

DECREE No. 78-2009

The President of the Republic

Making use of the powers under the Constitution

HE HAS GIVEN

The following:

DECREE

**REGULATION OF THE LAW N ° 690
"LAW FOR THE DEVELOPMENT OF COASTAL AREAS"**

**CHAPTER 1
GENERAL PROVISIONS**

Article 1 - The present decree is to establish the regulations for the implementation of Law No. 690 "Law **For the Development of Coastal Areas** ", published in the Official Gazette No. 141 on July 29, 2009.

Article 2 - For the purposes of these rules, shall apply:

CLIFF: Landform slope that is greater than sixty degrees steep or vertical. Usually when referring to cliff on the coast, but it can also be considered such as those located in mountains, faults and riverbanks.

AMUNIC: Association of Municipalities of Nicaragua.

ARCHIPELAGO: A group, usually numerous, of clustered islands over a more or less located in lakes, seas and oceans.

LEGALLY ACQUIRED RIGHTS: They include those rights acquired under the law for individuals or corporations, whether domestic or foreign, on properties located in the coastal zone prior to the enactment of the law. These rights are recognized as such and the State of Nicaragua cannot deny, repeal, ignore or give less favorable terms to existing owners of plots or farms in coastal areas of public or restricted use.

CDZC: National Commission for Development of Coastal Areas.

CONIMIPYME: Nicaraguan Council of Micro, Small and Medium Enterprises.

COSEP: Superior Council of Private Enterprise.

TECHNICAL OPINION: Technical Instrument issued by the CDCZ or SERENA that rate the territorial, social, environmental, tourism and economic matters.

REGULATION: The present rules of law for the development of coastal areas.

EN: Army of Nicaragua.

ESTERO: narrow and shallow channel through which tides entering and leaving a river. Generally run parallel or sub parallel to the coastline and the several rivers that can be connected by the same stream.

FARALLON: Rocky promontory that overlooks the sea near the coastline, caused by the erosive action of waves on the softer parts of a cliff. When a vertical coastal cliff is a huge issue then is called bluff.

INETER: Nicaraguan Institute of Territorial Studies.

SOCIAL INTEREST: The primacy of the interests of the community over the individual interest, depending on use and features of coastal areas.

INTUR: Nicaraguan Institute of Tourism.

ISLAND: Land area of variable extension, located in seas, rivers and lakes.

LAW 690: Law for the Development of Coastal Areas.

TIDE: The rise and fall rhythmically alternating the ocean surface (or water level) and water bodies connected with the ocean, such as estuaries, bays and channels, which occur twice a day on most Earth, and which result from the gravitational pull of the moon and to a lesser degree of the Sun, acting unequally on different parts of the rotating Earth.

MARENA: Ministry of Environment and Natural Resources.

MARINE TOURISM: Marine recreational facilities, located in a portion of the coast and sea.

MTI: Ministry of Transport and Infrastructure.

URBAN CENTER: Area physically located, establishing a population doubling own patterns and the inhabitants are linked by common interests in economic, social, cultural and historical

levels of basic service infrastructure, equipped with the basic level of social facilities , educational, health and recreation. These are determined by the Plans and Land Development Ordinance of the Municipal Governments and Regional Councils.

PN: National Police.

RAAN: North Atlantic Autonomous Region.

RAAS: South Atlantic Autonomous Region.

SERENA: Secretary of Natural Resources of Regional Governments.

SINAP: National System of Protected Areas.

LANDSCAPE VALUE: The value assigned to each unit of each landscape and landscape resources for environmental, social, cultural or visual. This value is set according to the landscape quality, preferences of the population and visibility.

CHAPTER II COASTAL AREA MANAGEMENT

Article 3 - The Urban Development Plan in coastal areas, as other urban area of the municipality, will be part of the Municipal Plan and Land Development Ordinance. INETER in coordination with the institutions that make up the National Commission for Development of Coastal Areas must advise the municipal government to develop this plan.

Article 4 - The INETER, should contribute to scientific research and technological contributions, establishing a process that involves mapping, climate, water resources, geology and threats studies, for which it will create a database for collecting, organizing, managing and disclosing of coastal areas.

Article 5 - For the CDZC can issue the technical advice, provided in Article 31 of the Act, and determine access to coastal areas as an easement for public use, municipal or regional government, where appropriate, must ensure achieving the necessary land surveys and submit them for review and approval with the relevant Physical Cadastral Office of INETER for all purposes of the Act.

In the same terms stated in the paragraph above, individuals or owners of tourist projects must participate, while observing what is regulated in Law No. 509, National Cadastral General Act and the Regulations published in La Gaceta, Diario Oficial, No. 11 of January 17, 2005, on completion and approval of survey plans.

Article 6 - The CDZC in preparing development plans of the Coast and Coastal Areas, will take into account cadastral information of coastal areas that INETER records by way of the Department of Physical Cadastre or run the technical work of needed topography, in coordination with municipal or regional governments, where appropriate, to update the cadastral information that will be required as input in determining the coastal areas for all purposes of the Act.

Article 7 - The National Commission for Development of Coastal Areas (CDZC) will appoint a representative and an alternate for each institution or profession. The representatives and their respective alternates shall be officials with decision-making powers. Members must show their representation by means of official communication.

Article 8 - Owners or alternate representatives of institutions on the Committee will excuse themselves from participating, when they have ties, economic interests or own shares, contractual relationships with companies or economic units or foreign Nicaraguans engaged in activities related to the topic under discussion.

Article 9 - INTUR in accordance with Articles 11 and 61 of the Act will establish the necessary technical and administrative bodies to implement the functions of the CDZC.

Article 10 - The operation of the CDZC be governed in accordance with the following provisions:

1. The quorum for regular or special sessions shall be established with the presence of eight of its members.
2. Decisions will be taken by simple majority vote, or half plus one of the members present.
3. Regular sessions are held at least once a month.
4. Special sessions will be conducted at the request of INTUR or at least four members of CDZC duly substantiated.
5. Not be made regular or special sessions without the presence of a representative member of INTUR or its delegate.
6. Not be referred to the committee, the opinion of grant or easement for public use in regular or special meetings in the absence of representative of the municipality covered by the opinion.
7. The CDZC have forty-five working days from receipt of the application and the documentation required in the Executive Secretariat to issue a binding opinion.
8. During the sessions CDZC members may be accompanied by officials of the institution to be advised in making decisions.
9. The opinions of the CDZC will be analyzed and resolved on the basis of legal, technical, environmental and financial criteria.

10. The CDZC establish the format of technical opinion.

11. Minutes shall be kept of all the decisions of CDZC, which contain at least the following information:

- a. Checking the quorum set.
- b. Description of Agenda of the meeting.
- c. If grant or easement for public use, data from the request made by the local council.
- d. The expert opinion must include at least the following elements:
 1. Executive summary of the application
 2. Legal, technical, environmental and financial considerations.
 3. Conclusions and recommendations.
- e. All agreements reached in the decisions.
- f. Signature of CDZC members.

Article 11 - To ensure inter-agency coordination, the CDZC will appoint an Executive Secretary based on proposals from its members.

Article 12 - The Executive Secretary shall have the following functions within the CDZC:

- a) Serve as a medium of communication between members of CDZC and INTUR;
- b) Receive the documentation, reports and communications to Coordination Committee and / or CDZC;
- c) Convene regular or special sessions;
- d) Prepare agendas of invitations to meetings;
- e) To forward the opinions and documents relevant to the application, with at least five working days prior to the meeting for members of CDZC;
- f) Prepare the minutes with resolutions;
- g) To present the annual activity report of the CDZC;
- h) Demonstrate to the Commission of cases arising in the course of their duties, general information of the application, executive summary of the case, conclusions of legal, technical, environmental and economic advice reports compiled by institutions that apply and coordinated by the INTUR;
- i) Organize and keep the Minutes with the resolutions agreed upon by the CDZC in chronological order and duly signed by the participating members;
- j) Issue the certifications of the Minutes;
- k) To notify the certified decision to the municipality for a term not exceeding five working days after issuance.
- l) To participate in all meetings of the CDZC with voice but no vote.

m) Such other functions as assigned by the CDZC.

CHAPTER III RECORD OF CONCESSIONS

Article 13 - Coastal municipal governments and / or regional governments must submit to the CDZC, digital and physical format, within the first three months of each year, the annual report of the register of grants issued by the municipality or autonomous region in the previous year. It also has to submit reports when requested by CDZC.

Article 14 - The report must contain at least the following information:

1. Names and general information by Law of the Grantee
2. Location of the grant;
3. Type of grant
4. Brief description of activity.
5. Amount of investment.
6. Jobs to be created.
7. Period issued to the Grantee;
8. Annual grant fee
9. Appendices (maps, photos and other documentation considered relevant)

The CDZC may apply to municipal governments and / or regional information required to include in the report.

CHAPTER IV COASTAL ZONE AND ITS LIMITS

Article 15 - In the coastal zone for public use, it is prohibited to cut trees, pour or throw any kind of waste, change the topography or perform any action that disturbs the ecological balance and landscape of the coastal zone.

Article 16 - The coastal municipalities' previous opinion of CDZC, will identify and mark areas of spa resorts in which motor vehicles may move for recreational purposes or as a means of access, prevailing physical integrity of persons who use the area for public use.

The deadline for issuing this opinion is the same as issuing grants.

Article 17 - Ensuring respect for the rights legally acquired land adjacent to the area for public use and restricted the transmission of which does not affect their area, under the title of ownership.

Article 18 - In the coastal zone for public use, constructions of any kind are not permitted, respecting the existing buildings at the entrance to enforcement of the Law. Exception allowed for the construction of works, where they hold the records of land use permit, building permits and environmental impact study provided that they had been approved before the entry into force of the Law

Article 19 - In cases in which a person requests the demarcation, municipalities may charge a fee for this service which shall be fixed by municipal and regional councils.

Article 20 - To implement the survey and demarcation of the Coastal Act that orders in its Articles 18 and 21, the Municipal or Regional Government should coordinate with INETER that guarantees cadastral surveys and / or technical guarantees of surveying implemented in coastal areas of their respective territorial constituencies for the purposes of the law.

Article 21 - INETER must maintain an updated file of documents and drawings of the demarcations of the public domain with identity cards, which may be replaced by a computerized system to handle sensitive database that will contain the locations and types of goods in it. In each service boundary of coastline provide a copy to the municipality concerned and the CDZC, which may be replaced by a computer link with the database mentioned above.

Article 22 - Throughout the process of delimitation and demarcation of the Seaside City Hall is empowered to make or execute, even on private land, data collection and labeling necessary, after notifying the person concerned.

CHAPTER V

THE USE OF THE COASTAL AREA AND PUBLIC USE EASEMENT

Article 23 - To guarantee the right of access to the coastal areas, CDZC in coordination with the City and the individuals, determine the location of the easement for public use. If no agreement is reached with the matter will proceed to the declaration of public utility in accordance with relevant legislation.

Article 24 - For the restoration of historical access to the beaches, the municipal governments in coordination with the INETER and MARENA, making a report that will draw on the testimony of witnesses, documentary, cadastral or other valid means of testing, all with the participation of the individual affected. With this information the City will request the technical opinion to be resolved to CDZC and will notify the individual concerned who shall have thirty days to present evidence to revoke all contained in the technical advice to CDZC. Once the probationary period is completed, it should be the decision made by the CDZC to resolve within eight days. The resolution may declare the request valid or null. The resolution will notify the individual affected and the municipality concerned, from this ruling may make use of the resources provided under

Law No. 40 " Municipalities Act, published in La Gaceta, Diario Oficial, No. 155 of August 17, 1988, and its amendment Act No. 261 published in La Gaceta, Diario Oficial, No. 162 of August 26, 1997.

CHAPTER VI GRANT SCHEME

Article 25 - Municipalities may not issue grants in areas of restricted use without technical opinion of the CDZC. By law, they do not issue grants in the area for public use.

Article 26 - The applications for grants. It is the responsibility of municipal governments and Regional Community Governments establish grant application forms. This form duly stamped and numbered will be purchased at the respective municipality counter at a cost of ten U.S. dollars or the equivalent in Córdoba.

Article 27 - The form must contain at least the following information:

1. Overview of the applicant as natural or artificial person, identity or residence documentation, in the case of foreigners.
2. The power or the accreditation of legal representatives where appropriate.
3. Project identification and type of grant requested.
4. Description of the land specifying the area and its exact location.
5. Amount of the investment proposed to run.
6. Jobs to be created in the implementation and operation of the project where appropriate.
7. Period for requesting the grant.
8. Period within which they will implement the project.

Article 28 - For the purposes of article 37 of the Act, persons who intend to obtain a grant of use, recreation or housing rights will produce, besides the documents mentioned in the same provision, the form with the specification of the terrain and location, brief description of the object or activity carried out on the property, financial capacity and source of resources, the duration of the grant is intended to be given, the time needed to run the project and use, the appropriate environmental endorsement of the Municipal Mayor and any other information required.

Article 29 - In the case of grants for commercial or tourist use, they must submit, in addition to the requirements of the law, the form with the specification of the terrain and location, financial capacity and source of resources, the duration of the grant intended to be issued, the time needed to implement its projects and operations, and any other necessary information.

Article 30 - Once the application is received by the respective Municipality or Regional Council, will be always permitted, provided that it meets the requirements and the information complete as required by the Act and this Regulation and send it to the CDZC for its expert opinion.

Article 31 - In the Autonomous Regions SERENA will have a term of forty-five working days to cast their expert opinion.

Article 32 - The municipal councils and regional community councils, once the technical opinion issued by SERENA and CDZC in accordance with the Law and these Regulations shall have to issue the relevant decision of approval or rejection of grants to interested parties within fifteen calendar days, extendable for a similar period for consideration by the respective councils, according to the nature and complexity of the case.

Article 33 - Persons having possession by lease of state land in the coastal area, whether recorded in written contract or by payment of rents, are granted preferential right and must comply with the requirements of law

In the case of applicants for licenses to leases, written or by action, with improvements built, will update the data form and the valuation of improvements for purposes of determining investment, and will be exempt from filing the bond or guarantee compliance.

Article 34 - Persons having possession of a ground lease of the state in mediating coastal real estate contract with improvements registered; it will proceed to the automatic awarding of the grant in accordance with the Law

Article 35 - Persons entitled to preferential treatment of grant referred to in Article 63 of the Act can make their application even before the expiration of their lease.

Article 36 - The grants are awarded through resolutions of the municipal or autonomous regional councils, which must be published in La Gaceta, Diario Oficial, formality and expense borne by the Grantee.

The resolutions of the Municipal Councils and / or Regional should be structured in a preamble and an operative part of which at least contain the following information:

1. Technical foundation and / or legal entity;
2. Name of applicant and type of grant requested;
3. Geographical location of the application area;
4. Description of activity.
5. Amount of investment
6. Grant period;

7. Amount of grant fee;
8. Jobs to be created.
9. And other things that the municipality considers appropriate to incorporate.

Article 37 - The allocation to the applicant shall submit a guarantee for the City Hall for the purpose of ensuring the implementation of the project under the application. The bond shall be one percent (1%) of the ratable value of the land to be issued in the grant.

Article 38 - The amount for the grant rights will be approved by the municipal councils advised by the National Cadastral Commission under the parameters set by the CDZC, which will be reviewed and / or updated annually.

Article 39 - The Grantee must enter into a Grant Agreement with the respective City Hall. To that end shall provide a bond or guarantee, a copy with the publication in the Official Gazette of the municipal or regional resolution and the official receipt stating the annual payment of grant.

Article 40 - The grant contract must contain at least:

1. Name and generals of Law of Grantee and / or accredited legal representative in case of an artificial person.
2. Background to the state domain.
3. Purpose of the grant and project description.
4. Amount of investment
5. Set-up deadline for home and project implementation.
6. Record of Bond or guarantee.
7. Term and renewal of the grant.
8. Obligations and prohibitions of the Grantee.
9. Rights of Grantee.
10. Causes of extinction, revocation of the grant or early termination.
11. Attachments that are part of the contract.

CHAPTER VII DEVELOPMENT PLAN OF COASTS AND COASTAL AREAS

Article 41- INETER must ensure from the technical point of view that the Development Plan of Coastal Areas is governed by the rules set by the Municipal Land Use Plan and Land Development, in coordination with the institutions that make CDZC.

CHAPTER VIII ADMINISTRATIVE PROCEDURE

Article 42 - For purposes of Article 51 of the Act shall mean an administrative infringement, actions or omissions that contravene the precepts of the Law on Development of Coastal Areas and this current Regulation.

Article 43 - Any violation of this Act and its regulations, shall be punished administratively by the competent authority in accordance with the procedure established here, subject to the provisions of the Criminal Code and specific laws and other criminal and civil actions that may result of them.

Article 44 - For purposes of the administrative process, stated in art. 51 of the Act, any natural or artificial person may lodge a complaint with the competent authority for violations of this law.

The complaint may be filed in writing or verbally, subscribing the respective record, and must include at least the following:

- 1) Generals of law or the complainants.
- 2) Name, business name and location of the natural or artificial person denounced.
- 3) Record of facts.
- 4) An address for hearing service.
- 5) Signatures.

Article 45 – Once the complaint is received, the competent authority shall notify the accused at the end of the twenty-four working hours, to their knowledge.

Once the notice and within three working days, send the competent authority to hear the accused or his legal representative duly authorized, it may also inspect the scene, raising the corresponding record.

If the competent authority considers it, or if either party so requests, it is to go to trial for eight days with any charges.

Upon completion of evidence, the competent authority in the next three days will issue a reasoned decision and properly grounded.

The competent authority shall automatically initiate the administrative process once, after verification, is aware of the breach by any media or technical inspection is performed.

Article 46 - Against administrative decisions noted in the preceding article may make use of the resources are set in accordance with the Law of Municipalities.

CHAPTER IX

THE SANCTIONS

Article 47 - To determine the severity of the sanctions referred to in Article 57 of the Act, CDZC, should develop based on the nature and objectives of the Act regulating administrative arrangements under the Agreement or Resolution which shall contain the aforementioned regulation the parameters that should be taken into consideration in the determination of violations and enforcement of sanctions.

Article 48 - The responsibility for dealing with Article 54 of the Act shall be punished with a warning by way of notification, settling time and mechanism to correct that omission.

Article 49 - Minor offenses will be punished with call for attention by the competent authority by notification to and fines equal to the value of state assets concerned, without prejudice to compensation for damages corresponding to the state or third-parties.

Article 50 - For both cases it must establish measures and corrective actions that the offender committed to protect and restore the state patrimony.

CHAPTER X TRANSITIONAL AND FINAL PROVISIONS

Article 51 - **TO CLARIFY:** the Executive Decree No. 14-99, Regulation of Protected Areas of Nicaragua referred to in Article 19 paragraph 1 in fine of the Act, was repealed by Decree No. 01-2007 of January 8, 2007 published in Official Daily News, La Gazette No. 8 of January 11, 2007.

Article 52 - **TERM:** This Decree shall enter into force after its publication in the Official Daily News, La Gazette.

Act executed in the city of Managua at Government House, on the twentieth day of September of the year two thousand nine. **DANIEL ORTEGA SAAVEDRA**, President of the Republic of Nicaragua. **PAULO QUISTKELLEY**, Private Secretary for National Policy.