STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU
LEGISLATIVE BUILDING
401 S. CARSON STREET
CARSON CITY, NEVADA 89701-4747
Fax No.: (775) 684-6600

RICK COMBS, *Director*
(775) 684-6800

LEGISLATIVE COMMISSION (775) 684-6800
NICOLE J. CANNIZZARO, *Senator, Chair*
Rick Combs, *Director, Secretary*

INTERIM FINANCE COMMITTEE (775) 684-6821
MAGGIE CARLTON, *Assemblywoman, Chair*
Cindy Jones, *Fiscal Analyst*
Mark Krmpotic, *Fiscal Analyst*

BRENDA J. ERDOES, *Legislative Counsel* (775) 684-6830
DANIEL L. CROSSMAN, *Legislative Auditor* (775) 684-6815
MICHAEL J. STEWART, *Research Director* (775) 684-6825

August 21, 2019

Mr. Charles Donohue
Administrator and State Land Registrar
Nevada Division of State Lands
901 South Stewart Street, Suite 5003
Carson City, Nevada 89701

Re: LCB File No. R167-18

Dear Mr. Donohue,

A regulation adopted by the State Land Registrar has been filed today with the Secretary of State pursuant to NRS 233B.067 or 233B.0675 as appropriate. As provided in NRS 233B.070, this regulation becomes effective upon filing, unless otherwise indicated.

Enclosed are two copies of the regulation bearing the stamp of the Secretary of State which indicates that it has been filed. One copy is for your records and the other is for delivery to the State Library and Archives Administrator pursuant to subsection 6 of NRS 233B.070.

Sincerely,

Erin R. Sturdivant
Senior Deputy Legislative Counsel

Heidi A. Chlarson
Senior Principal Deputy Legislative Counsel

Brenda J. Erdoes
Legislative Counsel

ERS/slj
Enclosure

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August 21, 2019

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Nevada Division of State Lands
901 South Stewart Street, Suite 5003
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Enclosure

Nevada Division of
STATE LANDS

STATE OF NEVADA
Department of Conservation & Natural Resources
Steve Sisolak, Governor
Bradley Crowell, *Director*
Charles Donohue, *Administrator*

Date: August 26th 2019

To: State Library and Archives Administrator

From: Charles Donohue, Administrator and State Land Registrar

Re: LCB R167-18 / Modified adopted regulations regarding application fees and a new fee schedule for structures that occupy sovereign lands

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Pursuant to subsection 6 of NRS 233B.070, enclosed please find an executed copy of the above regulations bearing the seal of the Secretary of State.

SECRETARY OF
STATE FILING
DATA

FILED

AUG 21 2019

SECRETARY OF STATE
ELECTIONS DIVISIONS

Form For Filing
Administrative Regulations

Agency: DEPARTMENT OF CONSERVATION
AND NATURAL RESOURCES
DIVISION OF STATE LANDS

FOR EMERGENCY
REGULATIONS ONLY

Effective date _____

Expiration date _____

_____
Governor's signature

Classification: **ADOPTED BY AGENCY**

Brief description of action: The adopted Regulation modified the fees for consideration of applications for the use of State Lands and modified the fee schedule for structures that occupy sovereign lands.

Authority citation other than 233B: SB 512, CHAPTER 366, 79TH SESSION 2017; NRS 322.100, NRS 322.110, NRS 322.120

Notice date: AUGUST 17, 2018

Date of Adoption by Agency

Hearing date: SEPTEMBER 21, 2018

SEPTEMBER 21, 2018

APPROVED REGULATION OF THE

STATE LAND REGISTRAR

LCB File No. R167-18

Effective August 21, 2019

EXPLANATION – Matter in ***italics*** is new; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: §§1 and 4-7, NRS 322.170; §2, NRS 322.100, 322.110 and 322.170; §3, NRS 322.100, 322.120 and 322.170.

A REGULATION relating to state lands; establishing application and certain annual use fees for state lands; requiring an application for the use of state lands be on a form provided by the Division of State Lands of the State Department of Conservation and Natural Resources; setting forth certain procedures for the State Land Registrar upon receipt of such an application; repealing certain duplicative regulations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Before the 2017 Legislative Session, application and certain annual use fees related to the use of state lands were set forth in NRS 322.110 and 322.120. Senate Bill No. 512 eliminated the amounts of these fees and required instead that the State Land Registrar establish these fees by regulation. (Chapter 366, Statutes of Nevada, pp. 2256-57) **Section 2** of this regulation establishes these application fees for the use of state lands. **Section 3** of this regulation establishes these annual use fees for the use of state lands associated with navigable bodies of water.

Section 4 of this regulation provides that a person must submit any application to use state lands on the form provided by the Division of State Lands of the State Department of Conservation and Natural Resources. **Section 5** of this regulation sets forth certain procedures for the State Land Registrar upon receipt of such an application.

Section 6 of this regulation clarifies that the State Land Registrar must consider certain factors in determining whether to issue an authorization associated with a navigable body of water of this State.

Existing law authorizes the State Land Registrar to issue permits, licenses or other authorizations for any lawful use of state lands or lands associated with a navigable body of

water. (NRS 322.100, 322.120, 322.170, 445A.170) **Section 7** of this regulation removes certain duplicative language from the Nevada Administrative Code.

Section 1. Chapter 322 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. ***Except as otherwise provided in NRS 322.063, 322.065 and 322.110, an application for an authorization or any other permit, license, lease, easement, right of entry or document issued by the State Land Registrar for uses of state lands submitted pursuant to NAC 322.160 must be accompanied by the following nonrefundable fee for the consideration of the application:***

1. For the issuance of an authorization or any other permit, license, lease, easement, right of entry or document for:

(a) Any commercial use of state land other than an agricultural use, $500.

(b) Any agricultural use of state land, $300.

(c) Any other use of state land, $250.

2. For the amendment of an authorization or any other permit, license, lease, easement, right of entry or document for:

(a) Any commercial use of state land other than an agricultural use, $150.

(b) Any agricultural use of state land, $100.

(c) Any other use of state land, $75.

Sec. 3. *1. The State Land Registrar shall charge and collect the following annual use fees associated with a navigable body of water of this State:*

	FY 2020	*FY 2021*	*FY 2022*
The commercial use of a pier	*$500*	*$1,000*	*$1,500*
The multiple residential use of a pier	*250*	*500*	*750*
The single residential use of a pier	*250*	*500*	*750*
Any other use of a pier	*250*	*500*	*750*
The commercial use of a mooring buoy or similar device for mooring vessels	*200*	*275*	*350*
Any other use of a mooring buoy or similar device for mooring vessels	*100*	*175*	*250*

➥ ***The fees set forth in this subsection for Fiscal Year 2022 are effective for that fiscal year and each fiscal year thereafter.***

2. In addition to the fees collected in subsection 1, the State Land Registrar shall charge and collect the following annual use fees associated with a navigable body of water of this State:

(a) Except as otherwise provided in subsection 2 of NRS 322.120, for the commercial use of a boat hoist, boat house, boat ramp, boat slip, deck or a similar device or structure, $250.

(b) Except as otherwise provided in subsection 2 of NRS 322.120, for the residential use of a boat hoist, boat house, boat ramp, boat slip, deck or a similar device or structure, $200.

(c) For the use of a string line for not more than 12 personal watercrafts, $250.

(d) For a swim line, $150.

(e) For any use of a boat-fueling facility, $500, which is in addition to the fee for the use of a pier provided in subsection 1.

Sec. 4. NAC 322.160 is hereby amended to read as follows:

322.160 1. An applicant for an authorization ***or any other permit, license, lease, easement, right of entry or document*** must submit a properly completed application to the State Land Registrar ~~[.]~~ ***on the form provided by the Division of State Lands of the State Department of Conservation and Natural Resources.***

2. If the State Land Registrar does not accept an application, the State Land Registrar will notify the applicant of any deficiency when he or she returns the application to the applicant for compliance.

Sec. 5. NAC 322.170 is hereby amended to read as follows:

322.170 1. An application ~~[for an authorization]~~ ***submitted pursuant to NAC 322.160*** must be stamped with the date and time of filing with the State Land Registrar.

2. Except as otherwise provided in subsection 4, within 14 days after receiving a complete application, the State Land Registrar will send notice of the application and a request for comments or objections to:

(a) Owners of adjacent property;

(b) Homeowners' associations and general or special improvement districts which may be affected by the ~~[authorization;]~~ ***application;***

(c) Governmental bodies which the State Land Registrar determines should be notified; and

(d) Persons who have informed the State Land Registrar of their desire to be so notified.

3. Except as otherwise provided in subsection 4, the State Land Registrar will consider comments or objections concerning an application only if they are:

(a) Submitted in writing; and

(b) Except as otherwise provided in this paragraph, received by the State Land Registrar within 30 days after the notice of application and request for comments or objections has been given. The State Land Registrar may modify the time frame for the receipt of objections and comments concerning an application if the State Land Registrar determines that such a modification is in the best interests of the public. Upon request, the State Land Registrar may grant an extension of not more than 15 days for the submission of objections or comments.

4. The State Land Registrar may waive the requirements of subsections 2 and 3 for applications for a permit if:

(a) The location of the structure that is the subject of the permit has not changed since the last permit was issued;

(b) The ownership of the adjacent littoral parcels has not changed since the last permit was issued; and

(c) The permittee has adhered to all of the conditions of the permit.

Sec. 6. NAC 322.190 is hereby amended to read as follows:

322.190 In determining whether to issue an authorization ~~[,]~~ ***associated with a navigable body of water of this State,*** the State Land Registrar will consider, without limitation, the following factors:

1. The location and density of existing piers, breakwaters, mooring buoys, water intake lines and other structures;

2. The effect of granting the authorization upon the stability of the shoreline;

3. The overall environmental integrity and recreational quality of the area in which the proposed structure or activity is to be located or will take place, including factors such as noise, visual esthetics, recreational potential and impacts to the quality of water;

4. The potential interference with navigability;

5. Conformance with any applicable requirements of law, regulation and policy;

6. The impacts to adjacent property owners;

7. Any environmental studies of the proposed use, if applicable;

8. The location or availability of existing use corridors; and

9. The private benefit to be obtained versus any loss of public benefit.

Sec. 7. NAC 322.150 is hereby repealed.

TEXT OF REPEALED SECTION

322.150 Purposes for which authorization may be issued; temporary authorization; types of uses. (NRS 322.100, 322.170; NAC 445A.044)

1. The State Land Registrar may issue authorizations for:

(a) Uses of land associated with the navigable bodies of water of this State; and

(b) The purposes of NRS 445A.170.

2. The State Land Registrar may issue a temporary authorization for dredging or construction, placement of structures, or similar activities on land associated with the navigable bodies of water of this State.

3. The types of uses for which authorizations may be issued pursuant to this section include, without limitation, agricultural use, commercial use, industrial use, municipal use, residential use, multiple use, construction and dredging.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY NRS 2338.066
LCB FILE 167-18

1. A clear and concise explanation of the need for the adopted regulation.

SB512, Chapter 366, 79th Session required the State Land Registrar to establish certain fees by regulation for the use of state lands, revise provisions relating to the accounting and use of the proceeds of certain fees for the use of state lands, and provide other matters properly relating thereto.

Fees for the use and occupancy of public lands under navigable bodies of water were set in statute in 1993 and have not changed in 25 years. The adopted regulations enable the State Land Registrar to modify fees and make them current. They also move fees for the application for and use of state lands from statute (NRS 322) to regulation.

2 A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

From October 2017 to September 2018, the Nevada Division of State Lands (NDSL) solicited public comments through five public workshops and a public hearing held at the following times and locations:

- Laughlin Library, October 25th, 2017 at 4:00 pm
- Laughlin Library, October 25th, 2017 at 10:00 am
- Incline Village Library, November 29th, 2017 at 11:00 am
- Douglas County Library (Lake Tahoe Branch), November 29th, 2017 at 4:00 pm
- Incline Village Library, September 13th, 2018 at 12:30 pm
- Incline Village Library, September 2l5t, 2018 at 12:00 pm

Notices were posted on the NDSL website (http://lands.nv.gov/),the Legislative Counsel Bureau's site (https://www.leg.state.nv.us /), and the State of Nevada's Official site (http://nv.gov/). NDSL also sent notices by U.S. mail to all permittees, stakeholders, and state and regulatory agencies who were known to have an interest in the subject of the proposed fee increases. In addition, NDSL mailed notices for posting at libraries in all of Nevada's 17 counties and at the following locations:

Bryan State Office Building
901 S. Stewart Street
Carson City, Nevada 89701

Nevada State Library and Archives
100 S. Stewart Street
Carson City, Nevada 89701

Legislative Building
401 South Carson Street
Carson City, Nevada 89701

Tahoe Regional Planning Agency
128 Market Street
Stateline, Nevada 89449

Clark County Administrative Offices
101 Civic Way
Laughlin, Nevada 89028

Documents and the presentations provided at the workshops and public hearing were made available on NDSL's website, which was also used as a way to solicit public questions and comment.

As a result of NDSL's solicitation of public comment, NDSL received 30 written comments and heard oral comments. On August 1.6th, the State Land Registrar issued a Notice of Intent to Act Upon a Regulation. The proposed regulation incorporated public comments to reduce fees from the amounts originally presented in the proposed regulation, establish a predictable and straightforward fee schedule, maintain a fee difference between commercial and residential users, and phase-in fees over a period of time. At the September 21st public hearing, the State Land Registrar heard additional public comment and incorporated suggestions by adopting the regulation with modifications.

Minutes of each public workshop and the public hearing capture the discussions held regarding the adopted regulation. These may be obtained from the Nevada Division of State Lands at 901 S. Stewart Street, Suite 5003, Carson City, Nevada 89701, or by contacting Brenda Swart, State Land Agent at {775) 684-2735, or email bswart@lands.nv.gov.

3 The number of persons who:

(a) Attended a public workshop: October 25, 2017: 3
October 26, 2017: 1
November 29, 2017 (11:00 am): 5
November 29, 2017 (4:00 pm): 5
September 13, 2018 {12:30pm): 10

(b) Attended the public hearing: September 21,2018 (12:00pm): 13

(c) Provided public comment at the public hearing: September 21,2018: 7

(d) Submitted to the agency written comments: 30.

4 A list of names and contact information, including telephone number, email address and name of entity or organization represented, as provided to the agency, is attached as Exhibit A.

5 A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses in the same manner as solicited from the public. Minutes of each public workshop and the public hearing capture the discussions held regarding the adopted regulation, and may be obtained as instructed in the response to question #2.

In addition, NDSL reached out to business owners potentially affected by the updated fee schedule for the use of state land beneath navigable waters, and held one-on-one meetings with them. One comment was received from a business owner who operates several business around Lake Tahoe. The owner understood the reasons behind updating the fee schedule, but felt that commercial and residential structures should be priced the same. The owner also stated that in order to have a successful business you must know what expenses to expect. The State Land Registrar incorporated this comment into regulation by stair stepping fee increases over a period of three years. The State Land Registrar also set the fees to take effect July 1, 2019, in order to provide an additional nine months for permittees to prepare for the first step of the fee increase.

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The permanent regulation was adopted on September 21, 2018, and included changes in response to public comments received throughout the rulemaking process as well as during the public hearing.

7. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:

Adverse and beneficial effects:

NDSL recognizes there will be some economic effect to businesses and lakefront property owners who have piers, buoys and other structures that occupy public lands. The main reason for the effect is that the fee schedule had not been adjusted in twenty five years and so was under-valued. The State Land Registrar consulted with business owners, such as marina owners, concessionaires and consultants, about how the updated fee schedule might affect them. The outcome was that the impact would be minimal;owners have the capacity to adjust their operations to offset the proposed increase. The majority of users that would potentially be affected by the updated fee schedule operate or reside near Lake Tahoe. With the high demand of boat mooring rental space around the lake and waiting lists that expand one to two years out, the business owners felt that the proposed increase would not be significant enough to impact their businesses.

The private use of public land has an impact to the public; the adopted fee schedule begins to move toward adequate compensation to the public from the private occupancy and use of public lands primarily at Lake Tahoe and on the Colorado River in Southern Nevada. SB 512 mandates the additional funds collected from fees which exceed $65,000 in any fiscal year be accounted for separately and used by the State Land Registrar to carry out programs to preserve, protect, restore and enhance the natural environment of the Lake Tahoe Basin. This additional funding will support existing programs that provide substantial public benefits as well as benefits to businesses and littoral property owners that rely on and benefit from Lake Tahoe.

Both immediate and long-term effects:

In the short-term, the adopted fee schedule will affect businesses and littoral property owners who own piers, buoys, and other structures occupying public lands. However, through incorporating suggestions heard during public comment, this effect will be lessened by setting the fees to take effect July 1, 2019, in order to provide an additional nine months for permittees to prepare for the first step of the fee increase. Also, the increase will be phased-in over a 3-year period so users can accommodate the new fee structure into their operating and maintenance budgets.

In the long term, the effect of the adopted fee schedule will be to improve the natural environment of the Lake Tahoe Basin. It is estimated that the fee schedule on the third year will create an additional $425,950 in funding,which will be dedicated to projects that improve the Tahoe's air, land, and water quality. Over time, the additional funding generated to support existing environmental improvement programs will generate substantial public benefits.

8. The estimated cost to the agency for enforcement of the proposed regulation.

With the adopted regulation, NDSL does not expect to incur any additional enforcement costs. NDSL has agreements in place with partnering public agencies to assist with enforcement.

9. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

This regulation addresses the occupancy and use of sovereign lands under navigable waters and the fees that are associated with that use. The proposed regulation does not overlap or duplicate any regulation of other state, local or federal governmental agencies.

10. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

Not applicable.

11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner inwhich the money will be used.

NRS 322.100 grants the State Land Registrar the authority to charge a fee for the issuance of a permit and other land use and occupancy authorizations. NRS 322.120 established the fees for the use of sovereign land. SB 512, Chapter 366, 79th Session 2017, authorized the review and establishment of a new fee schedule, recognizing fees are undervalued and require modification. A fee schedule was established for the use of sovereign land in 1993, and had not been adjusted in 25 years. On September 21, 2018, the State Land Registrar adopted an updated fee schedule after extensive research, in-house market evaluation, public input and an independent appraisal.

The State Land Registrar will stair step the adopted fee schedule over a period of 3 years. SB 512 requires that funds collected in excess of $65,000 in any fiscal year must be accounted for separately and used by the State Land Registrar to carry out programs to preserve, protect, restore and enhance the natural environment of the Lake Tahoe Basin. NDSL anticipates collecting $425,950 during the third year of the fee increase. These funds will be used to carry out environmental improvement programs that will provide substantial benefits to businesses and the public that rely on and benefit from Lake Tahoe.

EXHIBIT "A"

Name	Agency	Phone Number	Email address
Public Workshop held on October 25, 2017 @ Laughlin Library, Laughlin Nevada (3 attendees)			
Jim Maniaci	LEDC/LTAB	505-879-3142	jimmaniaci@centurylink.net
Brian Paulson	LTMO	702-298-0828	bkp@clarkcountynv.gov
Alex Knaak	Nevada State Parks	760-898-5638	alexknaak@gmail.com
Public Workshop held on October 26, 2017 @ Laughlin Library, Laughlin Nevada (1 attendee)			
Robert P. Bilbray	LEDC	702-398-3360	RPB@Bilbrayindustries.com
Public Workshop held on November 29, 2017, from 11am til 1pm @ Washoe County Library, Incline Village, NV (5 attendees)			
Jeff Ostomel		775-846-8090	jostomel@sbcglobal.net
Donald Mason		702-370-2650	dmasonjr@yahoo.com
Robert Lober		775-843-7908	rlobert59@gmail.com
Drew Briuer		775-843-3115	drew@infostations.com
Dale Denio		775-250-4283	tahoe4dale@yahoo.com
Public Workshop held on November 29, 2017 from 4 pm til 6 pm @ Douglas County Library, Zephyr Cove, NV (5 attendees)			
James Nunnally		775-588-6102	mtnsea@aol.com
Bob Hassett		775-720-2943	wtrsQt@charter.net
Mollie Hurt	Tahoe RCD	530-721-7495	mhurt@tahoercd.org
Gary Midkiff	Midkiff & Assoc	775-588-1090	gary@midkiffandassoc. com
Cameron Mckay	KGID	775-588-3548	cam@kgid.org
Public Workshop held on September 26, 2018 from 12:30 pm til 2:00 @ Washoe County Library, Incline Village, NV (11 attendees)			

Mike Lacey		775-298-7650	mlacey252@gmaii.com
Nyamsuren Uudus		775-298-7650	Unyamsuren@yahoo.com
Steven Kroll		775-831-6750	tahoelakefront@yahoo.com
Jan Brisco	TLOA	530-583-5253	jan@ janbrisco.com
Pete DiGrazia	ZCPOA	775-750-6358	psdigrazial@alt.net
Bob Hassett		775-720-2943	wtrspt@cha rter.net
Susan & Carlton Buckley			charltonbuckley@charter.net
Scott Jones		775-781-0757	stonehself@charter.net
Stu Yount		775-843-0486	syount@gaviotacapital.com
Geri Yount		775-742-1010	Geri@gaviotacapital.com

Public Hearing held on September 21, 2018, from 12 pm til 2:00 pm @ Washoe County Library, Incline Village, NV (13 attendees)

Fred Jones		775-741-3686	hefWjones@charter.net
Mikie Hempler	ZCPOA	775-690-3089	mhempler@gmail.com
Chris Stone		530-550-9008	chrishstone@me.com
Steven Kroll		775-410-9715	tahoelakefront@mac.com
JoAnn Kittrell		775-684-2714	jkittrell@dcnr.nv.gov
Jan Brisco	TLOA	530-583-5253	jan@ janbrisco.com
Josh Morrow		916-233-7303	josh@greenfrontmo rtage.com
Barbara Jones		775-427-4050	
Geri Yount		775-742-1010	Geri@Gaviotacapital.com
Stu Yount		775-843-0486	Syount@gaviotacapital.com .
Jeanette Morrow		775-427-4752	geojeanmorrow@gmail.com
Todd Lowe	TLOA	775-831-7768	todd@loweharbor.com
Nyamsuren Uudus		702-596-2137	mongolianinterpreter@gmail.com