

Article 3. Duties and Responsibilities

Section 301 Purpose

This article presents the duties and responsibilities for the Zoning Board, the Zoning Administrator and other officials and agencies with respect to the administration of this Law and pursuant to the Zoning Code.

Section 302 Board Jurisdiction

Notwithstanding any other provision of this Law, the Zoning Board's power, authority, and jurisdiction shall extend to Saipan, Bird Island, Forbidden Island and Managaha Island.

Section 303 Board's and Administrator's Liability

No member of the Board nor the Administrator or his/her staff shall be held liable for action or inaction attributable to the lawful exercise of their responsibilities under this Law or the Zoning Code. They shall be covered by the provisions of PL 15-22, as amended, 7 CMC §2201-10 ("CELRTCA"), and/or its successor.

Section 304 Accounting

It is the intent of the Saipan and Northern Islands Legislative Delegation and to the extent permitted by law, it shall be, that the Board's account shall be a revolving fund within the Government's accounts and that no funds received by or appropriated for the Board shall be subject to reprogramming.

Section 305 Expenditure and Audit

- (a) The Board shall request the Office of Public Auditor to perform an annual audit of the use of the Board's funds and report its findings to the presiding officers of the legislature.
- (b) The expenditure authority of all funds appropriated to the Board shall be the Chairperson of the Board, or his/her designee.

Section 306 Staff

The Administrator and his/her staff shall be subject to the civil and excepted services and the Administrator shall receive an annual salary as determined by the Board pursuant to 1 CMC § 8246.

Section 307 Examination and Copying of Documents

- (a) The filings with the Board and Administrator shall be subject to the Open Government Act, 1 CMC §§ 9917-18.
- (b) The Board shall provide, by regulation, for fees related to the searching for and copying of documents and other materials.

Section 308 Confidentiality

- (a) The Open Government Act of 1992, 1 CMC §§ 9917-18, shall ordinarily determine the extent to which the Board's records, files and other information shall be privileged and confidential and may be protected from disclosure.

- 1 (b) Further protection from disclosure may be provided by an administrative hearing officer or
2 administrative law judge, pursuant to notice and an opportunity to be heard.

3 **Section 309 Zoning Board**

- 4 (a) The Board composition and qualifications shall include those established in the Zoning
5 Code.
- 6 (b) The Board's powers and duties shall include those provided in the Zoning Code.
- 7 (c) The Board shall promulgate regulations authorized by the Zoning Code and those it deems
8 necessary to implement this Law.
- 9 (d) The provisions of the Zoning Code shall apply to prohibit and remedy conflict of interest.
- 10 (e) With respect to the scope of this Law and the Zoning Code, the Board shall have the
11 complete jurisdiction and power to:
- 12 (1) Administer and enforce this Law and the Zoning Code;
 - 13 (2) Recommend to the Saipan and Northern Islands Legislative Delegation to
14 approve or disapprove certain zoning matters, including:
 - 15 (A) Amendments to this Law including the Official Saipan Zoning Map; and
 - 16 (B) Amendments to the Saipan Comprehensive Land Use Plan.
 - 17 (3) Promulgate regulations to carry out the intent and purposes of this Law and the
18 Zoning Code;
 - 19 (4) Approve, deny, or approve with conditions, applications for permits and other
20 approvals provided in this Law.
 - 21 (5) Appoint hearing officers;
 - 22 (6) Hold public hearings and contested case hearings, and appoint hearing officers;
 - 23 (7) Decide appeals from the Administrator's orders, decisions, interpretations,
24 requirements or determinations. Such decisions may include: reversing;
25 denying; affirming, in whole or in part; setting conditions; and/or modifying;
 - 26 (8) Secure, review, and investigate reports received from law enforcement
27 agencies, other government agencies, and other entities having information
28 pertinent to the matters over which the board has jurisdiction.
 - 29 (9) Issue and enforce subpoenas including compelling the attendance and testimony
30 of witnesses and the production of relevant records and documents;
 - 31 (10) Administer oaths;
 - 32 (11) Refuse to issue or renew permits; fine; suspend, summarily suspend, and revoke
33 permits; require payment of fees, charges, or expenses; and place conditions on
34 granting or renewal of a permit or other approval;
 - 35 (12) Educate the public about this Law and the Zoning Code and the requirements
36 for compliance;
 - 37 (13) Establish fees and charges;
 - 38 (14) Adopt and implement budgets;
 - 39 (15) Receive fees and appropriated funds, grants, contract payments and other funds;
 - 40 (16) Establish and employ accounts, including restricted fund accounts.
 - 41 (17) Order termination, demolition, or removal of nonconforming structures and
42 uses and public nuisances. Order recovery of the costs, fees and expenses of
43 demolition or removal;
 - 44 (18) Act summarily in the face of an imminent threat to the public health, safety or
45 welfare;
 - 46 (19) Conduct and report on, studies, conferences and seminars, educational

- 1 activities, and investigations;
- 2 (20) Report annually on its activities;
- 3 (21) Adopt and maintain an official seal;
- 4 (22) Affiliate with professional, governmental and other organizations for the
- 5 purposes of reviewing applications, conducting investigations, and/or to secure
- 6 other goods and services related to the Board's duties;
- 7 (23) Join and maintain memberships in national organizations;
- 8 (24) Contract for goods and services;
- 9 (25) Sue and be sued, including applying for relief by injunction to the Superior
- 10 Court;
- 11 (26) Hire and supervise the activities of the Administrator;
- 12 (27) Employ consultants, including counsel, to assist it in performing its duties; and
- 13 (28) Do all other things necessary to carry out the provisions of this Law, the Zoning
- 14 Code and the regulations promulgated pursuant to both.
- 15 (29) The Board shall have the power and authority without further procedure to
- 16 correct the text of this Law and/or the Official Saipan Zoning Map for drafting
- 17 or other technical error by resolution at a meeting of the Board. This provision
- 18 shall only apply to minor technical and non-substantive amendments that are
- 19 strictly necessary to effectuate the intent of the legally approved SNILD
- 20 provision.

21 **Section 310 Zoning Administrator**

- 22 (a) The Administrator shall:
- 23 (1) Administer this Law to implement the provisions of the Saipan Comprehensive
- 24 Land Use Plan, this Law, and the Official Saipan Zoning Map;
- 25 (2) Serve at the pleasure of the Board; and
- 26 (3) Meet the qualifications of the Zoning Code.
- 27 (b) The Administrator shall have the complete jurisdiction and power to do the following:
- 28 (1) Staff and carry out directives of the Board;
- 29 (2) Maintain and keep custody of the dockets, files, and records of the Board;
- 30 (3) Prepare and maintain the Official Saipan Zoning Map;
- 31 (4) Review and prepare written recommendations to the Board relative to each
- 32 application for which the Board has authority to render a decision or to make
- 33 recommendations to the Saipan and Northern Islands Legislative Delegation;
- 34 (5) Consider and approve, approve with conditions, or disapprove applications for
- 35 permits and approvals, as provided in this Law or as delegated by the Board,
- 36 including after determining that compliance with requirements of other agencies
- 37 substantially complies with the requirements of this Law;
- 38 (6) Coordinate with other CNMI and federal agencies on review of applications and
- 39 preliminary project reviews;
- 40 (7) Render interpretations of this Law, including interpretation of the zoning
- 41 district boundaries and determinations of whether an unspecified use falls
- 42 within a use classification allowed in a zoning district;
- 43 (8) Take such action as is necessary to administer the provisions of this Law;
- 44 (9) Provide expertise and technical assistance to the Board;
- 45 (10) Manage applications, including developing forms and procedures;
- 46 (11) Enforce the provisions of this Law, including:
- 47 (A) Inspect and enter;
- 48 (B) Revoke or suspend permits;
- 49 (C) Order violators to meet the requirements of this Law or to cease and desist

- 1 from any unlawful acts;
2 (D) Seek prosecutions;
3 (E) Levy civil fines, fees and other payments; and
4 (F) Seek criminal fines and penalties.
5 (12) As applicable, order or make recommendations to the Board on:
6 (A) Discontinuance of illegal work being done or use of land or structures;
7 (B) Termination, demolition, or removal of nonconforming or illegal
8 structures, signs, additions, alterations, uses, or public nuisances; and
9 (C) Recovery of the costs, fees and expenses of demolition or removal;
10 (13) Maintain a permanent record of final subdivision plats, site plans and other
11 permits;
12 (14) Undertake studies, issue reports, and participate on committees and task forces;
13 (15) Manage the Zoning Office, including:
14 (A) Hire, fire and supervise the staff;
15 (B) Make contracts, including purchasing equipment, services, and other items;
16 and
17 (C) Keep paper and electronic records and arrange for backup and archiving.

18 **Section 311 Hearing Officer**

- 19 (a) The Board may appoint a hearing officer or administrative law judge to preside over
20 contested case and public hearings, pursuant to the APA.
21 (b) The hearing officer shall be admitted to the practice of law in the Commonwealth, and may
22 be either an Assistant Attorney General or a private attorney.

23 **Section 312 Legal Counsel**

- 24 (a) The Board and/or the Administrator may contract for the Attorney General or private
25 counsel to provide legal services. The attorney/s shall be admitted to the practice of law in
26 the Commonwealth.
27 (b) The legal counsel may provide complete legal services to the Board and/or the
28 Administrator and may serve as a hearing officer.
29 (c) If the Board or the Administrator contracts for private counsel at a rate higher than that of
30 an assistant Attorney General, they shall provide a written justification as to the costs and
31 benefits of the selection.
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