

Fact Sheet

Title: Commercial Recreation Facility Leases

What is a commercial recreation facility?

Commercial recreational facilities include “lodges, resorts, and other tourism and recreation-related facilities” that require a lease for authorization on state land. They do not include facilities that are constructed to last one year or less (i.e. temporary tent camps) nor recreational facilities that are associated with private rather than commercial use (i.e. docks adjacent to private cabins).

How can I lease land for a recreational facility?

There are two process for leasing state land for commercial recreational facilities – one process is described by Alaska Statute (AS) 38.05.073, the other by AS 38.05.070 and .075.

What is the difference between the processes?

The .070/.075 process is simpler and faster than the .073 process, but it offers the state less flexibility in choosing the lessee and in structuring lease payments. It is generally suited to small projects with few anticipated impacts. The .073 process is longer, but it allows alternative proposals for a particular lease, requires more public involvement in reviewing the proposed lease, and offers the state more choices for structuring payments on the lease. The .073 process is generally suited to large projects, which are likely to have significant impacts on surrounding areas.

Who decides which process will be used?

The regional manager will determine which process is appropriate, and identify the process in the preliminary decision for the proposed lease.

What state land can be leased for a recreational facility?

Under either the .070/.075 process or the .073 process, land suitable for recreational facilities development must be identified through a land

use plan. The first step is to find out if the area you are interested in has a state land use plan. If so, check to see if the plan identifies the land as suitable for leasing for recreational facilities – does the plan allow for new recreational facilities, is a plan amendment necessary before the Department of Natural Resources (DNR) can proceed with either leasing process? Contact DNR at one of the offices listed on the reverse side to apply for a lease, or to get more information on plan amendments.

If the .073 process will be used, a plan must also “expressly allow the specific type of development under consideration”. If the plan does not expressly allow this, a plan amendment or special exception is required, or the .070/.075 process must be used instead of .073.

What happens next in the .070/.075 process?

For more information on the .070/.075 leasing process, see the Fact Sheet “Leasing State Land”.

What happens next in the .073 leasing process?

If the proposed development is expressly allowed in a land use plan, DNR can proceed with the .073 leasing process. The first step is to invite public review of DNR’s intent to solicit lease proposals. If DNR decides to proceed with a lease, it then advertises a written request for proposals, and criteria for applying. If more than one qualified application is received, an auction is held. The high bidder wins the right to negotiate a lease after paying a fee and making an earnest-money deposit. If only one qualified application is received, that applicant can negotiate a lease after paying the fee and deposit. The department then negotiates terms and conditions for the lease. The negotiating process gives state agencies, affected communities, and the general public a

voice in determining how the lease will be developed. A final decision to issue a lease is not made until most project details are established and reviewed by the agencies and the public.

How does the state make sure the developer is qualified for a .073 lease?

The department can impose eligibility standards, including proof of the developer's financial backing and capability, experience in this type of development, ability to meet bonding or insurance requirements, and ability to comply with resource and environmental analysis requirements.

How can the public be sure that the developer will pay a fair price for the lease?

AS 38.05.073 provides a choice of payment methods. The department can require payment of a percentage of the lessee's annual gross receipts; either a guaranteed annual rental or a percentage of gross receipts, whichever is higher during the payment period; the appraised fair market rental value; a fixed annual rent not less than the fair market rental value; a fee per user, another method acceptable to the department or a combination of these methods. The choice will depend on the circumstances of the particular lease.

What about inflation?

The lease compensation will be re-evaluated and adjusted at five-year intervals for leases under AS 38.05.073.

What guarantees that the public won't be stuck with the cost of an unfinished project?

Before construction begins, the department can require the developer to carry out economic feasibility studies or other plans to confirm that there is a market for the facility. The developer must post a bond large enough to complete the development, maintain the developed facility, and/or restore the lease site.

For additional information contact:

Department of Natural Resources
Division of Mining, Land & Water

Southcentral Regional Office

550 West 7th Avenue, Suite 900-C
Anchorage, AK 99501
Phone: 907-269-8552
Fax: 907-269-8913

Southeast Regional Office

400 Willoughby Avenue, 4th Floor
Juneau, AK 99801
Phone: 907-465-3400
Fax: 907-586-2954

Northern Regional Office

3700 Airport Way
Fairbanks, AK 99709
Phone: 907-451-2705
Fax: 907-451-2706