

License Agreements

Instructions for the License Agreement form

The Auxiliary is not permitted to enter into a lease for the use of real property. A lease of real property gives the lessee certain possessory interests under common law. A license, however, is merely the written permission to enter upon and use real property without providing any possessory or estate interests. Frequently, a license can be cancelled at any time by the owner of the real property.

All agreements signed by the highest elected officer of an Auxiliary unit **MUST** be reviewed and approved by the DSO-LP. If an elected officer signs an agreement without the approval of the DSO-LP, that individual may be exposed to personal liability.

In connection with the sample license agreement, you should be prepared to adhere to the following:

- The introduction should clearly identify the property owner and the Auxiliary unit as the contracting parties
- Paragraph 1 sets forth the characteristic of the agreement as being a license and not a lease with a description of the site which is the subject of the license.
- Paragraph 2 describes to use to which the Auxiliary unit plans to make of the site together with a statement of dates, times such use may take place. It should also set forth, if possible, duration of use, unless it is at the will of the licensor.
- Paragraph 3 sets forth any consideration, if any, which the lessor may receive for use of the site.
- Paragraph 4 sets forth that if there are any claims made against the licensor (site owner) coverage will be given by the United States Government under the Tort Claims Act. When you are presented with a license generally there will be a clause or clauses requiring that the Auxiliary unit provide liability insurance and give a hold harmless agreement in the event that a claim is made against the licensor by a third party which may arise out of the Auxiliary unit's use of the site. All official activities of the Auxiliary unit come under the United States Tort Claims Act since the Auxiliary is a part of the Coast Guard.
- The acknowledgment and signature paragraph and format must be followed. The Auxiliary unit officer signing an agreement, any agreement, **MUST DO SO IN THAT OFFICER'S OFFICIAL CAPACITY** as the Auxiliary unit authorized leader otherwise **PERSONAL LIABILITY** may attach under law. Stated another way, the Auxiliary unit officer when signing an agreement on behalf of the Auxiliary unit is acting as an **AGENT** of that unit and must, under law, set forth that the authorized Auxiliary unit officer is functioning as such an agent.
- Who is the authorized Auxiliary unit officer for a particular unit?
 - Flotilla Commander for a Flotilla
 - Division Commander for a Division
 - District Commodore for a District
 - No one else is authorized except in an emergency the Vice Flotilla Commander may request the Division Commander to sign for the Flotilla or a Vice Division Commander may request the District Commodore to sign for a Division, subject that the action be reported back to the Flotilla or Division. (Auxiliary Manual 1F Ch. 6 Sec. D.)
- Reminder: If a license or agreement requires the expenditure of Auxiliary unit funds there must be a resolution of the unit members authorized to vote on that expenditure before the agreement can be signed by the authorized Auxiliary unit officer.
- All agreements must be in the name of the Auxiliary unit, not the Coast Guard itself.