

Title 26

Chapter 3

AMERICAN SAMOA ZONING

ADMINISTRATIVE RULES

(Adopted 1988)

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Editor's Note: The prior sections of this chapter were derived from Zoning Regs. 1.2 and 3, eff prior to 1975 and Rule 9-87, eff 8 Jun 87.

26.0301 Definition.

As used in this chapter the terms defined in 26.0303 A.S.C.A. shall have the meanings ascribed to them in that section and as supplemented, explained and further defined in this chapter.

History: Rule 5-88, eff 13 Jul 88.

26.0302 Authority.

The zoning board derives its authority from 26.0304 A.S.C.A., and pursuant to the zoning act at 26.0301 A.S.C.A., et seq. promulgated these rules.

History: Rule 5-88, eff 13 Jul 88.

26.0303 Original jurisdiction.

The board shall have original jurisdiction to zone the Territory as appropriate, to approve any and all zoning maps, to grant variances, to reconsider its decisions, to name streets, and to establish Planned Unit Developments (PUDs).

History: Rule 5-88, eff 13 Jul 88.

26.0304 Appellate jurisdiction.

The board shall have appellate jurisdiction where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of the building code or the zoning law.

History: Rule 5-88, eff 13 Jul 88.

26.0305 Meetings and hearings.

All regular meetings and hearings of the board shall be held in the Office of Development Planning, unless otherwise announced, every second Thursday of each month at 1:00 p.m. Such other meetings and hearings as are necessary for the efficient conduct of its business may be held at such times and places as determined by the chair.

History: Rule 5-88, eff 13 Jul 88.

26.0306 Election of chairperson.

A chairperson shall be elected by the board at the meeting held on the second Thursday in January or as soon thereafter as possible.

History: Rule 5-88, eff 13 Jul 88.

26.0307 Attendance.

The board by a majority vote shall recommend to the Governor the need for a replacement for any member who misses three (3) consecutive meetings without cause. Cause shall include health reasons and off-island trips.

History: Rule 5-88, eff 13 Jul 88.

26.0308 Quorum.

A quorum shall be one-half or more of the appointed members in attendance at a meeting. A quorum shall not be lost when members leave the meeting unless the quorum is questioned by at least one member still in attendance. No official business can be conducted without a quorum.

History: Rule 5-88. eff 13 Jul 88.

26.0309 Building setback.

(a) Purpose. The purpose of the building setback minimum is the protection of the health, safety, and general welfare of the people and the attainment of unity in the development of streets and buildings in American Samoa.

(b) Restriction.

- (1) No person shall erect, construct, alter, modify, remodel, or move or cause to be erected, constructed, altered, modified, remodeled, or moved any building or portion thereof, within 35 feet of the center of any road or a minimum of 10 feet from the edge of the road, whichever is greater.
- (2) "Person" includes, but is not limited to, the following: person, persons, firm, partnership, or corporation.
- (3) "Road" includes, but is not limited to, the following: road, street, highway, alley, or any specific area which is used for vehicular traffic by the public, excluding private access roads so marked.

History: Rule 5-88. eff 13 Jul 88.

26.0310 Off-street parking.

(a) A garage or an off-street automobile parking area shall be provided at the time of the erection of any of the main buildings or structures hereafter specified, or at the time such main buildings or structures are altered, enlarged, converted, or increased in capacity by adding dwelling units, guestrooms, floor area, or seats. The capacity required in garage or parking area shall be determined by the amount of dwelling units, guestrooms, gross floor area as measured by square feet, or seats so provided, and the garage or parking area shall be maintained thereafter in connection with such buildings or structures. In every such garage or parking area, there shall be an adequate driveway connecting each parking space with a street or alley.

(b) The zoning board or its authorized representative shall determine which of the classifications set out in subsection (d) of this section are applicable to each building or assembly area.

(c) Off-street automobile parking space being maintained in connection with any existing main building or structure shall be maintained so long as the main building or structure remains unless an equivalent number of such spaces are provided conforming to the requirements of this section; provided, however, that this section shall not require the maintenance of more automobile parking spaces than is required herein for a new building or structure identical to the existing building or structure, nor the maintenance of such space for any type of main building or structure other than those specified herein.

(d) Uses- Minimum Number of Parking Spaces.

(1) Residential:

- (A) Single Family -1 space per unit
- (B) Multiple Residential -1 space per unit

(2) Commercial:

- (A) Retail Stores - 1 space for every 300 sq. ft.
- (B) Banks - 1 space for every 300 sq. ft.
- (C) Large Appliance/Furniture Sales - 1 space for every 800 sq. ft.
- (D) Vehicle/Boat Sales - 1 space for every 1000 sq. ft.
- (E) Offices - 1 space for every 400 sq. ft.
- (F) Personal Services - 1 space for every 400 sq. ft.
- (G) Barber/Beauty Shops - 1 space for every chair
- (H) Laundromats - 1 space for every 3 washers
- (I) Gas Station/Auto Repair Garage - 1 space for every service bay
- (J) Restaurants/Bars, etc. - 1 space for every 100 sq. ft.
- (K) Pool Hall - 1 space for every table
- (L) Hotels/Motels - 1 space for every 3 units
- (M) Wholesale Businesses - 1 space for every 1000 sq. ft.
- (N) Home Occupations - 1 space in addition to that required for the residence

(3) Industrial:

- (A) Manufacturing- *1 space for every 1000 sq. ft.
 - (B) Warehousing - *1 space for every 1000 sq. ft.
 - (C) Mechanical/Machinery Repair - *1 space for every 1000 sq. ft.
- *(or 1 space for every 4 employees, whichever is greater.)

(4) Public Buildings:

- (A) Churches - 1 space for every 500 sq. ft.
- (B) Schools:
 - (i) Elementary and High Schools - 1 space for every 2 classrooms
 - (ii) Colleges - 1 space for every classroom
- (C) Public Assembly Areas - 1 space for every 10 seats

(D) Other Public Buildings - 1 space for every 500 sq. ft.

(e) Parking spaces and driveway construction shall be in conformance with the following requirements:

(1) Parking space specifications:

- (A) All spaces are to be a minimum of 9 ft. wide by 18 ft. long.
- (B) Backup distances are to be 24 ft. for 90 degree parking, 18 ft. for 60 degree parking, and 15 ft. for 45 degree parking.
- (C) All other configurations to be approved by the Highway Division.
- (D) Maneuvering Requirements:
 - (i) Except for approved parallel spaces, parking spaces shall be designed so that a vehicle can enter a space in one forward motion, and exit in one rear and one forward motion.
 - (ii) Parking space or lot design which requires that vehicles back into the main highway shall not be permitted. On secondary roadways, backing into the street may be permitted upon approval of the Highway Division.
- (E) All parking lots containing five (5) or more parking spaces shall be paved and striped.

(2) Driveway Specifications:

- (A) Residential driveways shall have a minimum throat width of 10 ft. and a maximum throat width of 20 ft.
- (B) Commercial driveways that are one-way shall have a minimum throat width of 12 ft. and a maximum throat width of 20 ft. Two way driveways shall have a minimum throat width of 22 ft. and a maximum throat width of 35 ft.
- (C) All driveways shall be at right angles to the roadway unless otherwise approved by the Highway division of the Department of Public Works. All driveway configurations, radius returns and sight distance are further to be approved by the Highway Division.

History: Rule 5-88. eff 13 Jul 88.

26.0311 Unzoned areas-Watershed conservation zone.

All land area not previously zoned on Tutuila American Samoa, is declared to be in the Water-shed conservation zone as defined by Chapter 26.03 A.S.C.A.

History: Rule 5-88, eff 13 Jul 88.

26.0312 Site visits.

After a full evidentiary hearing before the board, a site visit to any location under consideration for a variance may be made by the board and used in the final decision of the board regarding the variance.

History: Rule 5-88, eff 13 Jul 88.

26.0320 Variances.

The board may grant a variance from the regulations applicable to a zone if the board finds that the variance is necessary to make possible a reasonable use of land or a building or that refusal of a variance would impose a hardship and that the variance would not be injurious to the neighborhood.

For this section an “interested party” shall be any person who appears before the board relative to an application for a variance either in writing or in person or by an agent or attorney.

Pursuant to 26.0340 A.S.C.A., the board hereby establishes procedures for application, notice, public hearings and conditions:

(a) Application shall be made for a variance on a form prescribed by the board. The application shall contain the following information as deemed necessary by the board, and no application shall be heard which does not contain this information filed in advance, unless waived by the board:

- (1) Name, address and telephone number(s) of applicant.
- (2) Description of property, including legal description, address, common means of identification and map showing location with common landmarks.
- (3) Map of the boundaries of the parcel and each separate lot or parcel within 300 feet of the exterior boundaries thereof; together with a list of the names and mailing addresses or the last known owners of public needed, tenant or matai.
- (4) A statement of the reason(s) for a variance.
- (5) A scale drawing of the site showing the location of any existing or proposed streets, alleys, property lines, uses, structures, driveways, pedestrian walks, off-street parking and off-street loading facilities and landscaped areas.
- (6) A copy of the lease or proof of intention to lease, or proof of ownership or use.
- (7) A typical floor plan for each floor showing work areas, bathrooms, water and sewage facilities, storage area(s), and other uses with necessary measurements.
- (8) Such other information, plans, maps, diagrams and information that may be necessary to assure full presentation of pertinent facts for the record to assist the board in making a determination.

(b) The application must be accompanied by a receipt showing that the application fee of \$10.00 has been paid.

(c) The board shall hold a public hearing within 45 days after acceptance of application. Notice of the time and place and purpose of each public hearing shall be given as follows:

At least 10 days prior to the date set for the hearing, and not before 20 days prior to that date, the administrator shall see that a notice thereof is mailed or hand delivered by the applicant to each property owner, tenant or matai, as the case may be, whose name and address appears on the list accompanying the application as required by subsection (a)(4) above. The notice shall be on a form prescribed by the board and give the date, time and place of the hearing, the name of the applicant, the request of the application, the identification of the subject property and such other information as may be prescribed by the board in any individual case. In certain cases, such as more than 10 property owners or tenants involved or unknown owners, the board may require that in lieu of mailing or hand

delivery of notices that a notice shall also be published by the applicant in a newspaper and on the radio at least once a week for 3 weeks prior to such meeting, and the applicant shall also post a notice at the Court House and at a location close to the subject property at least 21 days prior to the hearing.

(d) The board may grant the variance provided that it is established by evidence presented to the board that the proposed building or use is in accordance with the foregoing provisions of the zoning law and further that the following qualifications have been met:

- (1) The location of the building or use is compatible to other land uses in the general neighborhood area and does not place on undue burden on existing transportation, utilities, education, water, sewage and service facilities in the vicinity.
- (2) The site is of sufficient size to accommodate the proposed building or use together with all yards, open spaces, walls and fences, parking and loading facilities, landscaping and such other provisions required by statute or by this chapter.
- (3) The site will be served by streets or alleys of sufficient capacity to carry the traffic generated by the proposed building or use.
- (4) The proposed building or use, if it complies with all conditions on which approval is made contingent, will not adversely affect other property in the vicinity or the general welfare of the territory,

(e) The board may deny the application for a variance.

(f) In approving an application for a variance, the board may require higher standards of site development than listed for such use in Chapters 03 or 05 Title 26 A.S.C.A., and make approval contingent on the acceptance and observance by the applicant of specified conditions relating to but not limited to, the following considerations:

- (1) Conformity to plans and drawings submitted with the application;
- (2) The provision of open spaces, buffer strips, screen walls, fences, hedges and landscaping;
- (3) The volume of traffic generated, vehicular movements within the site, and points of vehicular ingress and egress;
- (4) Performance characteristics related to the emission of noise, vibration, and other potentially dangerous or objectionable elements;
- (5) Limits in time of day for the conduct of specified activities;
- (6) Guarantees as to compliance with the terms of the approval.

(g) Within 30 days of the close of the hearing on, or upon conclusion of investigation into, the application the board shall make a written finding and decision which shall be served on the applicant and all interested parties who in writing request a copy.

(h) Within 10 days of receipt of the decision the applicant or any other interested party may file a written motion for reconsideration stating the reasons for the reconsideration if there is new evidence or additional factors to support a reconsideration hearing.

(i) On a motion to reconsider the board may affirm, reverse or modify its decision, provided if the board reverses or modifies its decision it must make new findings pursuant to subsections to (d) and (f) above.

(j) Unless renewal of a variance is requested, it shall lapse 180 days after its issuance unless prior to that date a business license has been issued or if a building is to be constructed, reconstructed, or, modified, a building permit has been issued, and construction is commenced and diligently pursued. A request for a renewal must be accompanied by a statement under penalty of perjury by the applicant or his authorized agent stating the reason no business license or building permit has been issued and/or the reason no construction has been commenced. A variance may be renewed by the board for a period of 30 days.

(k) On violation of any of the provisions of this or any other applicable rules by a holder of a variance or on failure of the holder to comply with conditions of a variance, the variance shall be suspended automatically. A hearing shall be called within 30 days, and at the hearing the board must be satisfied that either the violation has been discontinued or the condition met, otherwise the variance will be revoked.

History: Rule 5-88, eff 13 Jul 88.

26.0330 Zoning of harbor area.

The Harbor Area is hereby zoned in accordance with the attached map and plan.

History: Rule 58, eff 13 Jul 88.

26.0340 Public Participation.

(a) All persons addressing the board at a public hearing shall identify themselves by name, village of residence, and, if applicable, employment or group affiliation. Persons may make oral or written presentation in person or through a [ASBA does not have the remaining parts of this chapter].