

# TITLE 145: DEPARTMENT OF PUBLIC LANDS

## SUBCHAPTER 145-20.4 VILLAGE HOMESTEAD RULES AND REGULATIONS

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Subchapter Authority: 2 CMC § 4338.

Subchapter History: Amdts Adopted 26 Com. Reg. 23120 (Aug. 26, 2004); Amdts Proposed 26 Com. Reg. 22158 (Mar. 23, 2004); Amdts Adopted 12 Com. Reg. 7511 (Dec. 15, 1990); Amdts Proposed 12 Com. Reg. 7107 (June 15, 1990); Amdts Proposed 11 Com. Reg. 6665 (Dec. 15, 1989); Adopted 3 Com. Reg. 1189 (Mar. 30, 1981); Proposed 2 Com. Reg. 973 (Nov. 17, 1980).\*

\*The text of the proposed regulations was not published with the 1980 notice of proposed regulations.

Commission Comment: N.M.I. Const. art. XI, codified as amended at 2 CMC §§ 4111-4115, established the Marianas Public Land Corporation (MPLC), responsible for the management and disposition of public lands. See 2 CMC §§ 4113 and 4114.

2 CMC §§ 4301-4314 set forth the general statutory provisions governing homesteads in the CNMI and designate MPLC as the agency responsible for implementing homestead laws. PL 1-42 (effective Dec. 19, 1979), the "Village Homesteading Act of 1979," codified as amended at 2 CMC §§ 4331-4338, established the village homesteading program and authorized MPLC to implement and administer the program. See 2 CMC §§ 4332-4333. PL 1-42 § 7 empowered MPLC to promulgate rules and regulations to carry out the purposes of the act. See 2 CMC § 4338.

PL 12-33 (effective Dec. 5, 2000), the "Board of Public Lands Act of 2000," and PL 12-71 (effective Nov. 13, 2001) transferred the authority to manage, use, and dispose of surface and submerged public land to a new Marianas Public Lands Authority, under the direction of a Board of Public Lands Management. The Marianas Public Lands Authority became the successor agency to the Marianas Public Lands Corporation.

Public Law 15-2 (effective February 22, 2006), codified at 1 CMC §§ 2801-2809, replaced the Marianas Public Lands Authority with the Department of Public Lands within the executive branch. PL 15-2 repealed all provisions of Public Laws 10-57, 12-33, and 12-71 applicable to public lands.

PL 15-2 changed all references in the Commonwealth Code from the Marianas Public Lands Corporation, Division of Public Lands, Office of Public Lands or the Marianas Public Lands to the "Department of Public Lands." PL 15-2 § 4 [Commission comment to 1 CMC § 2801]. Public Law 15-64, effective May 30, 2007, changed all references in the Commonwealth Code from Board of Public Lands to "Secretary of Public Lands." PL 15-64 § 4. For a complete history of the authority over public lands in the Commonwealth see the general comment to chapter 10 of this title.

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PL 15-2 § 3 (§ 108) requires that the Department of Public Lands “assess the demand for homesteads and develop a program for meeting that need, to the extent practicable, within the available land base.” 1 CMC § 2808.

MPLC promulgated the original regulations in this subchapter. In 2004, MPLA repealed and repromulgated the Village Homestead Rules and Regulations in their entirety pursuant to the authority of PL 12-33.

### **Part 001 - General Provisions**

#### **§ 145-20.4-001 Authority**

The rules and regulations in this subchapter are hereby promulgated and issued by the Marianas Public Lands Authority (MPLA), pursuant to its duties and responsibilities under article XI of the CNMI Constitution, PL 12-33, as amended, and 2 CMC §§ 4331, et seq.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 26 Com. Reg. 23120 (Aug. 26, 2004); Amdts Proposed 26 Com. Reg. 22158 (Mar. 23, 2004); Adopted 3 Com. Reg. 1189 (Mar. 30, 1981); Proposed 2 Com. Reg. 973 (Nov. 17, 1980).

Commission Comment: The 1990 amendments contained authority and purpose provisions as follows:

##### **§ 1 Authority**

These regulations are promulgated by MPLC pursuant to two independent sources of rule-making authority:

- (1) MPLC’s constitutional authority and
- (2) Section 7 of PL 1-42, as amended - the Village Homesteading Act of 1979, 2 CMC [s]ection 4331, et seq.

##### **§ 2 Purpose and Policy of Amendments to Village Homestead Regulations**

These regulations are promulgated to update and amend the Village Homesteading Regulations promulgated by MPLC on November 3, 1980, published in the Commonwealth Register dated March 30, 1981, at pages 1189 - 1199 and effective on April 30, 1981.

In promulgating these regulations, MPLC notes that there has been an ever-increasing number of applicants for village homesteads and an ever-diminishing supply of public lands that may be allocated to village homestead developments. In these regulations village homestead application categories are based upon the legislative criteria established in Public Law 1-42, as amended.

For example, the income and asset eligibility criteria are promulgated pursuant to the legislature’s direction that the Act be established for residents “who are without village lots and do not have the means to acquire village lots.” (PL 1-42, [s]ection 2(c)(1), 2 CMC [s]ection 4332(c)(1).) MPLC has determined that it may cost between \$20,000 to \$100,000 to acquire an average village lot in the CNMI. The income/assets eligibility criteria promulgated in paragraph 3(e) of these regulations will disqualify those applicants who may not own land in the CNMI, but who have sufficient income and/or assets to acquire a village lot in the CNMI.

12 Com. Reg. at 7110-11 (June 15, 1990).

With respect to MPLC’s authority, see 1 CMC § 2671(b) and the commission comment at the beginning of this subchapter.

The MPLA’s 2004 amendments repealed and re-promulgated this subchapter in its entirety. The Commission therefore, cites the 2004 amendments in the history sections throughout this subchapter.

#### **§ 145-20.4-005 Purpose**

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The purposes of the rules and regulations in this subchapter is to repeal and repromulgate the Village Homestead Rules and Regulations, as published in the Commonwealth Register, volume 3, number 2 at page 1189 and volume 12, number 6 at page 7107; to provide the standard of eligibility, a system for issuing permits, deeds, notices and appeal rights.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 26 Com. Reg. 23120 (Aug. 26, 2004); Amdts Proposed 26 Com. Reg. 22158 (Mar. 23, 2004); Adopted 3 Com. Reg. 1189 (Mar. 30, 1981); Proposed 2 Com. Reg. 973 (Nov. 17, 1980).

### **§ 145-20.4-010 Definitions**

- (a) “Abandon”: To leave a village homestead lot neglected or showing no improvement during the permit period or to allow a mortgage on the homestead property to go into default, thereby placing the property at risk of foreclosure.
- (b) “Administrative Procedure Act” (“APA”): The Commonwealth Administrative Procedure Act, codified at 1 CMC §§ 9101, et seq.
- (c) “Applicant”: An individual, married couple or joint applicant who submits a single application for a village homestead lot.
- (d) “Authorized Person”: A person duly empowered through a valid power of attorney, to act on behalf of an applicant or homesteader.
- (e) “Board of the Marianas Public Lands Authority” (“Board”): The policy-making body for the Marianas Public Lands Authority.
- (f) “Commissioner”: The Commissioner of the Marianas Public Lands Authority.
- (g) “Hearing Officer”: The MPLA Hearing Officer, including hearing officers pro-tempore appointed by the Board to conduct administrative hearings on homestead matters in accordance with the APA and the MPLA Administrative Hearing Procedure Rules and Regulations.
- (h) “Homesteader”: A person granted a village homestead permit.
- (i) “Joint Applicants”: Persons who have submitted a village homestead application in their names.
- (j) “Land Interest”: Title to or an interest in a parcel of land qualifying as a village lot in the Commonwealth.
- (k) “Lottery”: The drawing of a village homestead lot.

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(l) “Marianas Public Lands Authority” (“MPLA”): An independent public corporation under the control and general supervision of the Board, and headed by a Commissioner to execute, implement and enforce the policies of the Board.

(m) “Village Lot”: A parcel of land determined by the Marianas Public Lands Authority to be suitable for the construction of a residence and is, or will be, reasonably accessible to water and power utilities.

History: Amdts Adopted 26 Com. Reg. 23120 (Aug. 26, 2004); Amdts Proposed 26 Com. Reg. 22158 (Mar. 23, 2004); Amdts Adopted 12 Com. Reg. 7511 (Dec. 15, 1990); Amdts Proposed 12 Com. Reg. 7107 (June 15, 1990); Amdts Proposed 11 Com. Reg. 6665 (Dec. 15, 1989).

Commission Comment: The 2004 amendments repealed and repromulgated this section in its entirety with substantial changes. The Commission inserted quotation marks around terms defined.

### **Part 100 - Village Homestead Program Requirements**

#### **§ 145-20.4-101 Application Procedure**

(a) Any person applying for a village homestead lot shall fill out and sign under penalty of perjury the village homestead application provided by MPLA.

(b) Any person who submitted an application for a village homestead lot before the passage of the Northern Mariana Islands Village Homesteading Act of 1979, as amended, must also fill out and sign under penalty of perjury the village homestead application.

(c) An applicant shall pay a reasonable application processing fee as set by the Board.

(d) The MPLA shall review the application and may require the applicant to appear before the MPLA to verify accuracy and completeness.

(e) An applicant determined ineligible shall be informed of such determination in writing and the reasons therefor.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 26 Com. Reg. 23120 (Aug. 26, 2004); Amdts Proposed 26 Com. Reg. 22158 (Mar. 23, 2004); Amdts Adopted 12 Com. Reg. 7511 (Dec. 15, 1990); Amdts Proposed 12 Com. Reg. 7107 (June 15, 1990); Amdts Proposed 11 Com. Reg. 6665 (Dec. 15, 1989); Adopted 3 Com. Reg. 1189 (Mar. 30, 1981); Proposed 2 Com. Reg. 973 (Nov. 17, 1980).

Commission Comment: The 2004 amendments completely rearranged and re-promulgated this part with substantial amendments. The history prior to 2004 is provided where applicable.

#### **§ 145-20.4-105 Standards of Eligibility**

(a) An applicant is not eligible for a village homestead lot if the applicant, an applicant’s spouse or joint applicant:

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- (1) Has been a recipient of a village homestead lot under this program or any previous homestead program;
- (2) Owns a village lot; or
- (3) Has an ownership in a village lot, including an owner of land who has divested himself or herself of his or her possessory right through lease.

(b) In determining whether an applicant, has an interest in a village lot, the following shall be considered:

- (1) Whether an applicant has an undivided interest in land, through inheritance or otherwise, that meets the definition of a village lot; or
- (2) Whether an applicant has conveyed his or her interest in a village lot to a corporation, trust or other entity owned, in whole or in part, by him or her.

(c) If an applicant knowingly and willfully submits false information under penalty of perjury to MPLA, he or she shall be permanently disqualified from participating in the village homestead program.

History: Amdts Adopted 26 Com. Reg. 23120 (Aug. 26, 2004); Amdts Proposed 26 Com. Reg. 22158 (Mar. 23, 2004); Amdts Adopted 12 Com. Reg. 7511 (Dec. 15, 1990); Amdts Proposed 12 Com. Reg. 7107 (June 15, 1990); Amdts Proposed 11 Com. Reg. 6665 (Dec. 15, 1989); Adopted 3 Com. Reg. 1189 (Mar. 30, 1981); Proposed 2 Com. Reg. 973 (Nov. 17, 1980).

Commission Comment: See the commission comment to § 145-20.4-101.

### **§ 145-20.4-110 Homestead Issuance Process**

(a) The granting of a homestead lot shall be based on the date the applicant submits a completed application and required documents to MPLA.

(b) An applicant eligible to participate in a lottery shall be informed in writing of the date, time, and location of the lottery and location of homestead lots to be distributed. An applicant need not be preset at the time of the lottery, but must designate, through a power of attorney, a person who will participate in the lottery on his or her behalf.

History: Amdts Adopted 26 Com. Reg. 23120 (Aug. 26, 2004); Amdts Proposed 26 Com. Reg. 22158 (Mar. 23, 2004).

Commission Comment: See the commission comment to § 145-20.4-101.

### **§ 145-20.4-115 Homestead Permit Process**

(a) A lottery participant shall be issued a homestead permit to the homestead lot drawn, provided that an environmental impact assessment had been conducted and completed prior to the lottery.

(b) The homesteader shall be given a copy of the homestead permit and shall be shown the actual boundaries of the lot. The homesteader must sign a form indicating he or she was shown the lot and its boundaries.

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History: Amdts Adopted 26 Com. Reg. 23120 (Aug. 26, 2004); Amdts Proposed 26 Com. Reg. 22158 (Mar. 23, 2004); Adopted 3 Com. Reg. 1189 (Mar. 30, 1981); Proposed 2 Com. Reg. 973 (Nov. 17, 1980).

Commission Comment: See the commission comment to § 145-20.4-101.

Public Law 17-26 (effective December 16, 2010) amended § 145-20.4-115 to require the Department of Public Lands to conduct and complete an environmental impact assessment prior to having qualified homesteaders participate in the lottery of available homestead lots.

### **§ 145-20.4-120 Homestead Requirements**

A homesteader shall:

- (a) Enter, use and improve the homestead lot within 120 days and complete a single family residence within two years after the issuance of a homestead permit;
- (b) Commence to reside in his or her homestead as his or her principal place of residence no later than the end of the second year after the issuance of the homestead permit, and continually reside throughout the third year; and
- (c) Not lease, assign, sell, or transfer the homestead lot during the permit period.

History: Amdts Adopted 26 Com. Reg. 23120 (Aug. 26, 2004); Amdts Proposed 26 Com. Reg. 22158 (Mar. 23, 2004); Amdts Adopted 12 Com. Reg. 7511 (Dec. 15, 1990); Amdts Proposed 12 Com. Reg. 7107 (June 15, 1990); Amdts Proposed 11 Com. Reg. 6665 (Dec. 15, 1989); Adopted 3 Com. Reg. 1189 (Mar. 30, 1981); Proposed 2 Com. Reg. 973 (Nov. 17, 1980).

Commission Comment: See the commission comment to § 145-20.4-101.

Public Law 17-4 (effective June 17, 2010) amended 2 CMC § 4335 by adding a new subsection (d) to allow the Department of Public Lands to waive the requirement or policy of re-building a second residential dwelling when it has been determined or proven that the homesteader's initial residential dwelling house was destroyed or severely damaged by typhoon, tsunami, or other natural or man-made disasters.

Public Law 17-37 (effective April 4, 2011) amended 2 CMC § 4335 by adding a new subsection (e) to allow the Department of Public Lands to waive the requirement or policy of completing a single family residential dwelling structure within two years of issuance of a village homestead permit upon the homesteader's showing reasonable justification or explanation that a minimum of ten thousand dollars has been invested in the homestead lot.

### **§ 145-20.4-125 Homestead Permit Revocation**

A homestead permit may be revoked if the homesteader:

- (a) Fails to clear the homestead lot and construct a single-family residence within two years after issuance of the permit;
- (b) Fails to comply with the homestead permit or as otherwise provided in the rules and regulations in this subchapter;

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- (c) Fails to use the homestead lot as his or her principal residence within two years after issuance of the permit;
- (d) Abandons the homestead lot during the permit period;
- (e) Sells or attempts to sell, conveys, leases or rents the homestead;
- (f) Allows another person to occupy the homestead in place of the homesteader without securing written authorization from MPLA;
- (g) Fails to maintain the homestead lot in a clean, safe and sanitary condition; or
- (h) Provides false information in the village homestead application or other required documents.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 26 Com. Reg. 23120 (Aug. 26, 2004); Amdts Proposed 26 Com. Reg. 22158 (Mar. 23, 2004); Adopted 3 Com. Reg. 1189 (Mar. 30, 1981); Proposed 2 Com. Reg. 973 (Nov. 17, 1980).

Commission Comment: See the commission comment to § 145-20.4-101.

Public Law 17-4 (effective June 17, 2010) amended 2 CMC § 4335 by adding a new subsection (d) to allow the Department of Public Lands to waive the requirement or policy of re-building a second residential dwelling when it has been determined or proven that the homesteader's initial residential dwelling house was destroyed or severely damaged by typhoon, tsunami, or other natural or man-made disasters.

Public Law 17-37 (effective April 4, 2011) amended 2 CMC § 4335 by adding a new subsection (e) to allow the Department of Public Lands to waive the requirement or policy of completing a single family residential dwelling structure within two years of issuance of a village homestead permit upon the homesteader's showing reasonable justification or explanation that a minimum of ten thousand dollars has been invested in the homestead lot.

### **§ 145-20.4-130 Village Homestead Waiver Procedures**

Any person who has continuously used and occupied public land for at least fifteen years prior to January 9, 1978 is eligible for a village homestead lot, provided that the following procedures and requirements shall be applicable:

- (a) The applicant must be eligible to homestead a village lot and must fill out a village homestead application provided by the MPLA;
- (b) The applicant must submit an affidavit or declaration under penalty of perjury that he or she has been continuously using and occupying the public land for at least fifteen years prior to January 9, 1978;
- (c) After submission of an application, the MPLA shall review the application, and may require additional proof to substantiate the claim; and

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(d) Upon approval of the application by MPLA, a certificate of compliance shall be issued to the applicant for the parcel of public land he or she has been using and occupying, which shall not exceed 1,000 square meters, provided that an official survey plat is prepared prior to issuance of the certificate of compliance. Upon approval of the Board a quitclaim deed shall be issued to the applicant.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 26 Com. Reg. 23120 (Aug. 26, 2004); Amdts Proposed 26 Com. Reg. 22158 (Mar. 23, 2004); Adopted 3 Com. Reg. 1189 (Mar. 30, 1981); Proposed 2 Com. Reg. 973 (Nov. 17, 1980).

Commission Comment: See the commission comment to § 145-20.4-101.

Public Law 17-4 (effective June 17, 2010) amended 2 CMC § 4335 by adding a new subsection (d) to allow the Department of Public Lands to waive the requirement or policy of re-building a second residential dwelling when it has been determined or proven that the homesteader's initial residential dwelling house was destroyed or severely damaged by typhoon, tsunami, or other natural or man-made disasters.

Public Law 17-37 (effective April 4, 2011) amended 2 CMC § 4335 by adding a new subsection (e) to allow the Department of Public Lands to waive the requirement or policy of completing a single family residential dwelling structure within two years of issuance of a village homestead permit upon the homesteader's showing reasonable justification or explanation that a minimum of ten thousand dollars has been invested in the homestead lot.

### **§ 145-20.4-135 Appeal**

Any person or party aggrieved by an adverse action by MPLA may appeal to the Hearing Officer pursuant to the MPLA Administrative Hearing Procedure Rules and Regulations [NMIAC, title 145, chapter 10].

History: Amdts Adopted 26 Com. Reg. 23120 (Aug. 26, 2004); Amdts Proposed 26 Com. Reg. 22158 (Mar. 23, 2004).

Commission Comment: See the commission comment to § 145-20.4-101.

## **Part 200 - Miscellaneous Provisions**

### **§ 145-20.4-201 Severability**

If a court of competent jurisdiction shall hold any provision of the rules and regulations in this subchapter invalid, the remainder of these rules and regulations, other than those held invalid, shall not be affected.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 26 Com. Reg. 23120 (Aug. 26, 2004); Amdts Proposed 26 Com. Reg. 22158 (Mar. 23, 2004).

### **§ 145-20.4-205 Effective Date**

The rules and regulations in this subchapter shall take effect upon notice of their final adoption as provided by the APA.



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Modified, 1 CMC § 3806(d).

History: Amdts Adopted 26 Com. Reg. 23120 (Aug. 26, 2004); Amdts Proposed 26 Com. Reg. 22158 (Mar. 23, 2004); Adopted 3 Com. Reg. 1189 (Mar. 30, 1981); Proposed 2 Com. Reg. 973 (Nov. 17, 1980).

Commission Comment: The 2004 amendments deleted former appendices A through E.