

1 **Article 12. Nonconformities and Public Nuisances**

2 **Section 1201 Purpose**

- 3 (a) Existing uses were established on Saipan before this Law was adopted or amended that
4 now do not meet the requirements of this Law. There are four kinds of nonconformities:
5 uses, structures, lots, and signs. The purpose and intent of this article is to regulate and
6 limit the continued existence of the nonconforming uses.
- 7 (b) It is the intent of this Law to permit these nonconformities to continue, until they are
8 removed, but not to encourage their survival, except under the limited circumstances
9 established in this Article. It is further the intent of this Law that improvements in
10 nonconformities shall not be permitted. To preserve the integrity of this Law, the
11 provisions of this Article are designed to discourage substantial investment in
12 nonconformities.
- 13 (c) This Article also eliminates public nuisance uses that are inconsistent with the character of
14 the area and that may offer varying degrees of public nuisance or hazard to the surrounding
15 community.

16 **Section 1202 Registration of Nonconformities.**

- 17 (a) As soon as reasonably possible after the effective date of this Law, the Administrator shall
18 develop a register of all nonconforming uses, structures, and signs.
- 19 (b) The burden of establishing that a nonconforming use, structure, or sign is permissible, as
20 defined by this Law, shall be on the owner of the nonconforming use, structure, or sign and
21 not on the Commonwealth.

22 **Section 1203 Nonconforming Uses**

- 23 (a) **Continuance of Nonconforming Uses.** Nonconforming uses are declared generally
24 incompatible with this Law. Existing nonconforming uses may continue only in
25 accordance with the provisions of this Section. The Board shall determine whether
26 eliminating, or expediting elimination of, a nonconforming use is reasonable and may
27 provide for amortization schedules for elimination.
- 28 (b) **Enlargement or Expansion.** A nonconforming use shall not be enlarged or expanded in
29 area occupied or in the volume of the structure except pursuant to this Section. Except, a
30 nonconforming use may be enlarged in an area of the same structure which was built for
31 such use prior to the date the use became nonconforming.
- 32 (c) **Discontinuance or Abandonment.** If a nonconforming use is discontinued or abandoned
33 for a period of more than 6 consecutive months, then such use may not be re-established or
34 resumed. Government delay that caused discontinuance or abandonment shall toll the
35 running of this period.

37 **Section 1204 Nonconforming Structures and Conforming Structures with 38 Nonconforming Uses**

- 39 (a) **Continuance of Nonconforming Structures.** A nonconforming structure devoted to a use
40 permitted in the zoning district in which it was located at the time of its construction may
41 be continued only in accordance with this Section. The Board shall determine whether
42 eliminating, or expediting elimination of, a nonconforming structure is reasonable and may
43 provide for amortization schedules for elimination.

- 1 (b) **Maintenance or Repair of Nonconforming Structures.** Normal maintenance or repair to
 2 permit continuation of a nonconforming structure may be performed. The volume of the
 3 structure existing as of the date it became nonconforming shall not be increased.
- 4 (c) **Maintenance or Repair of Structures with Nonconforming Uses.** Normal maintenance
 5 or repair of structures where nonconforming uses are located may be performed.
- 6 (d) **Relocation.** A conforming structure housing a nonconforming use shall not be moved in
 7 whole or in part unless the relocation of the nonconforming use decreases the
 8 nonconformity. A nonconforming structure shall not be moved except to a location where
 9 it will meet all the requirements of this Law.
- 10 (e) **Enlargement or Expansion.** A nonconforming structure shall not be enlarged or
 11 expanded, except with a permit and in conformity with the Law.
- 12 (f) **Damage and Restoration of a Nonconforming Structure**
- 13 (1) When a nonconforming structure is damaged, it may be reconstructed provided:
 14 (A) It is reconstructed within 6 months of the damage;
 15 (B) The scope of the use is not increased; and
 16 (C) The cost does not exceed 60% of the cost of reproducing the structure.
- 17 (2) If a nonconforming structure is damaged and the cost of repair exceeds 60% of
 18 the cost of reproducing the structure, the building shall be demolished unless it
 19 can be rebuilt as a conforming structure.
- 20 (g) **Damage and Restoration of a Structure Housing a Nonconforming Use**
- 21 (1) When a conforming structure that houses a nonconforming use is damaged, the
 22 nonconforming use may continue provided:
 23 (A) The structure is reconstructed and used as before within 6 consecutive
 24 months of the damage; and
 25 (B) The cost of repairs does not exceed 60% of the cost of reproducing the
 26 structure.
- 27 (2) If a conforming structure that houses a nonconforming use is damaged and the
 28 cost of repairs exceeds 60% of the cost of reproducing the structure, then such
 29 use may not be continued, re-established, or resumed.
- 30 (3) Continuation of the nonconforming use after damage shall otherwise be
 31 prohibited.
- 32 (h) **Unsafe Because of maintenance – Nonconforming Structure.** If a nonconforming
 33 structure is declared to be physically unsafe or unlawful due to the lack of repairs or
 34 maintenance, it shall be demolished and subsequent development and use shall meet the
 35 requirements of this Law. This requirement shall apply to all or part of any nonconforming
 36 structure and to all or part of any conforming structure containing a nonconforming use.
- 37 (i) **Unsafe Because of Maintenance – Conforming Structure with a Nonconforming Use.**
 38 If a nonconforming structure or portion containing a nonconforming use becomes
 39 physically unsafe or unlawful due to the lack of repairs or maintenance, the use shall be
 40 terminated.

41 **Section 1205 Nonconforming Lots**

- 42 (a) Development on a nonconforming lot shall not be permitted unless it meets the
 43 requirements of this Section.
- 44 (b) **Homestead Lot.** A homestead nonconforming lot that was a lot of record (see Article 1) as
 45 of the effective date of this Law may be developed only if:
 46 (1) It meets the current requirements for sewage disposal and water supply,
 47 including those of CUC, DEQ, and BEH;
 48 (2) It meets the requirements of the Department of Public Lands; and
 49 (3) It meets the front, side, and rear yard requirements listed in Section 602 and

Section 603 or a variance is approved.

- (c) **Private Lot.** A non-homestead nonconforming lot that was a lot of record (see Article 1) as of the effective date of this Law may only be developed if it meets the front, side, and rear yard requirements listed in Section 602 and Section 603 or a variance is approved.

Section 1206 Nonconforming Signs

(a) **Continuance of a Nonconforming Sign.**

A nonconforming sign, except a banner sign, that was otherwise lawful on the effective date of this Law may be continued. The Board shall determine whether eliminating, or expediting elimination of, a nonconforming sign is reasonable and may provide for amortization schedules for elimination.

- (b) **Nonconforming Sign Not Altered.** No person may cause an increase in the extent of nonconformity of a nonconforming sign. Illumination shall not be added to a nonconforming sign.

- (c) **Moving or Replacing a Nonconforming Sign.** A nonconforming sign may not be moved or replaced, except to bring the sign into conformity with this Law.

- (d) **Damage to a Nonconforming Sign.** If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed, or replaced. A nonconforming sign is "destroyed" if the cost of repairing the sign to its former condition is greater than 25% of the cost of replacing it.

- (e) **Changing Message of a Nonconforming Sign.** The message of a nonconforming sign may be changed so long as this does not create a new nonconformity (for example, by creating an off-premise sign).

(f) **Repair and Renovation of a Nonconforming Sign.**

- (1) Subject to the other provisions of this Section, a nonconforming sign may be repaired and renovated so long as the cost of such work does not exceed, within a 12 month period, 50% of the value of such sign. A permit shall be required for repair or renovation. Proof of value shall be required as a condition to receive the permit.

- (2) A nonconforming can sign shall only be repaired or replaced with a display that has lit letters or graphics and an opaque background (instead of a white background with dark letters or graphics).

(g) **Abandonment of a Sign**

- (1) If a nonconforming sign, other than a billboard, advertises a use that is no longer operating, that sign shall be considered abandoned and shall be removed immediately.

- (2) If a nonconforming billboard remains blank for a continuous period of 90 days, that billboard shall be deemed abandoned and shall be immediately removed.

For purposes of this Section, a billboard is "blank" if:

- (A) It advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating;
- (B) The advertising message it displays becomes illegible in whole or substantial part; or
- (C) The advertising copy paid for by a party other than the sign owner or that promotes an interest, other than the rental of the sign, has been removed.

Section 1207 Nonconforming Adult Businesses

- (a) Any legally established Adult Business that is located anywhere outside of an Adult Business Overlay District or an Adult Business Park District as of the date either such

- 1 district is first established shall be considered a nonconforming use.
- 2 (b) Any legally established Adult Business that does not conform to the requirements of the
- 3 law shall be considered a nonconforming use. Within 182 days (26 weeks) of the effective
- 4 date of this Law, all nonconforming Adult Businesses shall be made to conform to the
- 5 provisions of the requirements of the law.
- 6 (c) Within 364 days (52 weeks) of establishment of an Adult Business Overlay District or an
- 7 Adult Business Park District, all nonconforming Adult Businesses shall either be
- 8 discontinued or made to conform to the provisions of this Law. However, the Board may
- 9 approve an extension to allow for amortization of the business investment in leaseholds or
- 10 leasehold improvements. Any request for extension shall be submitted in writing at least 91
- 11 days (13 weeks) prior to the expiration of the original 364 day (52 week) period and shall
- 12 be supported by such information as may be required by the Board. The Board may grant
- 13 an extension upon finding the following:
- 14 (1) The use, if continued, would not create a public nuisance; and
- 15 (2) The tenant, subtenant, lessee, sub-lessee, owner or other person that owns or
- 16 operates such use is obligated under a lease or other binding rental agreement
- 17 for the premises and the obligation was entered into before the effective date of
- 18 this Law for a period exceeding 5 years; and
- 19 (3) The financial details support the claim that the use represents an investment of
- 20 money in leasehold and leasehold improvements that cannot practically be
- 21 relocated to such an extent that denial of the requested extension would result in
- 22 undue financial hardship.

23 **Section 1208 Conversion or Legalization of a Nonconformity**

- 24 (a) **Purpose.** Many nonconforming uses, lots, structures, or signs have been in existence for
- 25 some time. The classification of nonconformity may be eliminated to remove the stigma
- 26 and the difficulties typically associated with obtaining business loans.
- 27 (b) **Procedure.** Any person may apply for a conditional use permit for a nonconforming lot,
- 28 use, structure, or sign.
- 29 (c) **Criteria for Approval.** The Board shall attach any conditions necessary to ensure that the
- 30 use, lot, structure, or sign will not become a public nuisance and will satisfactorily coexist
- 31 with other existing or potential uses, lots, structures or signs in the zoning district. In
- 32 addition to the criteria for approval of a conditional use set forth in Article 7, the
- 33 application shall meet the following requirements:
- 34 (1) Support shall be demonstrated in writing from 80% of the property owners
- 35 located within 300 ft of all lot lines;
- 36 (2) There shall be a demonstrated lack of neighborhood opposition to the
- 37 continuance of the use; and
- 38 (3) Conditions shall be eliminated that would tend to create a public nuisance.
- 39 (d) **Effect.** If a conditional use permit is issued according to the procedure and criteria in this
- 40 Section, continuation of the use, lot, structure, or sign shall be given a rebuttable
- 41 presumption of reasonableness.

42 **Section 1209 Public Nuisances**

- 43 (a) **Purpose.** It is important for a community to appear clean, well kept, and to be generally
- 44 clear of public nuisances, eyesores, and unhealthy conditions. The appearance and
- 45 conditions of a community weigh heavily in the decisions of prospective residents and
- 46 businesses in locating to a particular area. A clean, safe, and well-kept community can
- 47 stabilize or increase property values, provide a healthy environment, and make citizens
- 48 proud of the area in which they live. It is therefore the purpose and intent of this Section to

- 1 encourage a clean, healthy, and satisfying environment -- one free of, eyesores, unhealthy,
 2 unsafe, or devaluating conditions and other public nuisances. To this end, this Section
 3 seeks to regulate and protect the health, safety, welfare, values, and aesthetics of properties.
- 4 (b) **Public Nuisance Defined.** “Public nuisance” means as defined in Article 1 of this Law.
- 5 (c) **Public Nuisance Prohibited.** It shall be unlawful for a person to cause, permit, maintain,
 6 or allow the creation or maintenance of a public nuisance.
- 7 (d) **Examples of Public Nuisances.** The following list includes examples of public nuisances.
- 8 (1) Any article of clothing hung outside of a balcony, terrace, porch, deck or
 9 veranda that is within public view of a major arterial or collector road. This
 10 activity is also proscribed within those tourist-related districts that are zoned as
 11 Garapan Core, Garapan East, Beach Road, or Tourist Resort.
 12 The Zoning Board is authorized to promulgate rules and regulations, to include
 13 penalty provisions, to enforce this provision.
- 14 (2) Vegetation that obstructs the safe passage or line-of-sight of motorists or
 15 pedestrians at an intersection or driveway connection with a public or private
 16 street or alley, or along any street or sidewalk.
- 17 (3) The keeping or maintenance of one or more abandoned vehicles in public view
 18 or in a manner inconsistent with this Law.
- 19 (4) The keeping or maintenance of an abandoned appliance in public view or in a
 20 manner inconsistent with this Law, particularly when the appliance would
 21 permit a child to become trapped inside.
- 22 (5) A carcass of an animal or fowl not disposed of within a reasonable time after
 23 death.
- 24 (6) A building or other structure which is in such a dilapidated condition that it:
 25 (A) Is unfit for human habitation;
 26 (B) Is kept in such an unsanitary condition that it is a menace to the health of
 27 people residing in the vicinity thereof; or
 28 (C) Presents a fire hazard.
- 29 (7) The pollution of a public well, stream, lake, canal, or body of water by sewage,
 30 dead animals, industrial wastes, agricultural wastes, or other substances.
- 31 (8) A building, structure, or other place or location where any activity is conducted,
 32 performed or maintained in violation of CNMI, or federal law.
- 33 (9) A method of disposal for human excrement that does not meet the provisions of
 34 CNMI or federal law.
- 35 (e) **Notice to Abate**
- 36 (1) Whenever a public nuisance is found to exist, the Administrator shall give
 37 written notice to abate the public nuisance to the owner or occupant of the
 38 property on which such a public nuisance exists or to the person causing or
 39 maintaining the public nuisance.
- 40 (2) The notice shall identify the public nuisance and the date of the required
 41 termination of the use or structure, and the authority for the notice, and shall
 42 advise of likely further inspections.
- 43 (3) There shall be an opportunity for a hearing. The request for a hearing shall not
 44 stay the removal date or termination date.
- 45 (4) The Administrator shall inspect the premise as s/he determines inspection is
 46 required.

47 **Section 1210 Nonconforming Adult Gambling Machine Businesses**

- 48 (a) Any legally established adult gambling machine business that is in a location in which such
 49 business would not be permitted as a new business under the Law shall be considered a

1 nonconforming use.

- 2 (b) Within four years of the effective date of this Law, at the end of the last full renewal period
3 of its license from the Department of Finance prior to the deadline, all nonconforming adult
4 gambling machine businesses shall be located in the Tourist Resort, Mixed Commercial,
5 Garapan Core, Garapan East or Beach Road Zoning Districts, in accordance with Section
6 612(b), so long as the establishment is located 200 feet from any church, laundromat, public
7 or private school, daycare, park or playground. No restriction set forth in any other Article
8 or Section of this law shall be construed to prevent two or more adult gambling machine
9 businesses from operating out of the same building, unit, or establishment, provided that all
10 other requirements of this law are met and complied with.
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13 **Section 1211 Nonconforming Auto Rental Offices with Vehicles**

- 14 (a) **Purpose.** It is important for a community to have a clean environment and be generally
15 clear of public nuisances, eyesores, and unhealthy conditions. A number of auto rental
16 establishments have operated in congested areas with rental vehicles stored on site. These
17 have threatened the public safety through traffic congestion, insufficient space for
18 sidewalks, and accumulation of inoperable vehicles. The Board determines that this is a
19 public nuisance. It is therefore the purpose and intent of this Section to encourage a clean,
20 healthy, and safe environment by restricting the staging, storage, and service of vehicles in
21 these areas.
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- 23 (b) Any legally established auto rental office that is staging or storing rental vehicles in a
24 location where such business would not be permitted as a new business under the Law shall
25 be considered a nonconforming use, and treated as a public nuisance.
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- 27 (c) Within 2 years of the effective date of this Law, all nonconforming auto rental offices shall
28 be required to stage and store all rental vehicles outside of the Garapan Core, Garapan East,
29 and Tourist Resort zoning districts.