

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



COMMONWEALTH REGISTER

VOLUME 39
NUMBER 06
JUNE 21, 2017

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Commonwealth of the Northern Mariana Islands
DEPARTMENT OF PUBLIC WORKS
James Ada, Secretary

PUBLIC NOTICE OF EMERGENCY AMENDMENT TO RULES AND REGULATIONS FOR THE DEPARTMENT OF PUBLIC WORKS

ADOPTION OF EMERGENCY REGULATION FOR 120 DAYS: The Commonwealth of the Northern Mariana Islands ("CNMI"), Department of Public Works ("DPW") has adopted the attached Emergency Regulation which is an amendment to existing DPW Regulations promulgated pursuant to the authority contained in the Building Safety Code, Public Law 6-45, as amended, and as required by the procedures of the Administrative Procedure Act, 1 CMC § 9104(b). DPW has followed the procedures of 1 CMC § 9104(b) and (c) to adopt this amendment on an emergency basis valid for a period of 120 days.

AUTHORITY: DPW has the authority to adopt rules and regulations in furtherance of its duties and responsibilities pursuant to 1 CMC 2404.

THE TERMS AND SUBSTANCE: The attached regulation governs and regulates the issuance of Certificates of Occupancy attesting a partially occupied portion of a building or premises conforms to the Building Safety Code and DPW regulations promulgated pursuant to the authority of the Building Safety Code, Public Law 6-45, as amended, and specifically Part 300, § 155-10.1-301 Certificate of Occupancy.

REASONS FOR EMERGENCY ADOPTIONS: The Department of Public Works finds that the public interest requires the adoption of this regulation on an emergency basis for the following reasons:

1. 2 CMC § 7111 requires the Department of Public Works (DPW) to adopt implementing regulations which shall secure and promote the safety, health and general welfare of the people of the Northern Marianas while simultaneously promoting the development of better construction activities and also provide building and construction industry standards in regards to location, design, enlargement, maintenance, use, occupancy, and the moving of buildings and structures in the Commonwealth.
2. 2 CMC § 7114 provides that a CNMI Building Safety Code Review Board with the authority to grant modifications to the CNMI Building Safety Code whenever there are practical difficulties involved in carrying out the provisions of this code.
3. However, existing Department of Public Works regulations do not contain a similar provision as set out in 2 CMC 7114.

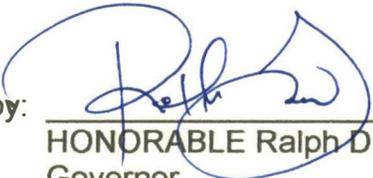
4. The promulgation of this amendment to DPW's existing regulations is necessary, under the present circumstances, to allow DPW to consider a request submitted by an applicant for a Building Safety Code Occupancy Permit to exercise the statutory authorization to grant a partial occupancy permit.
5. Specifically, DPW has received a request to allow for the partial occupancy and use of the Initial Gaming Facility located on Saipan as authorized following the enactment of Public Law 18-56 (and as set out in the exclusive Casino License Agreement granted by the CNMI Lottery Commission).
6. The portion of the premises to be occupied has been determined to be in compliance with safety requirements of the Building Safety Code and implementing regulations and the permit applicant is therefore seeking lawful authorization to begin operations in the facility as required under the timelines established in the exclusive Casino License Agreement (as amended).
7. Amendment of the existing implementing regulations in an expeditious manner is necessary in order to ensure the holder of an exclusive license granted by the CNMI to lawful transfer the gaming operations from the Live-Training Facility is in compliance with Casino License Amendment #3 to the Initial Gaming Facility will promote the long-term economic interest of the CNMI.

The Secretary of the Department of Public Works approved the attached Regulations on 6/20, 2017.

Submitted by:  _____
 JAMES ADA
 Secretary, Department of Public Works

6/20/17

 Date

Concurred by:  _____
 HONORABLE Ralph DLG Torres
 Governor

6/20/17

 Date

Filed and Recorded by:  _____
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 Commonwealth Register

06-21-2017

 Date

Pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(b), the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published pursuant to 1 CMC § 2153(f).

Dated the 21 day of June, 2017.



HONORABLE EDWARD MANIBUSAN
CNMI Attorney General

**Commonwealth of the Northern Mariana Islands
DEPARTMENT OF PUBLIC WORKS**

**AMENDMENT TO TITLE 155
DEPARTMENT OF PUBLIC WORKS REGULATIONS
CHAPTER 155, PART 300 CERTIFICATES OF OCCUPANCY**

§ 155-10.1-301 Certificate of Occupancy

- (a) No building or structure hereafter erected shall be occupied or used ~~in whole or in part~~ until a certificate of occupancy has been issued by the building safety official and posted on the premises certifying that such building, or portion to be partially occupied or used, conforms to the provisions of the Safety Code and the regulations in this subchapter. The certificate of occupancy shall remain posted indefinitely in a conspicuous place. A certificate of occupancy for a business shall be issued with a term of one year only; the business must renew the certificate each year.
- (b) The Building Safety Official may impose additional conditions on the issuance of a certificate of occupancy and issue a conditional certificate of occupancy when necessary to secure and promote the safety, health, and general welfare of the people of the Commonwealth of the Northern Mariana Islands. A conditional certificate of occupancy shall include a list of written conditions and shall be agreed to and signed by the permittee. An indemnification agreement shall be executed prior to the issuance of any conditional certificate of occupancy. The indemnification agreement shall require the permittee, or other necessary parties, to indemnify, defend, and hold harmless the Commonwealth of the Northern Mariana Islands and its officers, employees, agents, agencies, and departments from all allegations, claims, actions, suits, demands, damages, liabilities, obligations, losses, settlements, judgments, costs and expenses, including attorney fees, which arise out of, relate to, or result from any act or omission of the permittee while occupying or using a structure pursuant to a conditional certificate of occupancy. The conditional certificate of occupancy shall establish a specific time period in which the conditions apply. Under no circumstances shall a conditional certificate of occupancy extend for a time period of longer than six (6) months. Prior to the expiration of the time period set forth on the conditional certificate of occupancy, the Building Safety Official shall perform a final inspection and either issue a certificate of occupancy or refuse to issue a certificate of occupancy in accordance with § 155-10.1-330. If the permittee violates the conditions of the conditional certificate of occupancy, the Building Safety Official shall immediately revoke the conditional certificate of occupancy with no further requirement of notice to the permittee.

§ 155-10.1-305 Alterations

No building or structure hereafter enlarged or extended, or so altered, ~~wholly or in part~~, so as to change its classification or occupancy shall be occupied or used until, ~~in whole~~

~~or in part~~, a certificate of occupancy has been issued by the building safety official certifying that the work for which the permit was issued has been completed in the portion of the structure subject to the occupancy or use in accordance with the provisions of the Safety Code and the regulations in this subchapter; provided, that if the occupancy or use of such building was not discontinued during the work of alteration, the occupancy or use of said building or structure shall not continue for more than thirty days after completion of the alteration unless such certificate shall have been issued.

§ 155-10.1-315 Changes

(a) No change of occupancy shall be made in a building or structure hereafter erected or altered inconsistent with the last issued certificate of occupancy, unless a new certificate of occupancy is issued. No change of occupancy of a building or structure, shall be made, unless the building safety official finds, upon inspection, that such building or structure, or portion of such building or structure to be occupied, conforms substantially to the provisions of Safety Code with respect to the proposed new occupancy, and issues a certificate of occupancy thereof.

(b) The occupancy of a building shall not be deemed to have been changed because of a temporary vacancy or change of ownership or tenancy. The re-establishment in a building, after a change of occupancy has been made, of a prior use that would not have been permitted in a new building of the same type of construction is prohibited. The change from a specifically prohibited use to another specifically prohibited use shall not be made.

§ 155-10.1-320 Application

Any person desiring a certificate of occupancy as hereinabove required shall after completion of the work as a whole or for a portion of the structure to be used or occupied for which a building permit was issued, file with the building safety official a signed application therefore on a form furnished by the building safety official stating, in writing, that the work has been completed, in that portion of the structure to be used or occupied, in compliance with the applicable terms of the building permit and the requirements of the Safety Code and the regulations in this subchapter.

§ 155-10.1-325 Final Inspection

The building safety official, upon receipt of an application for a certificate of occupancy, shall promptly inspect or cause to be inspected the construction, enlargement, alteration, repair, conversion, movement, or improvement of the building, structure or appurtenances, or the installation of equipment for which a building permit was issued, in order to ascertain whether the proposed work has been completed in accordance with the requirements of the building permit and the provisions of the [Safety] Code and of the regulations in this subchapter for that portion of the structure that is to be occupied or used.

§ 155-10.1-330 Issuance or Denial

(a) If after inspection as provided in § 155-10.1-325, it is found that the proposed work has been completed in accordance with the requirements of the building permit,

and the provisions of the Safety Code and the regulations in this subchapter, **for that portion of the structure which is to be used or occupied**, the building safety official shall issue a certificate of occupancy. The building safety official shall keep a permanent record of all certificates of occupancy issued.

(b) If after inspection, as provided in § 155-10.1-325, it is found that the proposed work has not been completed in accordance with the building permit and the terms of the Safety Code and these regulations, **for that portion of the structure which is to be used or occupied**, the building safety official shall not issue an occupancy permit and shall order the work completed in compliance with the building permit, the Safety Code, and these regulations.

(c) The building safety official may issue a temporary use permit for any portion(s) of the premises which may be safely occupied prior to the issuance of a certificate of occupancy.