of 3).

(2) In all cases, the map must be so drawn and placed upon the sheet or sheets so as to provide adequate room for the title block, legend, all required certificates and a form for entry of revisions.

(3) The scale of each map must be large enough to provide complete legibility and to permit reasonably accurate measurements to be scaled from the map. When practicable, the scale shall be one inch (1") equals twenty (20) meters or one inch (1") equals forty (40) feet. For large tracts, smaller scales may be used such as one inch (1") equals one hundred (100) meters or one inch (1") equals four hundred (400) feet; provided, that maps drawn for submission pursuant to the Subdivision Law shall be of the scale prescribed by the Territorial Planning Commission.

(4) Any variation from scale or plan dimensions as set forth herein must be approved by the Territorial Surveyor.

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(e) Use of Abbreviations and Symbols. Abbreviations and symbols must be clearly defined in the legend of the map. The Department of Land Management “Manual of Instructions for the Survey of Lands and Preparation of Plans in the territory of Guam” contains standard surveying abbreviations and symbols that should be used.

(f) Corrections. After the map has been completed, no change shall be made thereon except as a revision, properly noted, dated and authenticated.

(g) Information to be Shown. In general, every line, point, object and structure actually surveyed must be clearly shown and accurately located on the map. Specifically included are:

(1) The identity and location of a Triangulation Station in the Guam Geodetic Triangulation Net and the survey to the corner point of beginning of the survey. Guam Geodetic Triangulation Net (1963) Coordinate Values are to be shown on at least one (1) permanent monument on the boundary of the land surveyed.

(2) An arrow indicating north and the bearing system used noted.

(3) The courses and distances of all lines, and in cases of curbed lines all data necessary to identify, locate or retrace each line.

(4) When record bearings or angles or distances differ from measured bearings or angles or distances, both the record and measured bearings, angles and distances shall be clearly indicated in a manner to permit the ready distinction between record and measured data. The source of the record data must be indicated on the plan.

(5) Measured and record distances (if known) from corners of the premises being surveyed to the nearest right-of-way lines of dedicated public streets or roads, together with evidence of found lot corners, shall be noted on the map. Where conditions warrant, the distances to the nearest dedicated street or road right-of-way line in both directions from the surveyed premises and the bearing and name of such street or road shall be noted. Names and legal lines and

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widths of all dedicated streets or roads shall be given. If the Surveyor is aware of any change in the lines of such streets or roads, he shall note the same on the map and cite the date of and authority under which such change was made.

(6) The identifying title of all record plats and/or subdivisions which the survey represents, either wholly or in part, must be shown with its filing date and document number and the lot, block and tract number (or letter) of the surveyed property. Names of adjoining owners and/or recorded lot or parcel numbers, with document numbers, and similar information, where known, shall be shown on the map. Interior parcel lines must clearly indicate contiguity, gores and/or overlaps.

(7) The character and location of every monument and marker used or indicated in the survey and whether such monuments and markers were placed or found.

(8) The nature, location and dimensions of every structure or other object included in the survey.

(9) All natural features that may have relation to real property interests.

(10) The scale of the map, shown both in figures and graphically as a bar scale.

(11) A completed title block and a site location map conforming to those shown on sample maps available at the Department of Land Management.

(12) The following certificate, signed and sealed by the surveyor:

“I, (insert name), hereby certify that this map was prepared by me or under my direct supervision; that it is based upon a field survey made (insert dates) in conformance with all applicable laws and regulations.

(Name)”

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(13) The following form of certificate for dating and signature by the Territorial Surveyor:

“This map has been examined for conformance with the requirements of 21 GCA Chapter 60 Article 5, and regulations thereunder, on this the _____ day of _____, 19 _____.

Territorial Surveyor”

(14) In cases where it would apply, the following form of certificate for dating and signature by the Territorial Planner:

“Approval under the Subdivision Law not required.

Date: _____

Territorial Planner”

(15) In appropriate cases, forms for landowners’ dedications of parks and streets, alleys and other easements for public use, and for acceptance by the Governor of Guam of such dedications.

(16) Any additional data and notes necessary for explanation and understanding of the map.

(h) All maps must be so drawn and lettered that clearly legible prints may be made therefrom by standard reproductive processes.

(i) The originals of all maps must be preserved by the surveyors as permanent records, so catalogued and filed as to be readily available.

(j) Subdivision plans shall meet the requirements of 21 GCA Chapter 62 in addition to the requirements of these Regulations, except that the requirements of Chapter 62 shall have precedence in the event of conflict.

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(k) The Department of Land Management will maintain a “Manual of Instructions for the Survey of Lands and Preparation of Plans in the territory of Guam” as required by 21 GCA § 60501, to supplement these Regulations and to provide recommended methods to meet these Regulations.

(l) Copies of these specifications shall be kept on file in the Department of Land Management and made available to surveyors and interested governmental officials.

NOTE: Rules promulgated by Executive Order 66-15; filed with Legislative Secretary, May 19, 1975.

ARTICLE 2

TERRITORY OF GUAM - MANUAL OF SURVEY PRACTICE

NOTE: Rule-making authority cited for formulation of a “Manual of Instructions for the Survey of Lands and Preparation of Plans in the territory of Guam” by the Director of Land Management, 21 GCA § 60501.

§ 1200. Rules and Regulations Incorporated Herein by Reference.

Rules and regulations of the “Manual of Instructions for the Survey of Lands and Preparation of Plans in the territory of Guam” are incorporated herein by reference. Due to the detailed nature of the information and the engineering specifications contained within the Guam Manual of Surveying Practice, the Manual was not included within the publication of these Rules and Regulations but rather was incorporated by reference.

The “Manual of Instructions for the Survey of Lands and Preparation of Plans in the territory of Guam” is known as the “Manual of 1966” and was prepared in compliance with Executive Order 66-15. It is available from the Department of Land Management.

ARTICLE 3

LEASES AND SALES

§ 1300. Exchanges of Land in Lieu of Cash Payment:
Authority.

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- § 1301. Same: Procedure.
- § 1302. Same: Availability of Land.
- § 1303. Same: Disposal Technique.
- § 1304. Same: Value.
- § 1305. Same: Property Exchange Base.
- § 1306. Same: Notice of Public Hearing.
- § 1307. Same: Payment.
- § 1308. Same: Application Fee.
- § 1309. Same: Repeal.

NOTE: Rule-making authority cited for formulation of regulations by the Director of Land Management on the exchange of land in lieu of cash payment, 21 GCA Chapter 64.

Public Law 12-226 repealed Chapter VI, Leases and Sales of Title XIV of the Government Code, consisting of § § 13500-13528. In its place it established the Chamorro Land Trust Commission. The powers and responsibilities for the exchange of land in lieu of cash payment have been transferred to the Chamorro Land Trust Commission on the date of its first meeting..

§ 1300. Exchanges of Land in Lieu of Cash Payment: Authority.

These Rules and Regulations shall govern the disposition of government land by exchange pursuant to the provision of 21 GCA Chapter 75.

NOTE: See note after 21 GCA § 64108.

§ 1301. Same: Procedure.

(a) Whenever privately-owned lands are required by the government of Guam, the following procedures shall govern with respect to any exchanges of government realty for privately-owned realty:

(1) The owner of such land may apply to the Director of Land Management for government-owned land to be exchanged, totally or partially in lieu of cash payment, for the lands required by the Government.

(2) All applications shall be made in writing, addressed to the Director of Land Management.

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(3) Owner. The individual, including corporate entities, in which acceptable title to property sought to be exchanged with the Government is vested.

(4) Realty. The real property which may be the subject of a considered exchange. The distinction of “owner’s realty” and “government realty” may be used to differentiate the interests of the primary parties.

(5) Premises. That property, an interest less than title in fee simple, such as easements, rights-of-way, which may be sufficient to meet the requirements of the Government in the proposed exchange.

§ 1302. Same: Availability of Land.

(a) Government-owned land available for exchange purposes shall be those lots or areas listed and published in the availability list pursuant to § 13505.1, Government Code of Guam. Such exchanges, however, shall not be made unless the privately-owned land is to be acquired for a project or program specifically authorized by law.

(b) Whenever lands owned by the United States of America are required by the government of Guam for a program or project specifically authorized by law, the Director of Land Management, with the approval of the Governor (and the concurrence of the Legislature by resolution) may exchange such lands with lands owned by the government of Guam, plus any cash differential necessary to equalize the respective values of subject properties.

(c) Exchanges accomplished under this Section shall not take effect until agreement is concurred by the Legislature. Appraisal report shall be made by both parties which shall be appended as part of the exchange instrument.

NOTE: See note after § 64107, 21 GCA.

§ 1303. Same: Disposal Technique.

Before any land exchange transaction is consummated, appraisal reports shall be made for the properties under consideration. Appraisal reports for government land shall be prepared by staff appraisers of the Department of Land Management, which appraisal reports shall be reviewed by the

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Administrator, Land Management Programs, who shall submit such review with his recommendations in writing to the Director of Land Management. The owner must be informed in writing of the estimated value of his property based on the results of the appraisal; which shall not be less than the fair market value of the realty under consideration. In making such appraisal, the owner shall be afforded the opportunity to accompany the appraiser during the appraisal inspection. The appraisal report shall state whether the owner or his representative did accompany the appraiser. In all instances where applicable, displaced persons affected by these Rules and Regulations will be treated consistent with the requirements of Public Law 11-160. The owner shall either obtain a private appraiser at his own expense, or may request the Department of Land Management for such services, in which case (the latter) the owner shall concur with the value expressed in such appraisal report. In either event, the appraisal report shall be considered by the Director of Land Management no more than thirty (30) days thereafter.

§ 1304. Same: Value.

Exchanges shall be based on the market value of the properties as All appraisals and review reports shall be a part of the documents in the exchange transaction. No commitment on the Government's part to exchange realty shall be considered final until approved by the Director of Land Management and the Governor.

§ 1305. Same: Property Exchange Base.

Privately-owned land needed by an approved government project may be exchanged, pro-vided that such private realty is equal to at least eighty percent (80%) of the value of the government land; and further such private realty is not less than a standard size lot for the zone of the area wherein located. The Administrator of Land Management Programs, shall avoid whenever possible, rendering substandard any private realty involved in government land-taking. In cases, where private realty is unavoidably rendered substandard by a government taking, then the minimum area requirement for land exchange shall not apply.

§ 1306. Same: Notice of Public Hearing.

No exchange of land shall be consummated until a public notice on the proposed exchange of land is made in a newspaper of general circulation in Guam. Such publication shall be held at least ten (10) days before the hearing date, which notice shall contain a brief description of the proposed exchange including the values of the properties to be exchanged and the purpose or purposes for which the private land is to be acquired. All records pertaining to any exchange transaction shall be open to the public unless such records are returned to the inactive file pursuant to the Records Management Act.

§ 1307. Same: Payment.

The difference in value of the property being exchanged shall be paid in full to the party having the greater value prior to final completion and execution of all documents.

§ 1308. Same: Application Fee.

For each application filed, a fee of Ten Dollars (\$10.00) shall accompany the application, such fee shall be in cash (U.S.), cashier's or certified checks made payable to the Treasurer of Guam.

§ 1309. Same: Repeal.

The adoption of this Land Exchange Rules and Regulations, pursuant to the Administrative Adjudication Act, supersedes all previous rules and regulations.

**ARTICLE 4
LAND USE PERMITS**

- § 1400. Title.
- § 1401. Authority.
- § 1402. Definition.
- § 1403. Qualifications.
- § 1404. Application.
- § 1405. Execution of Agreement.
- § 1406. Agreement.
- § 1407. Land Use Permit Charges.

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§ 1408. Repeal.

NOTE: Rule-making authority cited for formulation of land use permit regulations by the Director of Land Management can be found in Chapter 68 Title 21, Guam Code Annotated..

§ 1400. Title.

This Title shall be known as Land Use Permit Rules and Regulations.

§ 1401. Authority.

Authority for land use permit rules and regulations is found in 21 GCA § 68101.

§ 1402. Definition.

(a) For the purpose of these Rules and Regulations certain terms are defined as follows:

- (1) Charges - Land Use Permit Charges and other charges as contained herein.
- (2) Agreement - Land Use Permit Agreement.
- (3) Rules and Regulations - Land Use Permit Rules and Regulations.
- (4) Application - Land Use Permit Application.

§ 1403. Qualifications.

- (a) All persons who are bona fide residents of Guam, U.S. citizens and of legal age.
- (b) All business enterprises licensed to do business on Guam.
- (c) Persons who, prior to promulgation of these Rules and Regulations, have outstanding charges may qualify upon satisfaction of outstanding charges.
- (d) Persons who after promulgation of these Rules and Regulations have outstanding charges from previous Agreements, may qualify upon satisfaction of outstanding charges.
- (e) Persons whose Agreement was previously terminated by default of the Agreement or falsifies or deletes information required in 18 GAR § 1404 may qualify provided a period of one

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(1) year has elapsed from date of termination to date of application.

§ 1404. Application.

(a) Form. All applicants shall complete and submit a Land Use Permit Application in the form attached hereto.

NOTE: Although reference is made to a Land Use Permit Application, the above cited Land Use Permit Application was not included within these Regulations at the time of the original publication. However, this application is available from the Department of Land Management.

(b) Approval and Disapproval. The Department of Land Management upon receipt of application shall either approve or disapprove application and officially notify the applicant in writing of the Department's decision no later than twenty-five (25) working days thereafter.

§ 1405. Execution of Agreement.

(a) No Agreement shall be executed without an approved application.

(b) A minimum down payment of twenty-five percent (25%) of charges computed under 18 GAR § 1407 upon execution of the Agreement, and the balance no later than six (6) months after execution of the Agreement.

§ 1406. Agreement.

(a) Form. Agreement shall be in a form attached hereto.

NOTE: Although reference is made to Agreement, the above cited Agreement was not included within these Regulations at the time of the original publication. However, this application is available from the Department of Land Management.

(b) Terms and conditions:

(1) Permittee as well as the Government are bound by terms and conditions contained in the Agreement.

(2) No Agreement shall be for a period exceeding one (1) year.

(3) No person shall either use and/or occupy under any Agreement more than one (1) acre of government land; or use

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and/or occupy government land larger than that designated under the Agreement.

(c) Termination and Expiration. The permittee shall have thirty (30) calendar days to vacate premise and remove all structures and other developments so authorized upon termination or expiration of his Agreement:

(1) Any structures and other developments existing after thirty (30) calendar days from expiration or termination of the Agreement becomes the property of the Government.

(2) Upon expiration or termination of the Agreement, the permittee shall remove all structures and other developments at the expense of the permittee when directed by the Government in writing:

(A) Any structures and developments pursuant to the above paragraph, removed at the expense of the Government shall be charged to the permittee.

(d) Renewal. In order to expedite renewal of Agreement, the permittee shall officially notify the Department of Land Management thirty (30) calendar days prior to expiration of his intention to renew his Agreement.

§ 1407. Land Use Permit Charges.

(a) All charges shall be computed on the formula prescribed:
Use - Rate x Market Value = Land Use Permit Charges:

(1) Use rate shall be determined according to use and/or related use for which Agreement was executed. All uses and/or related use shall be categorized as follows:

(A) Residential (R-1) as defined by 21 GCA Chapter 61, use rate = 1%.

(B) Multi-residential (R-2) as defined by 21 GCA Chapter 61, use rate = 3%.

(C) Commercial (C), Heavy (M-2) and Light Industrial (M-1), as defined by 21 GCA Chapter 61, use rate = 6%.

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(2) Market value - The price at which a willing seller would sell and a willing buyer would buy neither being under pressure, having full knowledge of all the uses of the land.

§ 1408. Repeal.

The adoption of this Land Use Permit Rules and Regulations, pursuant to the Administrative Adjudication Act, supersedes all previous rules and regulations.

NOTE: “The above rules and regulations will continue being processed by Land Management until the establishment of the (Chamorro Land Trust) Commission. Moreover, any permit issued will continue unless the Commission gives notice that the lands are required for the purposes of Public Law 12-226 (See note after 21 GCA § 75104).” Letter from Director of Land Management to Legislative Secretary dated May 19, 1975.

Rules and regulations promulgated May 25, 1972; approved by Governor, June 1, 1972; filed with Legislative Secretary, May 19, 1975.

As of 2004, the Chamorro Land Use Commission, plus the Ancestral Lands Commission are active and in possession of their respective lands.

ARTICLE 5 LEASING OF GOVERNMENT LAND

- § 1500. General provisions: Authority.
- § 1501. Identify and Purpose of Reserved Land.
- § 1502. Intent
- § 1503. Interpretation of ‘Cultural Center’.
- § 1504. Scope
- § 1505. Grandfather Clause.
- § 1506. Application to Lease: Form of Application.
- § 1507. Application Fee.
- § 1508. Delivery.
- § 1509. Intake Processing.
- § 1510. Incomplete Application.
- § 1511. Application’s Effective Period.
- § 1512. Criteria for Eligibility: Priority of Review.
- § 1513. Proof of Eligibility.
- § 1514. Criteria.
- § 1515. Determination of Eligibility to Lease: Determination and Effect.
- § 1516. Priority to Reserve.

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- § 1517. Notice of Determination.
- § 1518. Appointment to Reserve.
- § 1519. Selection and Reservation: Selection.
- § 1520. Reservation Agreement.
- § 1521. Requirements of Entering into Lease: Submittal Required.
- § 1522. Determination of Adequacy.
- § 1523. Resubmittals Accepted.
- § 1524. Preparation of Lease.
- § 1525. Disqualification.
- § 1526. Miscellaneous Provisions: Notices to Application.
- § 1527. Notices to Department.
- § 1528. Applicant's Authorized Representative.
- § 1529. Change of Address or of Authorized Representative.
- § 1530. Reapplication.
- § 1531. Lease Terms: Significant Terms.
- § 1532. Approval of Attorney General and *I Magalahaen Guahan*.
- § 1533. Concurrence *by I Liheslaturan Guahan*.

§ 1500. General Provisions: Authority.

These guidelines are promulgated pursuant to the rule-making procedures of the Administrative Adjudication Law, which provide at § 9107 of Title 5 of the Guam Code Annotated that the meaning of rule includes any 'procedure or requirement of any agency ... interpreting, supplementing or implementing any law enforced or administered by it'

§ 1501. Identity and Purpose of Reserved Land.

Pursuant to Public Law Number 22-18, the Department of Land Management ('Department') reserved twenty (20) acres each from Lot Number 10120-R16 in Dededo, Guam, and from Lot Number 480 in Agat, Guam for the purpose of establishing a 'cultural center.'

(a) Lot 10120-17, Dededo, Guam. The twenty (20) acres which were reserved from Lot Number 10120-R16, Dededo, Guam have been parceled out of Lot Number 10120-R16, Dededo, Guam and the parceled lot is identified as Lot Number 10120-17, Dededo, Guam. The Department does not

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intend to subdivide Lot Number 10120-17, Dededo, Guam, but has instead surveyed a portion of Lot Number 10120-17, Dededo, Guam and has established within the surveyed portion, areas which are suitable for leasing. Each area to be leased is 20,000 + square feet, as shown on Land Management Drawing Number I4-97T632, recorded under Document Number 572938 in the Records Division, Department of Land Management. Water and electricity are not available on Lot Number 10120-17, Dededo, Guam, but within one hundred feet (100') of its southern boundary.

§ 1502. Intent.

These rules are intended to provide a suitable amount of government land for leasing to qualified and eligible applicants, which are non-profit organizations and which plan to develop a 'cultural facility,' as the term is used in these rules, within the time allotted, and which applicants show the capability and responsibility to do so. Public rights of way have been planned to give each area to be leased a means of ingress and egress.

However, all expenses for any development, including utility infrastructure not already available, are the sole responsibility and expense of the applicant or lessee.

§ 1503. Interpretation of 'Cultural Center.'

The legislative history of Public Law Number 22-18 indicates that the term 'cultural center,' as used therein, was meant to be the same as used in the Guam Land Use Master Plan, or I Tano'ta Plan, as it is commonly known, ('Plan'). The Plan, which became official on April 18, 1998, however, does not define 'cultural center' into the terms 'club,' 'clubhouse,' and 'private club.' For purposes of these rules, the term 'cultural center' shall have the same meaning as the term 'club' defined in the Plan.

§ 1504. Scope.

Section 3 of Public Law Number 22-18 contemplates that land reserved by government entities are either: (a) for development of long-term government facilities, (b) for parks and the like, or (c) for commercial leases to private interests. In accordance with '3(b) of Public Law Number 22-18, the Department will prepare a conceptual plan for the twenty (20)

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acres of reserved land in Dededo and for the twenty (20) acres reserved from Lot Number 480 in Agat, Guam depicting their full development as cultural centers in which long-term cultural facilities will be built. The conceptual plan will include any land leased in accordance with these rules. These rules contain the procedural guidelines for leasing land to applicants who wish to build cultural facilities at their own expense.

§ 1505. Grandfather Clause.

Some legitimate non-profit organizations occupying or formerly occupying the Harmon cliff line area are not culturally related clubs. Notwithstanding, they may apply for a lease in accordance with these rules, so long as such non-profit organization plans to develop the leased property for its regular activities, the planned development represents a use harmonious to the rest of the areas use as a cultural center, and so long as the planned development is not in conflict with any other applicable law. However, in order to enter into a lease, any applicant grandfathered in pursuant to this rule must nevertheless meet the other eligibility criteria set out in Chapter 3, below, and must make adequate submittal as required by Chapter 6 of these rules.

(a) Background History. During hearings on the bill, which became Public Law Number 22-18 before the 22nd Guam Legislature's Committee on Housing and Community Development, the Department testified that a part of the twenty (20) acres of land in Dededo or Agat reserved for cultural centers was intended for the relocation of the legitimate non-profit organizations occupying the Harmon cliffline area.

(b) Interim Limited Land Use Permits. The Department considered the time required for these rules to undergo the Administrative Adjudication Laws rule-making procedure, and also the need of some of the Harmon cliffline non-profit organizations to have some limited use of some land for their immediate general purposes. Because '3(a) of Public Law Number 22-18 authorizes temporary uses of reserved land, guidelines for the interim temporary use of a portion of Lot Number 10120-17, Dededo, Guam, by means of limited land use permits were set by Executive Order Number 98-13.

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These rules recognize that such temporary use may not impede, delay or in any way interfere with the leases to be given pursuant to these rules. No entity with a limited land use permit, which shall apply for a lease in accordance with these rules, shall be given priority or special consideration contrary to these rules.

§ 1506. Application to Lease:

Form of Application. Applications shall be on forms prepared by the Department, which are available from the Department's Land Administration Division located on the third floor of the building at 855 West Marine Drive in Anigua, Guam.

§ 1507. Application Fee.

An application fee of One Hundred Dollars (\$100.00) must accompany each application. The fee represents the reasonable expenses of the Department in processing the application.

§ 1508. Delivery.

Delivery of the application to the Department may be by personal, hand-delivery to the Department's Land Administration Division on the third floor of the building at 855 West Marine Drive in Anigua, Guam, or by mail to the Department's Land Administration Division at Post Office Box 2950, Hagatna, Guam 96932.

§ 1509. Intake Processing.

The Department shall review all applications immediately upon receipt, in the order received, to determine only whether they are complete and have the required documentation attached. Consideration of the applicants' eligibility will be at a later time. Only completed applications shall be stamped received with the date and time, and initialed by a Department employee. The application fee shall not be received, nor processed by the Department, unless an application is complete.

§ 1510. Incomplete Application.

An application is considered incomplete and contains insufficient information if any question is not answered, if any

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blank is not filled in as required or the appropriate documents are not attached.

(a) Rejection. Incomplete applications shall be rejected and returned to the applicant immediately by mail to the address of the applicant, as indicated, or if the application is delivered in person, immediately to the person so delivering. The full application with all attachments, including any fee, shall be returned as though no application had been made.

§ 1511. Application's Effective Period.

The applicants authorized representative is required to certify the truth of certain statements the applicant makes in the application. Based upon these certifications, the application is considered good for only one (1) year from the date the certifications are made. If the applicant does not enter into an Agreement to Reserve, as provided for in Rule 5002, below, within a one (1) year period from the date the application is signed by applicants authorized representative, then the application becomes stale and the applicant must reapply in accordance with the terms of Rule 7005, below, if applicant still desires a lease.

§ 1512. Criteria for Eligibility: Priority of Review.

Completed applications will be reviewed for eligibility and acted upon by the Department in priority of receipt of the application, as such priority is provided for in Rule 2004, above.

§ 1513. Proof of Eligibility.

An eligible applicant must possess all of the qualities enumerated in Rules (a) through (f), below, and must submit proof of each.

§ 1514. Criteria.

To be eligible each of the following requirements must be met:

(a) Status as Non-Profit Organization. The applicant must be a legitimate non-profit organization, which shall mean for purposes herein only, an organization that is organized and operated primarily for activities which do not directly benefit any individual member, and as recognized by

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the Department of Revenue and Taxation. Copies of any articles of organization, by laws, association papers or membership agreements shall be submitted with the application, if available. If unavailable, the application must clearly indicate the reason for unavailability. In addition, a written summary of the following must be provided: the historical background of the organization, its purposes, its significant accomplishments, its chief activities and an explanation as to why the applicant is or should be considered a culturally related non-profit organization.

(b) Tax Exempt Status. The applicant need not be exempted from paying income taxes. However, a tax-exempt status will entitle the applicant to a lower rental amount on the lease applied for. Therefore, if the applicant is not required to pay gross receipts taxes, it should submit a copy of its certificate of exemption issued by the Department of Revenue and Taxation. If the applicant is not required to pay income taxes, the application shall also submit a copy of a determination by the Department of Revenue and Taxation or the Internal Revenue Service indicating that the applicant is tax-exempt.

(c) Culturally-Related. The applicant shall prepare its written summary as described in Rule (a) to allow the Department to make a determination that the applicant's primary activities are culturally-related. This Section is not applicable to applicants subject to Rule 1006.

(d) Title to or Use of other Real Property. The government's desired outcome based upon these rules is the development of an integrated cultural center, which is representative of the diverse cultures which co-exist on Guam, in order to promote understanding and harmony amongst them. Thus, an applicant's ownership or lease of any other real property is not a consideration in determining the applicant's eligibility.

(e) Condition of Property Under Use Permit. If the applicant has an interim use permit as referred to in Rule (a) above, then at the time the lease application is submitted, the applicant must be in compliance with all the terms of the use

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permit in order for applicant to be eligible for a lease under these rules, and the applicant must not owe anything to the Department for any expenses the Department may have incurred on the applicants behalf under the use permit.

(f) Contact Person and Address. The current mailing address of the applicant, along with the name of an authorized representative, must be clearly indicated. All notices to be sent to the applicant will be mailed to the address the applicant indicates.

(g) Intent to Construct. The purpose of the lease is for the construction of an improvement, or improvements, which are cultural facilities as that term is used in these rules. The applicant must state this intent in writing. Applicants subject to Rule 1006 should describe the improvement planned and state their intent to so construct.

(h) Financial Responsibility. The applicant must show its ability to finance the construction of improvements and to pay the rental value of the property. Proof may be shown by the applicant submitting the applicant's financial statements, preferably audited, for its immediately preceding two (2) fiscal years. If applicant is required to pay income taxes, the applicant shall submit a copy of the return filed for the last two (2) of it fiscal years.

§ 1515. Determination of Eligibility to Lease: Determination and Effect.

The Department shall make a determination in writing as to whether or not the applicant is eligible. If upon review of the completed application the Department finds that the submitted application and documents sufficiently prove that the applicant is a legitimate, financially responsible non-profit organization, whose primary activities are culturally-related, and that it intends to construct a cultural facility, except as applicant may be exempted by Rule 1006, then the Department shall determine that the applicant is eligible to select and reserve land or lease in accordance with these rules.

§ 1516. Priority to Reserve.

Upon a determination that the applicant is eligible, the Department shall place the applicants name on a priority list in the order that the applicants are determined to be eligible. An applicant may select and reserve land for leasing in the order that its name appears on the priority list.

§ 1517. Notice of Determination.

The Department shall notify each applicant by mail of the Department's determination as soon as practicable after a determination is made. If a negative determination is made, the reasons must be stated in the notice to the applicant. If the Department cannot make a determination because the application, which is initially thought to be complete, is later found to be incomplete, then the Department shall so notify the applicant.

§ 1518. Appointment to Reserve.

The Department shall also provide in the notice of determination of eligibility an appointment date and time for the applicant to select and reserve land.

(a) Designated Appointments. The Department shall designate an appointment date and time for applicants in the order that the applicant's name appears on the priority list of eligible applicants. The Department shall make no more than one (1) appointment in the morning and one (1) appointment in the afternoon of any working day during normal working hours, and the appointment must be at least twenty (20) calendar days from the date the notice of determination of eligibility is mailed.

(b) Time of the Essence for Appointments. All eligible applicants are on notice that 'time is of the essence' and that if the designated appointment is changed or missed, the applicant may lose its original priority status and shall acquire the priority ranking that corresponds with the newly chosen appointment date and time.

(c) Changed Appointments. At the request of the applicant, a designated appointment date and time may be changed to any other date and time available.

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(d) Missed Appointments. Eligible applicants who miss an appointment are not automatically reassigned another appointment, but must request a new appointment. Any new appointment date and time available may be given.

§ 1519. Section and Reservation: Selection.

At the appointed date and time, the eligible applicant may select any area of land which has been designated by the Department to be a part of the program under these rules and which has not been selected and reserved by any other eligible applicant.

(a) Area and Location. The eligible applicant may reserve one of the areas, the size of which is 20,000 square feet. If the applicant convincingly demonstrates circumstances which would require a greater area, then the Department in its sole discretion may allow the applicant to reserve one (1) additional 20,000 square foot area, both of which must be adjacent to each other. Circumstances which shall justify a greater area and which the Department shall consider pertinent include, but are not limited to, the applicant's size in membership, the frequency and type of their activities, their ideas or plans for a cultural facility, and their financial ability to carry out their proposed plans. From Lot Number 10120-17, Dededo, Guam, up to five (5) acres may be developed for a common area multicultural center.

(b) Site Inspection. Any applicant desiring to view the site is expected to make arrangements with Department personnel and visit the site prior to the designated appointment.

§ 1520. Reservation Agreement.

Upon selection of an area of land by an eligible applicant, the Department and applicant shall enter into an 'Agreement to Reserve'; provided, that the applicant is in compliance with all the terms of their use permit, as referred to in Rule 1006(b), above, if any, and no sums are owed to the Department upon the use permit's termination when the Agreement to Reserve is executed. The date *I Maga'lahren Guåhan* approves the Agreement to

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Reserve with *I Maga'lahaen Guåhan's* signature shall be the effective date of the Agreement.

(a) Automatic Termination After One Year. The Agreement to Reserve shall automatically terminate one (1) year from its effective date, but subject to Rule 6005(a), below.

(b) License to Clear and Grade. The Agreement to Reserve shall give the applicant the privilege to clear and grade the property so reserved, at applicants own risk prior to entering into a lease. In this respect the applicant is permitted to cut, detach, remove, burn, or otherwise clear and take away from the property all standing or fallen timber, crops, vegetation or growth of any kind whatsoever, and to grade the property so long as all required governmental approvals are first obtained. In no event shall applicant cause or allow any construction, development or improvement of any type or nature whatsoever to be built on the property, nor permit any waste, nuisance or dumping. Should the applicant not enter into a lease with the Department for any reason, then in no event shall the expense of any clearing or grading undertaken by the applicant be considered an amount owing by the Department to the applicant.

(c) Reservation Not a Lease. The Agreement to Reserve is a limited act preliminary to the lease designed to reserve the selected area of land. By no means should the Agreement be interpreted as a lease, nor does it grant any rights to the applicant as a lessee. Before the Department gives its final approval, and before a lease with the eligible applicant is entered into, the eligible applicant must fulfill the requirements of the rules contained in Chapter 6, below, and as outlined in the Agreement to Reserve.

§ 1521. Requirements of Entering into Lease: Submittal Required.

In order to enter into a lease or the reserved property, the eligible applicant must submit the following prior to the automatic termination of the Agreement to Reserve:

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(a) Conceptual Plan. A conceptual plan depicting the reserved property's development as a cultural facility shall be submitted in adequate visual detail showing the improvement or improvements to be constructed, with landscaping, from all angles. The plan should include a sketch showing the location of the improvement or improvements on the land, and a sketch of the floor plans or proposed building layouts with approximate square footage of floor area, the proposed parking area and, if required, any loading areas. The visual drawings should be accompanied by a written summary of the development. This conceptual plan need not be as detailed as an architect's or engineer's blueprints, unless desired, but should be professional in appearance.

(b) Statement of Costs and Funding. The eligible applicant must also submit a supporting statement, in sufficient detail, concerning the approximate cost of the development, the proposed contractor's name and license number, and the development's financing method or source of funding.

§ 1522. Determination of Adequacy.

The Department shall determine, in its sole discretion, whether the conceptual plan and financing statement are adequate in detail as provided for in Rules 6001(a) and (b), and whether the applicant's financial resources are sufficient to complete the proposed development. A building in which an applicant intends to conduct its regular or special activities, as shown by applicant's historical background, shall be considered adequate as a cultural facility, even as to those applicants subject to Rule 1006, above.

(a) Notice of Determination. A written notice of determination shall be provided by mail to the applicant. If the submittals are determined adequate, then the notice shall indicate that a lease is being prepared and that applicant must sign the lease as provided for in Rule 6004 (a), below. If any part of any submittal is found to be inadequate, the reason or reasons shall be provided in the notice in sufficient detail to enable the applicant to redo and bring the required submittals into compliance with the requirements of Rule 6002, above.

§ 1523. Resubmittals Accepted.

An applicant may resubmit the documentation required by Rules 6001(a) and (b), above, as many times as necessary for a determination of adequacy. Each resubmittal shall be considered a new submittal for purposes of Rule 6005, below.

§ 1524. Preparation of Lease.

If the required submittals are determined to be adequate, the Department shall as soon as practicable prepare a lease in accordance with the lease terms contained in Chapter 8, below, naming the eligible applicant as the lessee for the land reserved.

(a) **Deadline to Enter Into Lease.** If the lease is not signed by the applicant within six (6) months from the date of the notice of a favorable determination in Rule 6002(a), above, then the lease shall be cancelled, and the land which is reserved and which is the subject of the lease shall become available for selection and reservation by other applicants under these rules.

§ 1525. Disqualification.

If the Department has not made a determination of adequacy within the one (1) year period from the date the Agreement to Reserve is approved by I Maga'lahaen *Guåhan*, then the eligible applicant is automatically disqualified and the reserved land shall become available for selection and reservation by other applicants under these rules.

(a) **Extension of Time to Determination Date.** If the applicant has submitted the required documents in accordance with Rule 6002, above, within the one (1) year period, but the Department has not made a determination of adequacy as of the last day of the one (1) year period, then in such event, the date upon which a determination is made shall be the date upon which either a lease is prepared for the applicant, or the reserved land becomes available for selection and reservation by other eligible applicants. In the latter event, the applicant shall no longer have the right to make resubmittals in accordance with Rule 6003, above.

§ 1526. Miscellaneous Provisions: Notices to Applicant.

All notices and official correspondence to applicant shall be in writing and mailed to the address provided in the application. If the applicant desires, the Department may telephone the applicants authorized representative with any information as requested. However, the Department is under no obligation to do so, and in no event shall any telephonic communication be considered the date on which any notice to be given by the Department is given.

§ 1527. Notices to Department.

All notices and anything to be submitted to the Department may be delivered by the applicant to the Departments Land Administration Division on the third floor of the building at 855 West Marine Drive in Anigua, Guam, or by mail to the Division at Post Office Box 2950, Hagatna, Guam 96932.

§ 1528. Applicant's Authorized Representative.

The authorized representative designated in the application shall be the sole voice of the applicant in any non-written communications with the Department. In no event is the Department obligated to entertain any communications by any person purportedly representing the applicant, but who is not the authorized representative designated by the applicant and on record at the Department. The statements of persons purportedly representing the applicant shall not be considered the official statements of the applicant.

§ 1529. Change of Address or of Authorized Representative.

A written change of address or of authorized representative must be received by the Department before the change is considered effective.

§ 1530. Reapplication.

If the applicant is not found eligible within the one (1) year period that the application is effective, or if an eligible applicant's reserved land is returned to the pool of available land for any reason under Chapter 6, above, the applicant may reapply at any time so long as land is still available for purposes of these rules, and the applicant pays the regular application fee. Any applicant

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who reapplies must go through the entire application process as though no prior application had ever been submitted. The Department is not obligated to use any of applicants submittals under a prior application.

§ 1531. Lease Terms: Significant Terms.

The Attorney General shall prepare a form of lease to be used for the reserved property, which shall protect the Departments interest in the leased premises and which shall be designed to carry out the purposes and intent of these rules. The lease shall incorporate the significant terms indicated below in this Rule 8001:

(a) Term of Lease. The term of the lease shall be fixed at twenty-five (25) years to allow for the construction of improvements and the full payment of a construction loan, if any, with an option to renew for an additional twenty-five (25) year renewal term.

(b) Rent. The rental rate for the leases provided in these rules, or how it is to be determined, is not indicated anywhere in Guam law. Public Law Number 22-18, to which the land reserved as a cultural center is subject, addresses the rental provisions of commercial leases only, setting such value in terms of fair market value of the property, with payments going to the Chamorro Land Trust Commission. The Chamorro Land Trust Act indicates that the rental amount of available land not immediately needed and which is returned to the Department, may be leased in accordance with 21 GCA § 75103(b) with the Department determining the rental amount. In accordance with these considerations, the Department has determined that the rental amount for the leases provided for in these rules shall be based on whether or not the applicant is exempt from paying income taxes, as evidenced by a determination in accordance with Rule 3003(b), above. Rent payments shall go to the Chamorro Land Trust Commission.

(c) Income Tax Paying Applicants. An applicant which, at the time it enters into a lease, does not have a determination that the applicant is exempt from paying income taxes, shall

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pay the fair market rental value of the leased premises, as such value is determined by the Department. Rent may be paid monthly or annually, as the Department and applicant shall mutually agree.

(d) Income Tax Paying Applicants. An applicant which, at the time it enters into a lease, is exempt from paying income taxes as evidenced by a determination from the appropriate government authority, shall pay an annual rental amount which is nominal. The nominal amount is determined to be One Hundred Dollars (\$100.00) per year for the first twenty-five (25) years and Three Hundred Dollars (\$300.00) per year for each thereafter that the reserved property is under lease to the applicant.

(e) Beginning Construction. If the applicant enters into a lease according to these rules, the applicant shall complete its plans for development; secure or otherwise provide for financing; arrange for water, sewer and electricity infrastructure, as needed; and begin construction within one (1) year from the effective date of the lease.

(f) Completing Construction. Construction must be completed within three (3) years of the effective date of the lease.

(g) Failure to Begin or Complete Construction. Failure to begin construction within one (1) year from the effective date of the lease shall result in the automatic termination of the lease. Failure to complete construction within three (3) years of the effective date of the lease shall give the Department the right to terminate the lease in its sole discretion.

(h) Covenant Against Gambling. The applicant shall covenant that no gambling activities will be conducted on the leased property, except as the applicant may be legally licensed to carry on such activities.

§ 1532. Approval of Attorney General and *I Maga'lahaen Guahan*.

All leases entered into in accordance with these rules must be executed by *I Maga'lahaen Guahan*, attested to by *I Segundu Na*

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Maga'lahaen Guåhan, and approved as to form by the Attorney General.

§ 1533. Concurrence by *I Liheslaturan Guahan*.

All leases entered into in accordance with these rules must be concurred to by *I Liheslaturan Guåhan* pursuant to 21 GCA § 60112.
