

BELIZE:

FORESTS (PROTECTION OF MANGROVES) REGULATIONS,
2018

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BELIZE:

STATUTORY INSTRUMENT

No. of 2018

REGULATIONS made by the Minister responsible for forests in exercise of the powers conferred upon him by section 5 of the Forests Act, Chapter 213 of the Substantive Laws of Belize, Revised Edition 2011, and all other powers thereunto him enabling.

(*Gazetted* , 2018)

WHEREAS mangroves border much of the coastline and cayes of Belize and form an important and cherished component of the natural vegetation of the country, and among other things, provide habitat, and have aesthetic, ecological and environmentally protective functions;

AND WHEREAS it is desirable in the national interest to make regulations to protect mangroves for the benefit of the coastal and marine ecosystems and further for the benefit of the people of Belize;

NOW, THEREFORE, the following Regulations are hereby made:

PART I

Preliminary

1. These Regulations may be cited as the **FORESTS (PROTECTION OF MANGROVES) REGULATIONS, 2018.** Citation.

2. In these Regulations, Interpretation.

“alter” in relation to mangroves, means to cut, remove, defoliate, bury, block, drain, restrict the natural water flow, or otherwise destroy by any means or affect by any means, mechanical or otherwise, but does not include selective trimming, and “alteration” shall be construed accordingly;

“applicant” means an applicant for a permit;

“application” means an application for a permit;

“Department” means the Department of the Government for the time being charged with responsibility for mangrove forests;

“fringe mangrove” means any mangrove in mangrove communities that grow as a relatively thin fringe along the coastline and that are partially flushed by tides;

“issuing authority” means the head of the Department or other senior officer of the Department authorized in writing by the head;

“mangrove” means any tree occurring in natural stands of the following species-

- (a) black mangrove (*Avicennia germinans*);
- (b) red mangrove (*Rhizophora mangle*);
- (c) white mangrove (*Laguncularia racemosa*);
- (d) any other species of mangrove or concomitant tree, which the Minister may by Order publish in the *Gazette*;

“mangrove community” means a naturally occurring stand of mangroves and all concomitant plants associated with mangroves;

“overwash mangrove” means any mangrove in mangrove communities situated on islands that are typically wholly inundated or subject to complete inundation by the tide;

“permit” means a permit granted under these Regulations;

“priority mangrove area” includes any area listed in Schedule 1;

“protected area” has the same meaning as in the National Protected Areas System Act;

“review panel” means a review panel established under Regulation 15;

“selective trimming” means removal of less than a quarter of all limbs and branches from any one tree, or removal of tips only of some limbs and branches from any one tree for the purpose of achieving a reduction in vertical or horizontal extent of trees, and which does not involve any trees being killed or roots being cut;

“World Heritage Site” means the Belize Barrier Reef Reserve System, inscribed as a UNESCO World Heritage Site in 1996.

PART II

Protection of Mangroves from Alteration or Selective Trimming unless by Permit

3. (1) A person shall not alter, allow or cause to be altered any mangrove, unless the alteration is carried out pursuant to a permit .

Prohibition on alteration without permit.

(2) A person desiring to alter mangroves shall submit to the Department an application for a permit in the form set out as Form A of Schedule 2, and accompanied by a non-refundable application fee, as prescribed in Schedule 3, having regard to whether the proposed development is for a residential purpose or for a commercial purpose (which shall apply even where a commercial activity also includes residential premises).

(3) Where the applicant is not the owner of the land to which the application relates, the applicant shall submit with the application a written authorization from the land owner.

4.-(1) The Department shall, where it receives an application for the alteration of mangroves of an area exceeding one acre, publish a notice to that effect in the Gazette not later than ten days from the date of its receipt of the application (herein called the "receipt date").

Procedure on receipt of application.

(2) Where an application is made in any circumstance specified in Regulation 16 (1), the Department shall forward it, as soon as practicable but not later than fifteen days after the receipt date, to the review panel for deliberation, and the review panel shall return its written recommendations to the Department, as soon as practicable but not later than thirty days after the receipt date.

(3) The Department, when considering an application for alteration –

(a) shall take account of any recommendations of the review panel and any comments or objections received under Regulation 5 (2);

(b) may notify the applicant in writing of its intent to refuse the application if the applicant fails to provide required information, correct errors or omissions, or furnish additional information requested, to the satisfaction of the issuing authority within the time specified in the notice.

(4) The Department shall make its decision to approve or refuse an application for alteration not later than sixty days after the receipt date, and the issuing authority shall notify the applicant in writing forthwith.

(5) Where the Department refuses the application, the notification under sub-regulation (4) must state the reasons for refusal.

(6) The Department may refuse to grant a permit for alteration if the applicant, after receiving the notice of intent to refuse the permit under sub-regulation (3) (b), fails to provide the required information, correct errors or omissions, or furnish the additional information to the satisfaction of the issuing authority within the time specified in the notice.

Notice of application.

5.-(1) A notice under Regulation 4 (1) must contain the following information -

- (a) the name and address of the applicant;
- (b) the name of the land owner;
- (c) the location of the land where the mangrove alteration will be made;
- (d) a map of the location;
- (e) the proposed development involving mangrove alteration, and, in particular, the size of the development in acres, size of the stands of mangroves to be cleared, the class of development (such as whether a resort, pier, or over-water structure) and the purpose of the development;
- (f) the proposed times and periods when the alteration of mangroves will be made;
- (g) a statement that written comments upon or objections to the application, stating the reasons for any objection may be submitted to the Department not later than thirty days after the date of publication of the notice;
- (g) any other information considered by the Department to be relevant for the purpose.

(2) Any person may, not later than thirty days after the date of publication of the notice, submit to the Department written comments upon or objections to the application, stating the reasons for any objection.

6. (1) The Department shall not grant a permit for alteration unless, after its consideration of the relevant application, it is satisfied as to the following matters, namely that -

- (a) water quality of rivers, streams, lagoons, the sea or any other body of water that flows from or surrounds the immediate vicinity of the location of the proposed

Considerations for the grant of a permit.

alteration will not be significantly lowered or changed as a result of the proposed alteration;

- (b) the proposed alteration is not contrary to the public interest, and that, even if the alteration degrades or changes the environment, such action will be, on the whole, beneficial and in the larger and long-term interest of the people of Belize;
- (c) public health, safety, welfare or property of others will not be adversely affected;
- (d) fish nursery, nesting sites, endangered or threatened species, other wildlife or their habitats will not be adversely affected;
- (e) navigation or the flow of water will not be adversely affected and that the alteration will not cause harmful erosion, siltation, deposition or shoaling;
- (f) fishing, recreation values or marine productivity in the vicinity of the proposed alteration, or more generally along the coast (where applicable), will not be adversely affected;
- (g) tourism value of the area will not be significantly reduced;
- (h) historical or archaeological resources will not be adversely affected; and
- (i) storm surge protection function of the area will not be significantly reduced;
- (j) overwash mangroves will not be altered or adversely affected.

(2) If any of the matters under sub-regulation (1) is not immediately fully satisfactory to the Department, but the Department is nevertheless satisfied that any potential adverse environmental impacts are not significant, then in determining whether to grant a permit, the Department shall further consider and balance the following factors –

- (a) the distance of the proposed alteration away from a designated park or other type of protected area, including the World Heritage Site;
- (b) impact on nearby coastal and reef areas known to be of outstandingly high ecological value, including those within the National Integrated Coastal Zone Management Plan;
- (c) potential for direct and indirect economic benefits from the development;

-
- (d) the cumulative impact on existing projects or projects already under construction, or other applications under consideration that may affect the lands under the proposed development;
 - (e) alignment of the development with existing or proposed national, regional and local land-use plans;
 - (f) whether the impacts of the alteration will be of a temporary or permanent nature;
 - (g) presence of overwash mangroves;
 - (h) carbon storage and sequestration potential of the mangroves;
 - (i) the current condition of the mangroves and relative value of the functions being performed by or in the areas to be affected by the alteration.

(3) If after consideration of matters and factors under sub-regulation (1) in conjunction with sub-regulation (2), the outcome appears to the Department to be favourably balanced, in deciding whether to proceed to grant or refuse to grant a permit, the Department shall impose conditional measures that shall be accepted and undertaken by the applicant to mitigate or remedy any adverse effects identified under sub-regulation (1) and (2) to the satisfaction of the Department, focused on the following:

- (a) actions that would avoid or prevent mangrove alteration, such as buffer zones;
- (b) alternative site placement, facility design, work methods or equipment that would eliminate impacts to mangrove;
- (c) offsetting through restoration or planting of new mangrove communities in adjacent degraded areas or other areas;
- (d) subject to paragraph (c), the restoration and reforestation of two times the amount of mangrove that was cleared; and
- (e) a bond sufficient to ensure the successful completion of restoration activities with eighty percent survival rate after a minimum one year since planting.

(4) If the application does not immediately meet the criteria set out in sub-regulation (1), and after further consideration under sub-regulation (2) and further consideration and imposition of conditions under sub-regulation (3), as applicable, the applicant fails to accept to undertake the conditions set out under sub-regulation (3), the Department shall refuse the application and refuse to grant the permit.

7.-(1) A permit for alteration shall be in the form set out as Form B of Schedule 2 and the applicant shall pay the permit fees prescribed in Schedule 3, having regard to whether the proposed development is for a residential purpose or for a commercial purpose (which shall apply even where a commercial activity also includes residential premises).

Grant and conditions of permit.

(2) The Department may impose as a condition for the grant of the permit a requirement that the applicant post a surety bond in the sum of ten thousand dollars per acre of the land where the alteration is to be made, issued to the benefit of the Government, where -

(a) mitigating measures are required under Regulation 6 (3); or

(b) the permit is for a priority mangrove area.

(3) The Department may impose such other conditions on the permit as it considers may be reasonable and necessary to ensure compliance with these Regulations.

(4) A condition applicable to every permit for alteration relates to the manner of disposal of the mangroves altered; so, the permit holder shall ensure that plant material removed during alteration be disposed of in an orderly and inconspicuous manner; accordingly, small trunks and limbs (less than one inch in diameter) may be left in the mangrove habitat, but larger trunks and limbs (greater than one inch in diameter) shall be disposed of in an upland location so as not to impede or restrict water movement or create a hazard to navigation.

8.-(1) A person shall not selectively trim, allow or cause to be selectively trimmed any mangrove, unless the trimming is carried out pursuant to a permit.

Permit for selective trimming of mangroves.

(2) A person desiring to selectively trim mangroves shall submit to the Department an application for a permit in the form set out as Form A of Schedule 2, and accompanied by a non-refundable application fee, as prescribed in Schedule 3.

(3) A permit for selective trimming shall be in the form set out as FORM B of Schedule 2, and has no fee payable.

9.-(1) A person granted a permit for selective trimming shall not selectively trim more than 50% of mangroves along the waterfront where that person's land has water frontage.

Requirements for selective trimming permit of mangroves.

(2) The permit holder shall undertake selective trimming of mangroves mechanically, and in a manner that -

(a) avoids damage to the bark on the remaining trunk, limbs or other branches;

- (b) does not involve the use of defoliants, herbicides, pruning paint or other chemicals;
- (c) ensures that plant material removed during selective trimming is disposed of in an orderly and inconspicuous manner; accordingly, small trunks and limbs (less than one inch in diameter) may be left in the mangrove habitat, but larger trunks and limbs (greater than one inch in diameter) shall be disposed of in an upland location so as not to impede or restrict water movement or create a hazard to navigation.

Duty of permit holder.

10.-(1) A permit holder shall install at the location where the mangrove alteration or selective trimming, as applicable, will occur, a prominently displayed sign with a waterproof copy of the permit affixed, and the sign shall remain in place for the duration of the alteration or selective trimming.

(2) The dimensions of the sign under sub-regulation (1) shall be 4 feet by 4 feet and contain the words "Mangrove Alteration in Progress" or "Mangrove Selective Trimming in Progress".

Assessment report.

11.-(1) Within fifteen days after the grant of or refusal to grant a permit for the alteration of mangroves, the Department shall prepare a detailed assessment report of the facts and evidence supporting its determination to grant or refuse to grant the permit.

(2) The assessment report shall include,

- (a) a description of the proposed development;
- (b) a thorough evaluation of each of the considerations under Regulation 6;
- (c) the facts and evidence in support of determinations in respect of each consideration; and
- (d) recommendations in respect of the application.

Publication of decision.

12. Within fifteen days after the grant of a permit for alteration, the Department shall publish the assessment report in the Gazette.

Cancellation of permit.

13.- (1) The issuing authority may, subject to the provisions of this Regulation, cancel a permit if satisfied that the permit holder has breached a condition of the permit, or is not in compliance with any requirement under these Regulations.

(2) The issuing authority shall notify a permit holder, in writing, of his proposal to cancel a permit and give reasons therefor.

(3) A permit holder who is served with a notice under sub-regulation (2) may respond to the notice in writing, within twenty days of service showing cause why the permit should not be suspended or cancelled.

(4) The issuing authority shall not determine a matter under sub-regulation (1) without considering submissions or representations received within the period for responding under sub-regulation (3).

(5) If the issuing authority cancels a permit, the issuing authority shall notify the permit holder, in writing, of the cancellation and of the right of review under Regulation 20.

14.- (1) The issuing authority shall not issue a permit for alteration or selective trimming of mangroves by means of chemical defoliants or herbicides.

Circumstances where permit shall not be issued.

(2) The issuing authority shall not issue a permit for the alteration or selective trimming of -

- (a) mangroves in areas known to be an active nesting site or resting or breeding area for a colony or conspicuous concentration of birds, including but not limited to pelicans, spoonbills, herons, storks, boobies, frigate birds, and egrets;
- (b) overwash mangroves;
- (c) mangroves within existing national parks, nature reserves, wildlife sanctuaries, natural monuments or other protected areas as defined and described in the National Protected Areas System Act.

Act No. 17 of
2015

PART III

Administration

15.-(1) To facilitate the consideration of applications in respect of circumstances specified in Regulation 16 (1), the Minister may appoint a Review Panel comprising the following persons, namely, the -

Appointment of
Review Panel.

- (a) Chief Forest Officer;
- (b) Fisheries Administrator;
- (c) Chief Environmental Officer;
- (d) Commissioner of Lands and Surveys;

-
- (e) Inspector of Mines;
 - (f) head of the Coastal Zone Management Authority and Institute;
 - (g) head of an organization appearing to the Minister to be a leading non-government organization working in research or management of the marine or coastal realm; and
 - (h) an individual appearing to the Minister to be a reputable marine or coastal scientist or technician not affiliated with any of the above stated individuals or organizations.

(2) The Minister shall appoint a Chairperson from among the members of the Review Panel.

Function and powers of the Review Panel.

16.- (1) The review panel shall consider and make recommendations to the Department in relation to permit applications in the following circumstances,

- (a) more than ten acres of mangroves;
- (b) mangroves situated on cayes;
- (c) mangroves situated in priority mangrove areas;
- (d) within the World Heritage Site; and
- (e) where it is for a public good or essential service.

(2) The Review Panel may from time to time invite independent experts in World Heritage Sites, marine, coastal or mangrove ecology to its meetings to assist its consideration of permit applications.

(3) The Review Panel shall submit its recommendations on a permit application within thirty days of receipt of the application.

(4) The quorum for a meeting of the Review Panel shall be four members, including the Chairperson.

(5) Subject to the provisions of Regulation 15 and the preceding provisions of this Regulation, the Review Panel may regulate its own procedure, including the division of functions among its members.

Fast track option for public good.

17.- (1) Notwithstanding anything in Regulation 14 (2) or any other provision of these Regulations, upon receipt of an application for alteration

of mangroves for a public good, and upon receipt of the required recommendation from the Review Panel, the Department may grant a permit if -

- (a) it is for a public good being an essential service carried out by a duly constituted communication, water, sewer, electrical or other utility entity:

However, the alteration is to be limited to those areas necessary for maintenance of existing lines or facilities or for construction of new lines or facilities to provide utility service to the public, and shall be conducted so as to avoid or minimize any unnecessary alteration of mangroves;

- (b) it is for a public good being carried out by a duly licensed land surveyor in the performance of his duties:

However, the alteration is to be limited to a swatch for survey sighting three feet or less in width;

- (c) it is for a public good carried out by a Government agency :

However, the alteration is limited to those areas absolutely necessary for the installation or construction of any facility to provide service to the public, and that such alteration is conducted so as to avoid or minimize any unnecessary alteration of mangroves.

(2) In relation to permits issued under sub-regulation (1), no fees shall be payable in respect of the application or the permit.

(3) Notwithstanding Regulation 16 (3), the Review Panel shall submit its recommendations on a permit application for public good as soon as practicable but no later than fifteen days from receipt of the application.

(4) The issuing authority shall issue the Department's decision as soon as practicable but no later than thirty days from receipt of the application.

PART IV

Offences and Penalties

18.-(1) No person shall use pruning paint in the alteration or selective trimming of mangroves.

Prohibition on
method of
alteration.

(2) No person shall alter or selectively trim mangroves by the means of chemical defoliant or herbicides.

General penalty.

19.— (1) Any person who contravenes or aids in the contravention of any of the provisions of these Regulations that would or are intended to protect mangrove stands from damage or destruction, or a condition of a permit issued under these Regulations, commits an offence and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars, or to imprisonment for a term not exceeding twelve months, or to both.

(2) In addition to any sentence imposed under subsection (1), the court may order the cancellation of any permit granted under the provisions of this Regulation and the forfeiture of any vehicle, vessel or other means of transport or equipment used in the commission of the offence.

(3) All objects forfeited shall, with the approval of the Minister, be disposed of by the Department in such manner as the Minister may prescribe.

(3) When any person has been convicted of an offence, the court may, in addition to any other penalty provided under this Regulation, assess the amount of any damage which may have been caused by the offender and cause the same to be recovered in such manner as if it were a civil penalty and without limit of amount or, in the case of unauthorized structures or clearance, may order the removal of the same within such period as it may specify, and the restoration of each location of the damaged area as nearly as possible to its previous condition.

PART V

Miscellaneous

Application for review.

20.— (1) A person who is aggrieved by a decision of the issuing authority or the Review Panel, as the case may be, to grant or refuse to grant a permit or to cancel a permit may, within twenty-one days of the decision, apply to a Judge in Chambers of the Supreme Court for review of the decision.

(2) Notwithstanding section 112 of the Supreme Court of Judicature Act, an application for review shall not itself result in the suspension of the decision in relation to which the application is made, but the applicant may, within the time prescribed under the Supreme Court of Judicature Act, for making such application, apply to the Supreme Court for stay of execution of the decision, pending the determination of the application.

(3) Upon hearing an application, the Supreme Court may—

(a) dismiss the application; or

(b) remit the matter back to the Department or the Review Panel, as the case may be, for further consideration with such directions as it considers fit.

21. The Forests (Protection of Mangroves) Regulations, 1989, are hereby repealed. Repeal.

22. These Regulations come into force on the 23rd day of June 2018. Commencement.

SCHEDULE 1

(Regulation 2)

Priority Mangrove Areas

1. Pelican Cayes & Twin Cayes, SWCMR. (unique, unparalleled marine biodiversity)
2. Turneffe Islands and Lighthouse Reef (supports marine biodiversity, reef connectivity and fisheries values)
3. Ryders, N Drowned and Drowned Cayes (critical storm protection and fisheries values for Bz City)
4. Haulover Creek, Belize City (unique ecosystem – tourist potential for city)
5. Sibun Bight (unique black mangrove forests – largest examples; ecotourism potential)
6. Sittee River Mouth (N and S of mouth), (best examples of old growth forest type red and black?)
7. Rio Hondo Estuary
8. New River Estuary
9. Senis River mouth and cayes
10. Shipstern Lagoon and cayes to sea
11. Sapodilla lagoon
12. Ambergris Caye, Cangrejo
13. Caye Caulker
14. Price Bank
15. Belize River mouth and cayes
16. Burdon Canal

17. Placencia Lagoon
18. Golden Stream (protected)
19. Sartstoon Temash (protected)
20. All other cayes (inside barrier and atolls)
21. Four Mile Lagoon
22. Little Rocky Point to Vista Del Mar

SCHEDULE 2

FORM A

(Regulation 3 (2) and 8 (2))

Application for Permit to Alter or Selectively Trim Mangrove

1. Name of the Applicant.
2. Description of the land on which mangroves are to be altered or selectively trimmed.
3. Copy of property documents including title, land tax receipts, authenticated copy of survey, location plan, etc.
4. Description of the mangroves.
5. Proposing to alter selectively trim
6. Nature of proposed alteration or selective trimming.
7. Whether the land belongs to the applicant or to another person.
8. The manner in which alteration is to be effected.
9. Means of alteration or selective trimming.
10. Prescribed fee of \$..... has been deposited in the Treasury vide Receipt No. dated.....

I....., owner/occupier of..... do hereby declare that the particulars furnished hereinbefore are true to the best of my knowledge and belief.

_____ Date

Signature and Address of the Applicant

FOR OFFICIAL USE

Date of receipt of application: _____

Additional information: errors omissions

supply of information: _____

Review panel: yes no

Publication of information to alter mangrove: yes no

Application: approved refused modification

measures to mitigate impacts

Surety bond amount: _____

Comments: _____

FORM B

(Regulations 7(1) and 8 (3))

FORESTS (PROTECTION OF MANGROVES) REGULATIONS*Permit to Alter or Selectively trim Mangrove*

Ref. No _____

Permit # _____

Name _____

Address _____

Permission is hereby granted to the above-named to alter or selectively trim mangroves at

_____,
(Description of property location)

comprising of _____ acres of land situated at
(size)

_____,
(address)

and is subject to the following conditions:

1. The permit is

(a) Valid for _____, only;
and (Permit Holder)

(b) Valid until _____.
(Duration)

2. This permit is valid for the removal of

(Size and type of mangrove)

3. Failure to complete the alteration or selective trimming in the period specified by this permit will require a new assessment and another

permit. No fire or chemical defoliants are to be used in the alteration process granted by this permit.

4. Only fill material from upland quarries and material extracted during dredging operations process under an official dredging operators permit granted by the Department responsible for mining will be allowed as filling to minimize pollution to surrounding water.
5. The permit holder must immediately report the commencement and completion of alteration to the Department at least one week ahead of schedule and after completion in order for proper monitoring of the process.
6. Precaution to avoid spillage of excavated materials to other surrounding mangroves and water outside the specified altered site must be strictly adhered to during the dredging process, thereby preventing the killing off and siltation of mangroves and surrounding marine ecosystem, respectively.
7. This permit holder will be held responsible for any unnecessary alteration of siltation damage due to negligence on the part of the operator conducting alteration on his behalf.
8. All other necessary permits must be adhered to. This permit does not relinquish the need to obtain all the other necessary permits specified under the Laws of Belize.
9. If required, environmental clearance must be obtained from the Department of Environment prior to the start of the mangrove clearance.
10. This permit may be cancelled at any time at the discretion of the Minister responsible for Mangroves.

Issuing Authority

SCHEDULE 3

APPLICATION AND PERMIT FEES*(Regulations 3 (2) & 7 (1))***APPLICATION FEES**

	Mainland	From the mainland to the reef	Beyond the reef
Residential	\$50.00	\$100.00	\$200.00
Commercial	\$500.00	\$1,000.00	\$2,000.00

PERMIT FEES

	Mainland	From the mainland to the reef	Beyond the reef
Residential	\$800 (per acre)	\$1,600 (per acre)	\$3,200.00 (per acre)
Commercial	\$2,500.00 (per acre)	\$5,000.00 (per acre)	\$10,000.00 (per acre)

MADE by the Minister responsible for forests this 15 day of June 2018.

Hon. Godwin Hulse

Minister of Agriculture, Fisheries, Forestry, the
Environment, Sustainable Development and Immigration