

1 **Article 13. Application Processes and Decision Procedures**

2 **Section 1301 Purpose**

3 This Article contains procedures for applications and decision-making on permits and other
4 approvals (except subdivisions covered under Article 11) authorized by this Law.

5 **Section 1302 General Review Procedures**

6 (a) **General Provisions.** This Section applies to all development applications and procedures
7 under this Law, as set forth in Article 2, unless otherwise stated.

8 (b) **Authority to File Applications**

9 (1) An application under this Law shall be submitted to the Administrator by the
10 owner or other person having an interest in the land for which the development
11 is proposed, or by the authorized agent.

12 (c) **Concurrent Processing Preferred**

13 (1) Whenever two or more forms of review and approval are required under this
14 Law (e.g., a site plan permit and a zoning permit), the applications for those
15 development approvals may, at the determination of the Administrator, be
16 processed concurrently, so long as all applicable requirements are satisfied for
17 both applications. Concurrent processing is favored.

18 (2) Except that, whenever two types of sequential review are required for the same
19 approval (e.g., a master plan for subdivision and a final plat for the
20 subdivision), those two review and approval procedures shall be completed as
21 separate steps in the order specified.

22 (d) **Form of Application.** An application required under this Law shall be submitted on a form
23 that the Administrator has adopted and made available to the public. At a minimum, an
24 application shall:

- 25 (1) Identify principals and authorized representatives;
- 26 (2) Specify the location and nature of the proposed development;
- 27 (3) Include calculations and details of design, construction, or operation of the
28 proposal and nature of surrounding properties and features sufficient to evaluate
29 whether the proposal meets all of the requirements of this Law;
- 30 (4) Use English language text;
- 31 (5) Be submitted in electronic format, if specified;
- 32 (6) Be stamped by a licensed engineer or surveyor, if required;
- 33 (7) Include drawings, if required, at a scale of 1 inch = 50 ft unless an alternate
34 scale is required; and
- 35 (8) Be accompanied by proof of payment of the appropriate fee, if required.

36 (e) **Pre-application Conference.** All developers and members of the public are entitled to a
37 Pre-application meeting with Zoning staff. The purpose of a pre-application conference is
38 to familiarize the applicant and the Administrator's staff with the provisions and effects of
39 the application and with the applicable legal requirements and to determine how to make
40 the review process most efficient. A developer may call and request to schedule a date for
41 the Pre-application meeting.

42 (f) **Determination of Complete Application**

43 (1) **Deadline for Determination.** Within 14 days (2 weeks) of submission of an
44 application, the Administrator shall determine in writing whether the
45 application is sufficiently complete to accept it for filing. If the Administrator
46 has not made such determination within this time period, a permit application
47 shall be deemed complete for filing and shall be recorded as filed. If the
48 Administrator rejects the filing as incomplete, the rejection shall specify the

- 1 missing information. The acceptance of an application for filing as complete
- 2 shall not bar the Administrator from requiring additional information.
- 3 (2) **Subsequent Amendment.** If the applicant subsequently substantially amends
- 4 the application, or reasonably should have, the Administrator may declare the
- 5 initial application rejected for all purposes except payment of the fee, and shall
- 6 accept the amended application as a newly filed application, with credit for the
- 7 fee paid.
- 8 (3) **Additional Information.** A determination of completeness shall be made when
- 9 the application is sufficient for continued processing even though additional
- 10 information may be required or the project modified. The Administrator’s
- 11 determination of completeness shall not preclude the Administrator from
- 12 requesting additional information either at the time of the determination of
- 13 completeness or at some later time.
- 14 (4) **Incomplete Application**
- 15 (A) If the Administrator determines the application is not complete, the
- 16 Administrator shall provide a written notice to the applicant specifying the
- 17 application’s deficiencies. No further action shall be taken on the
- 18 application until the deficiencies are remedied. The determination of
- 19 incompleteness shall be considered a final decision of the Administrator
- 20 for the purposes of appeal.
- 21 (B) Upon a determination of incompleteness, the applicant shall have 84 days
- 22 (12 weeks) to submit the necessary information to the Administrator.
- 23 Within 14 days (2 weeks) after an applicant has submitted the requested
- 24 additional information, the Administrator shall prepare a written
- 25 determination regarding completeness as described in the preceding
- 26 subsection, and notify the applicant in the same manner.
- 27 (C) If the applicant fails to submit the required information within the 84-day
- 28 period, the Administrator shall find and determine that the application has
- 29 lapsed for failure to submit the necessary information in a timely manner,
- 30 and shall close the project permit application file. For good cause shown,
- 31 the Administrator may grant time extensions to submit the required
- 32 information, not to exceed an additional 84 days.
- 33 (g) **Refund of Fee.** When the application has lapsed or when the applicant requests the
- 34 application to be withdrawn, the applicant may obtain a refund of the unused portion of the
- 35 application fee by written request.
- 36 (h) **Decision Procedure**
- 37 (1) After finding that the application is complete, i.e., all deficiencies identified by
- 38 the Zoning Office have been adequately addressed by the applicant, the
- 39 Administrator shall issue a decision in writing to accept, deny, or accept the
- 40 application with conditions. The decision shall rest on findings and conclusions.
- 41 The applicant may submit as many plan revisions, as necessary, to the Zoning
- 42 Office until the Administrator determines that the plan and project comply with
- 43 the Saipan Zoning Law. After the third (3rd) revision, the Zoning Office shall
- 44 charge an additional \$50.00 review fee per revision.
- 45 (2) The Administrator shall make deliberate effort to issue the decision within 28
- 46 days (4 weeks) unless:
- 47 (A) Specifically stated otherwise in this Law; or
- 48 (B) The Administrator extends the deadline upon a finding of good cause.
- 49 (3) The failure to make a decision within the time specified shall constitute
- 50 approval, unless an extension is provided
- 51 (4) The Zoning Office shall inform the Office of Planning & Development and the Coastal

1 Resources Management Board once a Major Site Application or Conditional Use Application
2 has been filed as complete.
3

4 **Section 1303 Fees**

- 5 (a) The Board shall provide for fees to accompany applications and other filings. Each fee
6 shall be reasonably related to the full cost of evaluating, investigating, hearing and
7 processing.
8 (b) No application shall be processed until the fee has been paid.
9 (c) Application fees are not refundable except when the Administrator determines that an
10 application has been accepted in error, or the fee paid exceeded the amount due, or the
11 application was withdrawn before evaluation or substantial processing. In such cases, the
12 amount of the overpayment or unused portion of the application fee shall be refunded to
13 the applicant.

14 **Section 1304 Procedure for Zoning Permits**

- 15 (a) **Purpose.** A zoning permit demonstrates that a development meets the requirements of this
16 law when other types of zoning permits are not required.
17 (b) **Applicability.** A development, including a single family dwelling, that does not require a
18 permit under other provisions of this Law shall be required to have a zoning permit prior to
19 development and/or issuance of a building permit.
20 (c) **Procedures**
21 (1) The Administrator shall publish a zoning permit application form and shall
22 specify filing procedures and requirements.
23 (2) An applicant may file an application for a zoning permit concurrent with other
24 permits required under this Law.
25 (3) Within 21 days of filing, the Administrator shall determine in writing whether
26 the application complies with the requirements of this Law.
27 (4) If the Administrator finds that the application complies with the requirements of
28 this Law, the zoning permit shall be issued.
29 (5) If the Administrator makes any other determination, the applicant shall have 28
30 days (4 weeks) to respond in writing with a second submittal.
31 (6) The Administrator shall review the second submittal within 14 days (2 weeks)
32 and approve, disapprove, or approve with conditions.
33 (d) **Requirements.** The Administrator shall approve a zoning permit only when all of the
34 requirements of this Law are met.
35 (e) **Expiration.** A zoning permit shall expire at the end of one year after the date of its initial
36 approval if an application for a building permit has not been approved, or, if the use does
37 not require a building permit, the use is not established, ongoing, and in operation. Upon
38 written request, the Administrator may, for good cause shown, grant one 12- month
39 extension of the zoning permit. Except that a zoning permit for an Adult Gambling
40 Machine Business shall expire at the end of 6 months after the date of its initial approval if
41 the use is not established, ongoing, and in operation.
42 (f) **Amendment.** A zoning permit may be amended, extended or modified only in accordance
43 with the procedures and requirements established for its original approval.

44 **Section 1305 Procedure for Temporary Use Permits**

- 45 (a) **Purpose.** A temporary use permit is required to ensure that the design, construction, and
46 operation of the proposed use meet the appropriate requirements of this law.
47 (b) **Applicability.** A temporary use shall be required to have a temporary use permit prior to

1 development and/or issuance of a building permit. The provisions of this Section shall
 2 apply to all proposed temporary uses unless otherwise specifically exempted.

3 (c) **Procedures**

- 4 (1) The Administrator shall publish a temporary use application form and shall
 5 specify filing procedures and requirements.
 6 (2) Within 7 days of filing the Administrator shall determine in writing whether the
 7 application complies with the requirements of this Law.
 8 (3) If the Administrator finds that the application complies with the requirements of
 9 this Law, the temporary use permit shall be issued.
 10 (4) If the Administrator makes any other determination the applicant shall have 7
 11 days to respond in writing with a second submittal.
 12 (5) The Zoning Administrator shall review the second submittal within 7 days and
 13 approve, disapprove, or approve with conditions.

14 (d) **Compliance.** Following the issuance of the temporary use permit, the Administrator shall
 15 ensure that establishment and discontinuance of the temporary use are undertaken in
 16 compliance with the permit.

17 (e) **Effective Date and Expiration.** A temporary use permit shall be effective beginning on
 18 the date of approval, and shall expire in no more than 182 days (26 weeks). Upon written
 19 request, the Administrator may grant an extension for good cause shown.

20 (f) **Amendment.** A temporary use permit may be amended, extended or modified only in
 21 accordance with the procedures and requirements established for its original approval.

22 **Section 1306 Procedure for Site Plan Permits**

23 (a) **Purpose.** Site plan review is required to ensure that the proposed layout and general design
 24 of proposed development complies with the appropriate requirements of this Law and that
 25 the proposed development is compatible with surrounding land uses.

26 (b) **Applicability.** All development shall be required to have an approved site plan prior to
 27 development and/or the issuance of a building permit, except for development exempted
 28 from site plan review

29 (c) **Exemptions.** The following development or activities shall be exempted from the
 30 requirements of this Section if they are otherwise permissible:

- 31 (1) A single family home and accessory building located on an individual lot.
 32 Provided that such development shall obtain a Zoning Permit.
 33 (2) A permitted temporary use.
 34 (3) The normal maintenance, repair, demolition, or re-use of existing buildings,
 35 structures, or land.
 36 (4) Except that the following are not exempted under this Subsection:
 37 (A) Enlargement of a building or structure.
 38 (B) Expansion of the number of parking spaces;
 39 (C) The addition of a new building or structure.

40 (d) **Eligible Applicants.** The owner(s) of record, contract tenant or lessee, or an authorized
 41 representative or agent may apply for a site plan review.

42 (e) **Definition of Minor and Major Site Plans**

- 43 (1) The Board shall, by regulation, establish procedures for the review and approval
 44 of minor and major site plans.
 45 (2) A major site plan shall include a project that involves construction of a new
 46 building or major expansion of an existing structure.
 47 (3) A minor site plan shall include a project that involves the development of a
 48 fence, retaining wall, accessory building, minor expansion of existing
 49 structures, or parking lot addition/expansion, and similar structures for

- 1 development not exempted under Section 1306.
- 2 (f) **Applications.** The Administrator shall publish application forms for site plan approval and
- 3 shall specify filing procedures and requirements.
- 4 (g) **Approval of a Minor Site Plan**
- 5 (1) Within 21 days of filing, the Administrator shall make an initial determination
- 6 in writing whether the application complies with the requirements of this Law.
- 7 (2) The applicant may submit as many plan revisions, as necessary, to the Zoning
- 8 Office until the Administrator determines that the plan and project comply with
- 9 the Saipan Zoning Law. After the third (2nd) revision, the Zoning Office shall
- 10 charge an additional \$50.00 review fee per revision.
- 11 (3) After finding that the application is complete, i.e., all deficiencies identified by
- 12 the Zoning Office have been adequately addressed by the applicant, the
- 13 Administrator shall issue a decision in writing to accept, deny, or accept the
- 14 application with conditions within 14 days (2 weeks).
- 15 (h) **Processing and Approval of a Major Site Plan Application**
- 16 (1) A major site plan application shall be submitted and decided in accordance with
- 17 Section 1302 unless there is a conflict with more stringent requirements of this
- 18 Section.
- 19 (i) **Recording.** The Administrator shall keep approved site plans on record in the Zoning
- 20 Office.
- 21 (j) **Requirements for Site Plan Review.** A site plan shall not be approved if it fails to meet
- 22 all the requirements of this Law for the proposed use in the proposed zoning
- 23 district.
- 24 (k) **Permit Approval Time Limitations.**
- 25 (1) A site plan permit approval shall remain valid for 5 years provided that physical
- 26 improvements consistent with the site plan permit and phasing schedule have
- 27 been commenced within 3 years of the date of the site plan notice to proceed.
- 28 "Physical improvements" means utility or transportation improvements, final
- 29 grading, building permits and start of construction, or other similar activities
- 30 determined by the Administrator.
- 31 (2) If the first phase of physical development of the site plan permit has not been
- 32 started within the applicable time period, the site plan approval shall become
- 33 null and void without further action or notice. Subsequent development shall be
- 34 reviewed pursuant to the Law and the regulations in effect at the time of the
- 35 new application.
- 36 (3) Development phases identified and approved in a site plan permit shall be
- 37 commenced and completed in accordance with the approved phasing plan.
- 38 (l) **Financial Assurance.** The Administrator or Board may require financial assurance to
- 39 guarantee compliance with permit conditions, protection of public facilities and
- 40 conformance with other applicable requirements of this Law.
- 41 (m) **Modification of an Approved Permit**
- 42 (1) A subsequent permit application may contain minor modifications to an
- 43 approved site plan permit application. The Administrator and/or the Board shall
- 44 consider a minor modification to be one that substantially presents
- 45 characteristics that include:
- 46 (A) The building floor area is not increased by more than 10%;
- 47 (B) Storm water runoff or the potential for erosion is not likely to be
- 48 significantly increased;
- 49 (C) There is no change in the number of ingress and egress points to the site or
- 50 a resulting insufficient amount of parking and/or loading facilities;
- 51 (D) There is no significant increase in unmitigated traffic impacts of peak hour

- 1 trips to and from the site;
 2 (E) There is no reduction or adverse/significant change in the pedestrian
 3 circulation system; and
 4 (F) There is no significant extension of time for commencement or completion
 5 of development phases.
 6 (2) Modifications other than minor modifications shall require a new site plan
 7 permit.

8 Section 1307 Procedure for Sign Permits

- 9 (a) **Purpose.** A sign permit is required to ensure that the proposed design, construction, and
 10 location meet the requirements of this Law.
 11 (b) **Applicability.** Unless specifically exempted by Article 10, no sign shall be erected,
 12 altered, or relocated after the effective date of this Law until a sign permit has been secured
 13 from the Administrator. Provided, that a separate sign permit shall not be required for a
 14 sign that is included in a site plan permit application.
 15 (c) **Procedures**
 16 (1) Applications shall be made in writing on forms supplied by the Administrator.
 17 (2) The Administrator shall approve, approve with conditions, or deny the
 18 application within 21 days of filing.
 19 (3) If the Administrator finds that the application complies with the requirements of
 20 this Law, the sign permit shall be issued.
 21 (4) If the Administrator makes any other determination the applicant shall have 28
 22 days (4 weeks) to respond in writing with a second submittal.
 23 (5) The Zoning Administrator shall review the second submittal within 14 days (2
 24 weeks) and approve, disapprove, or approve with conditions.
 25 (d) **Requirements.** The Administrator shall approve a sign permit only when all of the
 26 requirements of this Law are met.
 27 (e) **Expiration.** A sign permit shall expire at the end of one year after the date of its initial
 28 approval if an application for a building permit has not been approved, or, if the use does
 29 not require a building permit, the sign is not constructed and in operation.

30 Section 1308 Procedure for Conditional Use Permits

- 31 (a) **Purpose.** Conditional use permits shall be obtained for certain uses that would become
 32 harmonious or compatible with neighboring uses through the application and maintenance
 33 of qualifying conditions and siting in specific locations within a zoning district, but that
 34 would not be allowed under the general conditions of the zoning district as stated in this
 35 Law. The Board shall decide these applications.
 36 (b) **Application**
 37 (1) The Administrator shall publish application forms for conditional uses and shall
 38 specify filing procedures and requirements.
 39 (2) Complete application. The Administrator shall determine when the application
 40 is complete in accordance with Article 13.
 41 (c) **Decision by the Board.** An application for a conditional use permit shall be determined as
 42 follows:
 43 (1) A public hearing preceded by notice shall be held within 42 days of the filing of
 44 a completed application. Provided, the Board may delay the public hearing
 45 upon a finding of good cause or at the request of the applicant.
 46 (2) The Board shall decide the application within 35 days after the close of the
 47 record. Provided, upon good cause shown, the Board may extend the date of

1 decision.

- 2 (3) Any application disapproved by the Board may be resubmitted only after 6 months
 3 from the date of disapproval, provided that significant changes have be made from the previous
 4 application and plans.
- 5 (d) **Criteria for approval.** No application for a conditional use shall be granted unless the
 6 application is consistent with the requirements of Article 7.
- 7 (e) **Expiration.** A conditional use permit shall expire 12 months from the date of issuance
 8 unless the permit has been exercised. The permit shall be considered exercised when the
 9 use has been established or when a building permit has been issued and substantial
 10 construction accomplished.
- 11 (f) **Modification of Plan.** Modification of a plan submitted and approved as part of the
 12 original conditional use application may be approved, provided the modification does not
 13 violate the original intent of the plan, a condition of approval, or the public health, safety or
 14 general welfare.
- 15 (g) **Lapse of Permit.** If development occurs pursuant to a permit and the development is
 16 discontinued for any reason for a period of 12 months, or if substantial development does
 17 not begin within a period of 12 months, the permit shall automatically become null and
 18 void and the permitted development may not be resumed. Upon written application during
 19 the 12-month period and upon a showing of good cause, the Board or Administrator may
 20 grant an extension. Any lapsed permit shall not be renewed after its expiration. A new
 21 application shall be completed for review and issuance of a new permit.
 22

23 **Section 1309 Procedure for Correction of Technical Errors**

24 The Board shall have the power and authority without further procedure to correct the text of
 25 this Law and/or the Official Saipan Zoning Map for drafting or other technical error by
 26 resolution at a meeting of the Board. This provision shall only apply to minor technical and
 27 non-substantive amendments that are strictly necessary to effectuate the intent of the legally
 28 approved SNILD provision.

29 **Section 1310 Procedure for Beneficial Use Determination**

- 30 (a) **Purpose.** Every landowner should enjoy a beneficial use of property provided such use
 31 does not require a public subsidy to protect the property, its structures, or inhabitants from
 32 damages.
- 33 (b) **Appeal for Relief Procedure.** A claim regarding the denial of the beneficial use of
 34 property due to this Law shall be brought to the Board for a decision. This is an
 35 administrative remedy that shall be exhausted prior to an action in the courts. The Board
 36 shall provide for notice and an opportunity for a hearing regarding the claim.
- 37 (c) **Deprivation Requirements.** In determining if an applicant has been deprived of all
 38 beneficial use of the land in question, the Board shall explicitly consider all the following
 39 factors:
- 40 (1) **Diminution in Value.** The value of the land, without the regulation, that caused
 41 the applicant to apply for relief shall be compared to the value of the land with
 42 the regulation applied. A mere diminution in value does not deprive the owner
 43 of a beneficial use; the diminution shall be so drastic that it effectively deprives
 44 the owner of any significant use or enjoyment of the land.
- 45 (2) **Similar Application of District to Adjoining Properties.** The zoning of the
 46 property is applied to adjoining properties, and the parcel has not been uniquely

1 singled out for different treatment.

2 (3) **External Costs**

3 (A) The amount or nature of any subsidy that may be required by government,
4 neighbors, purchasers, tenants, or the public at large if the remaining use is
5 beneficial.

6 (B) Any other adverse effects on other property owners, the public or the
7 environment of permitting greater development. Specifically, the following
8 shall be evaluated:

9 (i) Increased storm water or flooding;

10 (ii) Impact of debris moved by water or wind;

11 (iii) Decreased water supply or decreased quality of water; and

12 (iv) Impact of noise, dirt or airborne pollutants on adjoining properties,
13 waterbodies, or streets.

14 (4) **Revenues to Property**

15 (A) All revenues that can be obtained through the zoned use of the land.

16 (B) Any revenues from other government sources under the provision of this
17 Law.

18 (d) **Granting of Relief**

19 (1) If the finding is that a landowner has been denied all beneficial use of a
20 property, then relief shall be recommended.

21 (2) In recommending the granting of relief, the landowner shall be given the
22 minimum increase in use intensity or other possible concessions pursuant to this
23 Law to permit a beneficial use of the land. The highest use, or even an average
24 or generally reasonable expectation, is not required or intended. The following
25 requirements shall be used for determining the minimum beneficial use of a
26 parcel and, therefore, the amount of relief to be granted a landowner to reach
27 that minimum.

28 (A) A minimum beneficial use of the land should be one that does not have any
29 governmental subsidy attached to the long-term safe occupation of the site.
30 If such a subsidy is needed, then that should be reflected by lowering the
31 use intensity that is considered minimum beneficial use on a valuation
32 basis.

33 (B) A use common to Saipan, although it may not involve further development
34 of the land, is considered a beneficial use. Attention shall also be given to
35 land uses that are considered to be the lowest intensity in Saipan and still
36 provide for occupation and living within Saipan.

37 (C) If a use is in an area that has frequently flooded and received insurance or
38 emergency assistance, then the use has been government-subsidized. If a
39 use is government-subsidized (for example a homestead lot), then that
40 subsidy should be reflected in a beneficial use determination by lowering
41 the use intensity that would otherwise be considered a minimum beneficial
42 use on a valuation basis. That is, if the owner does not have as great an
43 investment in a piece of property because of government assistance to the
44 owner, then the property cannot be valued as highly as property bought by
45 the owner at fair market value.

46 (D) The limits posted on development by the natural condition of the land shall
47 be considered. If the land is such that it cannot safely accommodate
48 development with normal grading and clearing practices, this fact shall
49 lower the intensity of use that is considered a minimum beneficial use.

50 (E) The degree to which extraordinary site preparation costs are needed to
51 safely build on a property shall also be used to decrease the use intensity of

- 1 the minimum beneficial use.
- 2 (F) The potential for damages to either residents or property shall be assessed
- 3 in determining beneficial use. The need for a government subsidy to future
- 4 landowners shall be considered, and the cost of such subsidy shall be
- 5 deducted from the otherwise established minimum beneficial use.
- 6 (G) Expectations shall, in general, not be considered unless they are backed by
- 7 investments substantially above the cost of the land and normal planning
- 8 investments.

9 **Section 1311 Procedure for Variances**

- 10 (a) **Purpose.** A variances is a deviation from the dimensional requirements in the applicable
- 11 zoning district when, owing to special circumstances or conditions (like exceptional
- 12 topographical conditions, narrowness, shallowness, or the shape of a specific piece of
- 13 property), the literal enforcement of this Law would result in peculiar and practical
- 14 difficulties to, or exceptional and undue hardships on the owners of the property, and the
- 15 deviation would not be contrary to the public interest. This Section sets forth the
- 16 procedures and conditions for application, review, and permission of variances from the
- 17 requirements of this Law.
- 18 (b) **Procedures for a Petition for a Variance**
- 19 (1) An application for a variance may be made by a person:
- 20 (A) Aggrieved by any decision of the Administrator or the Board; or
- 21 (B) Who seeks relief from a provision of this Law.
- 22 (2) The person may request an administrative variance when it appears that the
- 23 variance will be minor.
- 24 (c) **Notice and Hearing.** The Board shall provide notice and an opportunity for hearing to
- 25 each interested person.
- 26 (d) **Repeated Applications.** The Board shall not be required to consider another application
- 27 for substantially the same proposal until after one year from the date of its decision.
- 28 (e) **Requirements**
- 29 (1) In authorizing a variance, the Board may attach such conditions regarding the
- 30 location, character, and other features of the proposed structure or use as it
- 31 deems necessary in the interest of furthering the purposes of this Law and in the
- 32 public interest.
- 33 (2) In authorizing a variance the Board shall require such evidence and guarantee or
- 34 bond as it may deem necessary to ensure compliance with the attached
- 35 conditions.
- 36 (3) No variance shall be granted unless all of the following considerations apply:
- 37 (A) A special property condition exists (like exceptional topography,
- 38 narrowness, shallowness, or shape) that is peculiar to the land or structure
- 39 for which the variance is sought, and that is not applicable to other land or
- 40 structures in the same zoning district;
- 41 (B) The special circumstance is not the result of the actions of the applicant;
- 42 (C) The literal interpretation and enforcement of the terms and provisions of
- 43 this Law would deprive the applicant of rights commonly enjoyed by other
- 44 land in the same zoning district and would cause an unnecessary and undue
- 45 hardship;
- 46 (D) The granting of the variance is the minimum action that will make possible
- 47 a use of the land or structure that is not contrary to the public interest;
- 48 (E) The granting of the variance will not materially affect adjacent land
- 49 adversely; and
- 50 (F) The granting of the variance will be consistent with the purposes and intent

of this Law.

(f) **Limited Effect of a Variance**

- (1) A variance permit shall authorize only the particular variation that is approved in the variance permit.
- (2) A variance permit shall not run with the land unless the new property owner signs a request for transfer of the variance permit, promises acceptance of any applicable conditions and submits same to the Administrator.

(g) **Limitations on Granting a Variance.** No variance shall be allowed for any of the following:

- (1) Permitting a use that is not otherwise permitted in a zoning district;
- (2) Curing an asserted taking or deprivation of all beneficial use of a property;
- (3) With respect to floodplain and floodway variances:
 - (A) Permitting a lower degree of flood protection in the floodplain than the flood protection elevation specified by the Federal Emergency Management Agency (FEMA) in its most recent National Flood Insurance Program flood insurance maps for the Commonwealth or
 - (B) Allowing any floor, basement, or crawlspace below the FEMA-established flood elevation for residential or commercial structures.
 - (C) Except that a floodplain or floodway decision shall recognize the difference between a riverine flood plain and an ocean-related storm surge flood plain.
- (4) Changing use to a category not permitted in the district; or
- (5) Hardship of a financial nature, hardship that is self-created, and hardship that is personal to the user and not to the property.

(h) **Administrative Variance.** The Administrator may grant an administrative variance in the following circumstances:

- (1) If the variance does not increase the use's nonconformity; and
- (2) The variance is for either:
 - (A) Repair or other alteration which does not change the use, footprint or square footage; or
 - (B) One of the following changes:
 - (i) A decrease of up to 50% of the required dimension requirements, size of the lot or front yard, side yard, or rear yard setback.
 - (ii) A change in fence height or requirements regarding specific decorative elements required by the law, such as building façade design; or
 - (iii) A decrease of up to 33% in the number of required parking spaces; or
 - (iv) An increase of up to 20% in the number of compact parking spaces allowed on a site.

(i) **Amendment to a variance.** A variance permit may be amended, extended or modified only in accordance with the procedures and requirements for its original approval. A change in a condition of approval of a variance permit shall be considered an amendment.

(j) **Lapse of Permit.** If development occurs pursuant to a variance permit and the development is discontinued for any reason for a period of 12 months, the variance permit shall automatically become null and void and the permitted development may not be resumed. Upon written application during the 12-month period and upon a showing of good cause, the Board may grant an extension.

Section 1312 Revocation or Suspension of Permits

- (a) The violation of any provision of this Law or of any permit or approval condition granted under this Law shall be grounds for the suspension or revocation of any permit, rezoning,

- 1 variance, or approval granted pursuant to this Law.
- 2 (b) Summary suspension or revocation.
- 3 (1) When there is an immediate danger to health, safety or welfare of:
- 4 (A) The public; or
- 5 (B) A neighboring use or property;
- 6 (2) The Board or Zoning Administrator may summarily suspend or revoke any
- 7 permit, rezoning, variance, or approval granted pursuant to this Law,
- 8 (3) Without public notice if provision is made for public notice and an opportunity
- 9 for a hearing as soon as practicable thereafter, pursuant to one of the procedures
- 10 presented in Article 14 Section 1409(c).
- 11