

1 **Commonwealth Zoning Board Regulations**
2 **As Amended September 4, 2008**

3 *Note: This is an unofficial compilation provided by the Zoning Office.*
4 *For the official version, see the Northern Mariana Islands Administrative Code.*

5
6 **CHAPTER 165-30.1**
7 **COMMONWEALTH ZONING BOARD REGULATIONS**
8

9 **Part 001 – General Provisions**

10
11 **§ 165-30.1-001 Purpose**

12 The regulations in this subchapter describe the organization, powers, duties and operations of the
13 Commonwealth Zoning Board. They also provide the rules of procedure required in 2 CMC §
14 7221(j)(2).
15

16 **§ 165-30.1-005 Authority**

- 17 (a) The regulations in this subchapter are promulgated pursuant to PL 6 - 32, § 1(d), as amended,
18 2 CMC § 7221(d) (Zoning Board: Regulations.), and 1 CMC § 9908(a) (times and places of
19 meeting). See also 10 CMC § 3511 Section 309 Zoning Board.
20 (b) Authority lies in: PL 6 - 32 (effective June 27, 1989), the “Zoning Code of the
21 Commonwealth of the Northern Mariana Islands.” PL 6-32 § 1; 2 CMC § 7201. The zoning
22 code is codified at 2 CMC §§ 7201, et seq., and creates the Zoning Board. PL 6-32 § 1(a), as
23 amended by PL 7-41, § 2, and modified; and by PL 8-10, §§ 3, 4, 5. (Source: LRC Comment
24 to 2 CMC § 7221.) The Saipan Zoning Law is 10 CMC § 3511 and the Zoning Map.
25 (c) The Zoning Code empowers the Board to regulate all zoning in the Commonwealth and
26 administer its provisions. PL 6-32 § 1(b) and (c), 2 CMC § 7221(b) and (c).
27

28 **165-301.010 Numberings and Headings**

29 The regulations in this subchapter are organized as follows:

- 30 (a) There is a "table of contents", which summarizes the provisions. There are headings for
31 each part and section. There are also citations and comments to statutes in brackets. The
32 table of contents, headings and citations and comments are not part of the regulations in
33 this subchapter, and are placed in this subchapter for the convenience of the reader. When
34 in doubt as to meaning, the reader should look to the text and not to the heading, citation or
35 comment. Exception: the heading for a definition is part of the definition.
36 (b) There are outline divisions to the regulations, as follows:
37 (1) There are "parts", like this part 100.
38 (2) Each part may be divided into "sections," like section 1.03.
39 (3) Each section may be divided into subsections, then paragraphs, and subparagraphs,
40 and so forth, each indicated by double parentheses, like section 1.03, subsection (a),
41 paragraph (1), subparagraph (i), sub-subparagraph (A).
42 (4) Further divisions may be provided after/below outline level "(A)" in single
43 parentheses, like 1), then a), then i), and A).
44 (c) There may be annexes containing graphic or other detailed material. Each annex may be
45 divided into sections, subsections, paragraphs and subparagraphs.

1
2 **165-301.015 Scope**

3 The regulations in this subchapter shall apply to all matters before the Board.
4

5 **165-301.020 Seal**

6 The official seal of the Board is a vignette of the official flag of the Commonwealth surrounded
7 by the words "Commonwealth Zoning Board."
8

9 **165-301.025 Principal Office**

10 The principal office of the Board shall be at such place as the Board shall designate by
11 resolution.
12

13 **165-301.030 Organization and Membership**

14 (a) Officers.

15 (1) Chair.

16 (i) A chairman or chairwoman ("chair") shall be elected by a majority vote of the
17 Board each December for a term of one year from January to December. S/he
18 is eligible for re-election without limitation.

19 (ii) The chair shall preside over all meetings and hearings, appoint such
20 committees as directed by the Board and shall affix his/her signature in the
21 name of the Board.

22 (iii) The chair shall serve as the Board's expenditure authority for the purposes of
23 signing checks, receiving funds, and making deposits. The chair may, with the
24 Board's approval, delegate some or all of this authority to the zoning
25 administrator.

26 (2) Vice-chair.

27 (i) A vice-chair shall be elected annually by a majority vote of the Board in the
28 month of December for a term of one year. S/he is eligible for re-election
29 without limitation.

30 (ii) The vice-chair shall preside as acting chair in the absence of the chair and shall
31 have the full powers of the chair on matters that come before the Board during
32 the absence of the chair.

33 (3) Secretary.

34 (i) A secretary shall be elected annually by a majority vote of the Board in the
35 month of December for a term of one year. S/he is eligible for reelection
36 without limitation.

37 (ii) The secretary shall preside as acting chair in the absence of the chair and vice-
38 chair, and shall have the full powers of the chair on matters that come before
39 the Board during such absence.

40 (iii) The secretary shall be responsible for the recording of minutes, publishing of
41 notices and maintenance of the books and records of the Board. The secretary
42 shall sign all orders and other decisions on which the Board's signature is
43 required.
44

- 1 (4) Treasurer.
- 2 (i) The Board may elect a treasurer annually by majority vote in the month of
- 3 December for a term of one year. S/he is eligible for re-election without
- 4 limitation.
- 5 (ii) The treasurer shall be responsible for the maintenance of the Board's accounts
- 6 and the reporting and auditing of the Board's funds. If there is no treasurer, the
- 7 secretary shall be given this responsibility.
- 8 (b) Committees.
- 9 (1) The Board may provide by resolution for standing and ad hoc committees.
- 10 (2) Once a committee is designated, the chair shall appoint the members.
- 11 (3) The chair may provide for and appoint the members of ad hoc committees.
- 12 (c) Removal of Members.
- 13 (1) A member may be removed by a majority vote of the Board for breach of fiduciary
- 14 duty or for an intentional violation of conflict of interest prohibitions, as provided in
- 15 the zoning code (2 CMC § 7221(i)).
- 16 (2) Such a member shall be brought promptly brought before the Board for a vote of the
- 17 members.
- 18 (3) The chair shall give such a member prior notice and an opportunity to defend
- 19 him/herself before the Board.
- 20 (4) The chair shall notify the Governor if any member has been absent in any 12 month
- 21 period from more than 50 percent of, or from three consecutive, duly noticed, regular
- 22 meetings, unless such absence is the result of a documented health problem (2 CMC
- 23 § 7221(i)).
- 24

25 **165-301.035 Conflicts of Interest**

26 Any Zoning Board member, staff or consultant having a personal or financial interest in any

27 official proceeding of the Board, or a familial relationship to the fourth degree of consanguinity

28 with any party to a proceeding or decision, shall disqualify himself or herself from officially

29 hearing or ruling in the proceeding or decision (2 CMC § 7254(c)).

30

31 **165-301.040 Powers and Duties**

- 32 (a) Specific powers. The Board shall have all powers provided it by law to ensure compliance
- 33 with the requirements of the regulations in this subchapter, including:
- 34 (1) Inspection at reasonable times;
- 35 (2) Use of or entry upon private land;
- 36 (3) Giving of notices;
- 37 (4) Granting of permits;
- 38 (5) Conduct of hearings and issuance of orders; and
- 39 (6) Levying of fines, penalties and suspension and/or revoking of permits.
- 40 (b) Enforcement and delegation of power. The regulations in this subchapter shall be read to
- 41 authorize their enforcement by the Board, by the zoning administrator, and by any other
- 42 instrumentality of CNMI government, including, the office of a mayor, as provided by the
- 43 Board's written designation.
- 44 (c) Public safety. The Board may request the assistance of the Department of Public Safety in
- 45 enforcing the provisions of the regulations in this subchapter and/or protecting the public
- 46 health, safety and welfare with respect to them.

- 1 (d) Zoning administrator. The Board may employ a zoning administrator, as provided by
2 statute (2 CMC § 7222).
- 3 (1) Form. The Board, may, by agreement, provide for an instrumentality of the CNMI
4 Government to provide the services of the administrator, subject to statutory
5 qualifications.
- 6 (2) Duties and responsibilities.
- 7 (i) The administrator shall have the duties provided by statute:
- 8 (A) To act as staff to the Board;
- 9 (B) To maintain and keep custody of the dockets, files and records of the
10 Board;
- 11 (C) To prepare and maintain all necessary land use and zoning maps; and
12 (D) To carry out the Board's directives (2 CMC § 7222(b)).
- 13 (ii) The administrator shall have the following additional duties:
- 14 (A) Negotiate and administer contracts and other agreements;
- 15 (B) Receive and collect fees, gifts, appropriations and other funds;
- 16 (C) Manage the day-to-day affairs of the Board;
- 17 (D) Hire and supervise staff and consultants;
- 18 (E) Sign checks, as authorized by the Board;
- 19 (F) Take part in contested case proceedings as a party;
- 20 (G) Sue and defend lawsuits on the Board's behalf;
- 21 (H) Enforce compliance with the zoning code and the zoning law.
- 22 (3) Consultants and employees. The administrator may employ and/or retain executive
23 staff, in-house and consulting attorneys, planners, engineers, architects, and other
24 experts, consultants, secretaries, office clerks and other personnel as it may deem
25 necessary to carry out the provisions of the zoning code and the zoning law and/or to
26 perform the duties and exercise the powers conferred by law upon the Zoning Board.
- 27 (4) The administrator may negotiate with and provide for such persons' and/or their
28 firms' compensation and other payment.
- 29

30 **165-301.045 Decisions as Orders**

- 31 (a) The Board shall issue its decisions whenever practicable as orders, which shall be titled
32 and numbered, signed by the Secretary and indicate votes by the Board.
- 33 (b) The administrator shall whenever practicable issue his/her decisions as orders, which shall
34 be titled, numbered and signed.
- 35 (c) The Board's decisions shall ordinarily be those of the majority of the members transacting
36 business. A majority of the Board members is required to transact official business. (2
37 CMC § 7221(j)(2)).
- 38

39 **165-301.050 Internal Administration**

- 40 (a) The Board, in compliance with applicable CNMI law and procurement regulations, may
41 delegate to the administrator, the chair or the officers, as an executive committee, the
42 management of the internal affairs of the Board.
- 43 (b) These affairs shall include, but not be limited to, managing office space, securing
44 materials, services and supplies, budgeting, bookkeeping and financial management,
45 development of educational activities and publications.
- 46

1 **§ 165-30.1-055 Definitions**

2 When used in the regulations in this subchapter the following terms shall have the respective
3 meanings set forth for each such term:

- 4 (a) “Law” means the Saipan Zoning Law of 2007.
5 (b) “Site Plan, Major” means a site plan for a development that is not a minor site plan.
6 (c) “Site Plan, Minor” means:
7 (1) A new building or structure with less than 500 square meters in gross floor area and less
8 than 20 parking spaces (except a single family residence that is constructed by the owner
9 or lessee on an individual lot);
10 (2) A single family residence that is not constructed by the owner or lessee on an individual
11 lot ;
12 (3) Enlarging a building or structure from 25% to 50%, or by 500 square meters, whichever
13 is less;
14 (4) Demolishing and reconstructing a building or structure up to 50% of the gross floor area
15 or 500 square meters, whichever is less,
16 (5) Adding one floor with less than 500 square meters to an existing building or structure;
17 (6) Enlarging the land area used for an existing development by from 25% to 50% or by
18 1,000 square meters, whichever is less;
19 (7) Adding 11 to 20 parking spaces; or
20 (8) Development that the Zoning Administrator determines does not have a potential for
21 significant adverse impact on:
22 (A) pedestrian movement or vehicular traffic;
23 (B) neighborhood character;
24 (C) stormwater runoff;
25 (D) habitat for endangered species;
26 (E) wetlands;
27 (F) air quality;
28 (G) views;
29 (H) property values;
30 (I) utility demand;
31 (J) infrastructure; and
32 (K) public services including schools, police, ambulance, or fire.
33 (d) “Virtual” or “Virtually”, when used with respect to a meeting, means by electronic means
34 that provide for real-time communication to and from the participants in such a manner that
35 each participant can hear and/or read the comments of each other participant.
36

37 **§ 165-30.1-060 Notice and Mailings**

38 Any notice or mailing for which the regulations in this subchapter provide may be given as an
39 electronic communication, except for public notices specifically required to be given otherwise.
40

41 **Part 100 Meetings**

42 **§ 165-30.1-101 In General**

- 43 (a) The Board shall make its decisions at its public meetings (2 CMC § 7221(j)(2); 1 CMC §§
44 9901 - 9916). The Board shall otherwise act as provided in this subchapter.
45 (b) The Board shall make provision for the virtual attendance of Board members, if a Board
46 member so requests.

- 1 (c) Meetings shall be publicly noticed as required by law. Ordinarily such notice shall be by
2 publication in at least one newspaper of local circulation at least one time each week for
3 two weeks prior to a meeting. [2 CMC § 7221(j)(2); 10 CMC § 3511] If a meeting includes
4 a “public hearing”, as defined by the Zoning Law, the notice must be published at a
5 minimum of one notice per week for two consecutive weeks, no more than 21 days and no
6 less than five days prior to the date of the meeting. [10 CMC § 3511]
- 7 (d) A copy of meeting materials distributed to the Board members shall be available to any
8 person for review at the meeting site, except for materials subject to confidentiality or
9 privilege as permitted or required by law (See 2 CMC § 72210)(3); 1 CMC §§ 9917 -
10 9918).

11

12 **§ 165-30.1-105 Time and Frequency**

- 13 (a) The Board shall meet monthly, or as the Board determines is as often as necessary to
14 discharge its responsibilities without undue delay (2 CMC § 72210)(2)).
- 15 (b) The day for the regular meeting of the Board shall be the first Thursday of every month.
- 16 (c) The regular meeting shall begin at 6:00 p.m., except as the chair shall otherwise provide by
17 notice.
- 18 (d) The chair may change the regular meeting date for any month by providing notice to the
19 Board two weeks in advance of the regular meeting.
- 20 (e) The Board may change the date and time by resolution.

21

22 **§ 165-30.1-110 Location**

- 23 (a) Meetings shall be held at such place as the chair may determine unless otherwise provided
24 by the Board. The location shall be properly noticed to the public. Ordinarily the Board
25 shall meet at its principal office.
- 26 (b) The Board may meet virtually, and a Board member shall have the right to attend a
27 meeting virtually.
- 28 (c) When the Board meets virtually, access to the virtual meeting shall be freely given through
29 the noticed site so that any person attending at the site shall have the same access to the
30 meeting as each attending Board member. Typically this will include use of a speaker
31 phone for a conference call meeting.
- 32 (d) Votes of Board members may be received by electronic means and announced at a
33 meeting.

34

35 **§ 165-30.1-115 Calling a Meeting**

36 Either the chair or any three members may call a meeting (2 CMC § 7221(j)(2)).

37

38 **§ 165-30.1-120 Types of Meetings**

- 39 (a) Regular Meetings. Regular meetings shall be held as determined by the Board's
40 regulations, except as otherwise determined by the Board, by resolution. The Board shall
41 publish the schedule and place for regular meetings in the Commonwealth Register (1
42 CMC § 9909).
- 43 (b) Special Meetings. Special meetings may be held from time to time, and shall be duly
44 noticed by the Board (see 1 CMC § 9911).

- 1 (c) Executive Session. Ordinarily the Board's meetings shall be open to the public (2 CMC §
2 7221(j)(2); 1 CMC §§ 9901 - 9916). The Board may meet privately, in executive session,
3 for the following purposes:
- 4 (1) To discuss termination, hiring, or discipline of the zoning administrator (2 CMC §
5 7221(j)(2));
 - 6 (2) To discuss other personnel matters, including the hiring, firing and discipline of staff
7 and/or contractors (1 CMC § 9912(a)(3)-(5));
 - 8 (3) To discuss acquisition of an interest in real estate when public discussion would
9 likely cause the price to increase (1 CMC §9912(a)(1) - (2));
 - 10 (4) To consult with legal counsel (1 CMC § 9912(a)(6));
 - 11 (5) To discuss a matter which may infringe on a person's right to privacy, including
12 confidential medical or financial information (1 CMC § 9912(a)(7));
 - 13 (6) To discuss aspects of the Board's business affairs that are confidential and/or
14 proprietary by law; and
 - 15 (7) To address other matters permitted by law for discussion in a non-public meeting.
 - 16 (8) In order to meet in an executive session, the Board must:
 - 17 (i) Have the presiding officer publicly announce the purpose of excluding the
18 public and the time when the executive session will conclude;
 - 19 (ii) Vote by roll call;
 - 20 (iii) Secure the vote of 2/3 of those members present; and
 - 21 (iv) Record these matters in the minutes (1 CMC §9912(b) - (d));
- 22 (d) Virtual discussions.
- 23 (1) The Board may discuss a matter virtually over time, as well as in real time, provided
24 that access to the virtual discussion shall be freely given to the public so that a
25 person seeking to review the discussion as it happens shall have substantially the
26 same access to the discussion as each participating Board member.
 - 27 (2) Typically such a discussion shall be by electronic bulletin board open to the view of
28 the public.
 - 29 (3) Such discussion shall be noticed according to the regulations in this subchapter and
30 shall comply with CNMI law regarding open meetings (1 CMC §§ 9901 - 9916).
 - 31 (4) The Board shall arrange for a person, upon request, the reasonable use of a publicly-
32 available computer with internet access in order to allow review of the discussion.
 - 33 (5) No electronic communication may be used to circumvent the spirit or requirement of
34 open, public meetings to make a decision or deliberate toward a decision upon a
35 matter over which the Board has supervisory control, jurisdiction, or advisory power,
36 as provided in the regulations in this subchapter (1 CMC § 9912(d)).

37
38 **§ 165-30.1-125 Accessibility**

- 39 (a) The Board shall comply with the accessibility requirements required by law and may, upon
40 a person's request, accommodate other special needs relating to sight, sound, language or
41 location.
- 42 (b) Ordinarily the Board shall meet on a ground floor or on a floor accessible by elevator.
43

44 **§ 165-30.1-130 Meeting Rules**

- 45 (a) Meetings of the Board members shall be conducted according to Robert's Rules of Order,
46 most recent revision, unless:

- 1 (1) Otherwise specified in the regulations in this subchapter; or
2 (2) The rules are suspended pursuant to a vote of two-thirds of those present and voting.
- 3 (b) Quorum.
- 4 (1) A quorum shall be a majority of the Board members (2 CMC § 7221(j)(1)). A
5 majority of the Board's members is required to transact business, except as provided
6 in § 165-30.1-130(b)(2) (2 CMC § 7221(j)(2)).
- 7 (2) The Board shall meet upon the declaration of a quorum. Except that if a quorum does
8 not exist due to a conflict of interest involving one or more of the members, then
9 three members shall constitute a quorum (2 CMC § 7221(j)(1)).
- 10 (c) Votes.
- 11 (1) A vote on a motion before the Board shall be either by voice, show of hands, or roll
12 call.
- 13 (2) A vote by show of hands or roll call may be required by any member of the Board.
- 14 (3) Any motion that does not receive a majority affirmative vote is thereby rejected and
15 cannot be re-introduced in its same form at the same Board meeting, except that a
16 motion to reconsider may be brought.
- 17 (4) All decisions shall be made by a majority vote of the members present and voting,
18 unless otherwise specifically stated in the regulations in this subchapter or in the
19 zoning code or zoning law.
- 20 (d) Motions.
- 21 (1) A motion to be put before the Board must be raised in definitive form, either orally
22 or in writing, by one of the members of the Board.
- 23 (2) A motion must then be seconded promptly or it shall fail.
- 24 (3) Once a motion has been properly introduced and seconded, that motion shall be
25 restated by the chair before debate. Debate shall continue until the chair closes the
26 debate and calls for a vote on the motion.
- 27 (4) Any motion may be withdrawn by the initiator at any time before it has been
28 adopted.
- 29 (e) Rulings of the chair.
- 30 (1) A ruling of the chair is final.
- 31 (2) The Board may reverse a ruling of the chair.
- 32 (3) A member may appeal a ruling of the chair to the Board. When an appeal is made
33 from a ruling of the chair, the member making the appeal shall be allowed to state
34 his/her reasons briefly.
- 35 (4) The question shall be immediately put in the following form: "Shall the ruling of the
36 Chair be sustained?"
- 37 (f) Agendas.
- 38 (1) Each agenda shall provide an opportunity for the participation of the public (2 CMC
39 § 7221(j)(2)).
- 40 (2) The chair shall prepare an agenda for each scheduled meeting listing the items of
41 new and old business to be considered at the meeting.
- 42 (3) The agenda ordinarily shall be transmitted to the Board members at least 48 hours
43 before the meeting for their review, in writing.
- 44 (g) Minutes.
- 45 (1) Minutes shall be kept for all the meetings, and thereafter reviewed and approved by
46 the Board.

- 1 (2) Proposed minutes shall ordinarily be transmitted in writing to the members of the
 2 Board at least 48 hours before the next meeting.
 3 (h) Committee reports.
 4 (1) A committee report does not require a second to be submitted to the Board for
 5 discussion or approval.
 6 (2) The minority on a committee report shall be given a brief opportunity to state its
 7 position and the reasons for it.
 8

9 **Part 200 - Practice and Procedure [Reserved]**

10 **Part 300 Fees, Charges and Assessments**

11 **§ 165-30.1-301 Fees for Zoning Permits and Actions and Other Services**

- 12
 13 (a) Fees for permits applications, approvals, or petitions shall be assessed according to Table 1.
 14 Zoning Fees and other provisions of this section.
 15
 16 (b) Provided, fees shall be waived for government entities.

Table 1. Zoning Fees		
Permit or Action	Project Cost	Base Fee (Cost may be added. See below)
Minor Subdivision	All projects	\$100.00
Minor Site Plan	All projects	\$50.00
Major Site Plan or Variance	Up to \$200,000	\$100.00
	\$200,001 to \$500,000	\$200.00
	\$500,001 to \$1,000,000	\$500.00
	Over \$1,000,000	\$1,000.00
Preliminary Plat - Major Subdivision	Any amount	\$200.00
Final Plat - Major Subdivision	All projects	\$100.00
Conditional Use	Up to \$200,000	\$200.00
	\$200,001 to \$500,000	\$300.00
	\$500,001 to \$1,000,000	\$700.00
	Over \$1,000,000	\$1,200.00
Temporary Use	All projects	25.00
Zoning Permit	All projects	\$30.00
Sign Permit	All projects	\$25.00
Verification of a Nonconformity	All projects	\$30.00
Beneficial Use	All projects	\$100.00

- 17 (1) In addition to the base application fee in Table 1, an applicant shall reimburse the
 18 Zoning Office for the costs of professional engineers and other consultants hired by

1 the Zoning Administrator to review and inspect the applicant's proposal when the
2 Zoning Office is unable to do so with existing in-house staff.

- 3 i. These professional services may include, but are not limited to: legal;
4 planning; hearing examiner; environmental review; financial; accounting;
5 soils; and civil, environmental, traffic, mechanical, and structural engineering.
- 6 ii. In the event that a project requires special staff analysis beyond that which is
7 included in the base fee, the applicant shall reimburse the Zoning Office at a
8 rate of \$25.00 per hour for this extra staff time.
- 9 iii. The Zoning Administrator may require the applicant to deposit an amount
10 with the CNMI Treasurer to cover anticipated costs of retaining professional
11 consultants or performing special staff analysis.

12 (2) If a permit category is not listed in Table 1, the Zoning Administrator or his/her
13 designee shall determine the fee schedule for that category, subject to Zoning Board
14 approval.

15 (3) In the event of unique and unusual circumstances or economic hardship, the Zoning
16 Administrator may waive or reduce a fee. The Zoning Administrator shall notify the
17 Zoning Board of any waivers or reductions, and shall rescind any charges deemed
18 inappropriate by the Zoning Board.

19 (c) Fees for documents and related services shall be as follows:

- 20 (1) Photocopies: less than 10 copies –no charge; 11 or more copies within the same
21 week: \$0.50 per page
- 22 (2) Electronic files on CD: \$10.00 for each CD
- 23 (3) Electronic files on DVD: \$20.00 for each DVD
- 24 (4) Copies of meeting minutes on cassette tape: \$15.00 per tape
- 25 (5) If complying with a request for information takes longer than one hour, labor shall be
26 charged at the rate of \$20.00 per hour.

28 **Part 500 Wind Energy Systems**

29 **§ 165-30.1-501 Wind Energy System Definitions**

30 When used in this subchapter, the following terms shall have the respective meanings set forth
31 for each such term:

32 (a) **"Large Wind Energy System"** means a wind energy conversion system consisting of a
33 wind turbine and associated control or conversion electronics that has a rated nameplate
34 capacity of more than 30 kW or that is intended primarily to generate power for sale.

35 (b) **"Rated Nameplate Capacity"** means the maximum rated output of electric power
36 production equipment. This output is typically specified by the manufacturer with a
37 "nameplate" on the equipment.

38 (c) **"Small Wind Energy System"** means a wind energy conversion system consisting of a
39 wind turbine and associated control or conversion electronics which has a rated nameplate
40 capacity of not more than 30 kW and that is intended primarily to reduce on-site
41 consumption of utility power.

42 (d) **"Tower Height"** means the height of a wind turbine measured from natural grade to the tip
43 of the rotor blade at its highest point, or blade-tip height.

- 1 (e) **“Wind Facility”** means all equipment, machinery and structures utilized in connection with
 2 the conversion of wind to electricity. This includes, but is not limited to, transmission,
 3 storage, collection and supply equipment, substations, transformers, service and access roads,
 4 and one or more wind turbines.
- 5 (f) **“Wind Turbine”** means a device that converts kinetic wind energy into rotational energy
 6 that drives an electrical generator. A wind turbine typically consists of a tower, nacelle body,
 7 and a rotor with two or more blades.

8 **§ 165-30.1-502 Small Wind Energy System Requirements**

- 9 (a) A small wind energy system is an accessory use and shall be processed as a minor site plan.
- 10 (b) In addition to meeting all other requirements of the Saipan Zoning Law, a small wind energy
 11 system shall meet the requirements of this Section.
- 12 (c) **Design Approval.** A small wind turbine design must meet requirements of the National
 13 Electrical Manufacturers Association and the CNMI Department of Public Works Division of
 14 Building Safety.
- 15 (d) **Wind Tower Height and Setback.** Wind tower height and setback shall be as shown in
 16 Table 1. Provided, the Zoning Administrator may reduce the minimum setback if written
 17 permission is granted by the owner or other entity with significant proprietary interest in the
 18 affected asset or lot.

19 **Table 1. Wind Tower Height and Setback**

Lot size (square meters)	Tower Height (maximum)	Setback from Lot Line (minimum)	Setback From: • Inhabited Structure, • Overhead Utility Line, or • Public Road Right-of-Way (minimum)
Up to 2,500	The higher of: 45 feet; or 25 feet above the peak of the roof.	10 feet	Distance equal to tower height
Over 2,500	The higher of: 60 feet; or 30 feet above the peak of the roof.	20 feet	Distance equal to tower height

- 20 (e) **Noise.** A small wind energy system shall not exceed 55 decibels (dBA), as measured at the
 21 closest lot line except during short-term events such as utility outages and severe wind
 22 storms.
- 23 (f) **FAA compliance.** A system must comply with applicable FAA regulations, including any
 24 necessary approvals for installations close to airports.
- 25 (g) **CUC notice.** CUC shall be notified, prior to installation, of the customer's intent to install an
 26 interconnected customer-owned generator. Off-grid systems shall be exempt from this
 27 requirement.
- 28 (h) **Paint and finish.** The wind generator and tower shall remain painted or finished the non-
 29 reflective color or finish that was originally applied by the manufacturer, unless approved in
 30 the building permit.

- 1 (i) **Lighting.** Wind turbines shall be lighted only if required by the Federal Aviation
 2 Administration. Lighting of other parts of the small wind energy system, such as appurtenant
 3 structures, shall be limited to that required for safety and operational purposes, and shall be
 4 reasonably shielded from abutting properties.
- 5 (j) **Signs and Advertising.** Signs and advertising shall be restricted to reasonable identification
 6 of the manufacturer or operator of the small wind energy facility and shall defer to the
 7 requirements of the Saipan Zoning Law.
- 8 (k) **Abandonment and Removal.**
- 9 (1) A small wind energy system that has been abandoned is considered to be a public
 10 nuisance and shall be removed.
- 11 (2) A small wind energy system shall be considered abandoned when it fails to operate for
 12 364 consecutive days (52 weeks).
- 13 (3) The Zoning Administrator may grant an extension of the removal deadline for good cause
 14 shown.
- 15 (4) The Zoning Administrator may follow the procedures in Section 1209 of the Saipan
 16 Zoning Law to obtain removal.
- 17 (l) **System Maintenance.** The applicant shall maintain the small wind energy system in good
 18 condition. Maintenance shall include, but not be limited to, painting, structural repairs, and
 19 security measures.
- 20 (m) **Unauthorized Access.** Wind turbines or other structures part of a small wind energy system
 21 shall be designed to prevent unauthorized access. For instance, the tower shall be designed
 22 and installed so as to not provide step bolts or a ladder readily accessible to the public for a
 23 minimum height of 8 feet above the ground.
- 24 (n) **Temporary Meteorological (Met) Towers.** A Met tower shall be permitted under the same
 25 standards as a small wind system, except that the requirements apply to a temporary
 26 structure. A permit for a temporary Met tower shall be valid for a maximum of 3 years after
 27 which an extension may be granted. Wind monitoring shall be permitted in all zoning
 28 districts subject to issuance of a zoning permit for a temporary structure.

29 **§ 165-30.1-503 Large Wind Energy System Requirements**

- 30 (a) A large wind energy system shall meet the requirements for a commercial renewable energy
 31 facility as defined in the Saipan Zoning Law (10 CMC § 3511). In addition to meeting the
 32 requirements of Section 702 General Requirements for all Conditional Uses of the Saipan
 33 Zoning Law and all other requirements of the Saipan Zoning Law, a large wind energy
 34 system shall meet the requirements of this Section.
- 35 (a) **Height.** A wind facility shall be no higher than 400 feet above the current grade of the land,
 36 provided that a wind facility may exceed 400 feet if:
- 37 (1) The applicant demonstrates by substantial evidence that such height reflects industry
 38 standards for a similarly sited wind facility; and
- 39 (2) Such excess height is necessary to prevent financial hardship to the applicant.
- 40

- 1 **(b) Setbacks**
- 2 (1) A wind turbine shall be set back a distance equal to 1.5 times the tower height of the
3 wind turbine from the nearest existing residential or commercial structure and 100 feet
4 from the nearest property line and private or public way.
- 5 (2) The Board may reduce the minimum setback distance as appropriate based on site-
6 specific considerations, if the project satisfies all other criteria for the granting of a
7 conditional use permit.
- 8 **(c) Color and Finish.** The Board shall have discretion over the turbine color, although a neutral,
9 non-reflective exterior color designed to blend with the surrounding environment is
10 encouraged.
- 11 **(d) Lighting.** A wind turbine shall be lighted only if required by the Federal Aviation
12 Administration. Lighting of other parts of the wind facility, such as appurtenant structures,
13 shall be limited to that required for safety and operational purposes, and shall be reasonably
14 shielded from abutting properties.
- 15 **(e) Signage.** Signs on the wind facility shall comply with the requirements of the Saipan Zoning
16 Law, and shall be limited to:
- 17 (1) Those necessary to identify the owner, provide a 24-hour emergency contact phone
18 number, and warn of any danger.
- 19 (2) Educational signs providing information about the facility and the benefits of renewable
20 energy.
- 21 **(f) Advertising.** A wind turbine shall not be used for displaying any advertising except for
22 reasonable identification of the manufacturer or operator of the wind energy facility.
- 23 **(g) Appurtenant Structures.**
- 24 (1) All appurtenant structures, including but not limited to, equipment shelters, storage
25 facilities, transformers, and substations, shall be architecturally compatible with each
26 other and shall be contained within the turbine tower whenever technically and
27 economically feasible.
- 28 (2) Structures shall only be used for housing of equipment for the particular site.
- 29 (3) Whenever reasonable, structures should be shaded from view by vegetation and/or
30 located in an underground vault and joined or clustered to avoid adverse visual impacts.
- 31 **(h) Support Towers.** Monopole towers are the preferred type of support for wind facilities.
- 32 **(i) Emergency Services.** The applicant shall provide a copy of the project summary and site
33 plan to the Department of Public Safety or Emergency Management Office, as designated by
34 the Board. Upon request the applicant shall cooperate with these agencies in developing an
35 emergency response plan.
- 36 **(j) Unauthorized Access.** Wind turbines or other structures part of a wind facility shall be
37 designed to prevent unauthorized access.
- 38 **(k) Shadow/Flicker.** A wind facility shall be sited in a manner that minimizes shadowing or
39 flicker impacts. The applicant has the burden of proving that this effect does not have

1 significant adverse impact on neighboring or adjacent uses through either siting or
2 mitigation.

3 **(l) Noise**

4 (1) The wind facility and associated equipment shall not:

5 (A) Increase the broadband sound level by more than 10 dB(A) above ambient, or

6 (B) Produce a “pure tone” condition – when an octave band center frequency sound
7 pressure level exceeds the two adjacent center frequency sound pressure levels by 3
8 decibels or more.

9 (2) These criteria are measured both at the property line and at the nearest inhabited
10 residence. Ambient is defined as the background A-weighted sound level that is
11 exceeded 90% of the time measured during equipment hours. The ambient may also be
12 established by other means with consent from Zoning Administrator. An analysis
13 prepared by a qualified engineer shall be presented to demonstrate compliance with
14 these noise standards.

15 **(m) Facility Condition.** The applicant shall maintain the wind facility in good condition.

16 Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of
17 security measures. Site access shall be maintained to a level acceptable to the Department of
18 Public Safety. The project owner shall be responsible for the cost of maintaining the wind
19 facility and any access road, unless accepted as a public way, and the cost of repairing any
20 damage occurring as a result of operation and construction.

21 **(n) Modifications.** All material modifications to a wind facility made after issuance of the
22 conditional use permit shall require approval by the Board.

23 **(o) Removal Requirements.** Any wind facility that has reached the end of its useful life or has
24 been abandoned shall be removed. When the wind facility is scheduled to be
25 decommissioned, the applicant shall notify the Zoning Administrator by certified mail of the
26 proposed date of discontinued operations and plans for removal. The owner/operator shall
27 physically remove the wind facility no more than 150 days after the date of discontinued
28 operations. At the time of removal, the wind facility site shall be restored to the state it was in
29 before the facility was constructed or any other legally authorized use. More specifically,
30 decommissioning shall consist of:

31 (1) Physical removal of all wind turbines, structures, equipment, security barriers and
32 transmission lines from the site.

33 (2) Disposal of all solid and hazardous waste in accordance with local and state waste
34 disposal regulations.

35 (3) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Zoning
36 Board may allow the owner to leave landscaping or designated below-grade foundations
37 in order to minimize erosion and disruption to vegetation.

38 **(p) Abandonment.** Absent notice of a proposed date of decommissioning, the facility shall be
39 considered abandoned when the facility fails to operate for more than 364 consecutive days
40 (52 weeks) without the written consent of the Board. The Board shall determine in its
41 decision what proportion of the facility is inoperable for the facility to be considered

1 abandoned. If the applicant fails to remove the wind facility in accordance with the
2 requirements of this section within 182 days (26 weeks) of abandonment or the proposed date
3 of decommissioning, the Board may declare the facility to be a public nuisance and take
4 appropriate action.

5 **Part 600 Adult Businesses**

6 **§ 165-30.1-601 Adult Business Overlay Zones**

7
8 (a) An Adult business overlay zoning district is established pursuant to Section 513 of the Saipan
9 Zoning Law of 2007. The district is comprised of land within 200 feet of each side of the
10 centerline of Chalan Pale Arnold (Middle Road) as follows: from Chalan Msgr. Guerrero north
11 to a line extending along the center of Commonwealth Avenue (south side of Sugar King Park).

12
13 **Part 900 - Miscellaneous Provisions**

14
15 **§ 165-30.1-901 Severability**

16 If any provision of the regulations in this subchapter shall be held invalid by a court of
17 competent jurisdiction, the validity of the remainder of the regulations shall not be affected
18 thereby.

19
20 **§ 165-30.1-905 Effective Date**

21 The regulations in this subchapter shall take effect upon the notice of adoption and upon final
22 publication in the Commonwealth Register, or if promulgated by emergency regulation, at such
23 earlier time.