

**21 GCA REAL PROPERTY
CH. 61 ZONING LAW**

**CHAPTER 61
ZONING LAW**

NOTE: This Chapter was repealed and reenacted by P.L. 24-171 and amended by P.L. 25-11 as the *I Tano'-Ta Land Use Plan*. That Plan was abandoned and the laws concerning it repealed by P.L. 25-20:2 and the former Chapter 61 (this Chapter) of Title 21 reinstated.

- Article 1. General Provisions.
- Article 2. Establishment of Zones and Boundaries.
- Article 3. Use Regulations.
- Article 4. Height Regulations.
- Article 5. Yard and Area Regulations.
- Article 6. Administration and Enforcement.

**ARTICLE 1
GENERAL PROVISIONS**

- § 61101. Title.
- § 61102. Purpose.
- § 61103. Definitions.
- § 61104. Interpretation.
- § 61105. Vote requirements for the Commission.

§ 61101. Title.

This Chapter shall be known as *The Zoning Law of the Territory of Guam*.

SOURCE: GC §17000.

§ 61102. Purpose.

The purpose of this Chapter is to establish certain minimum regulations for the protection and promotion of the public health, safety and general welfare of the people of the Territory of Guam, which regulations are deemed necessary in order to encourage the most appropriate use of land, to provide adequate open spaces about buildings for light and air, to prevent undue concentration of population, and to assure adequate provisions for community utilities and facilities such as water, schools, parks and other public requirements.

SOURCE: GC §17001.

§ 61103. Definitions.

For the purpose of this Chapter, certain terms are defined as follows:

(a) *Accessory Building*. A detached subordinate building located on the same lot with a main building, the use of which is customarily secondary to that of the main building or to the use of the land.

(b) *Apartment House*. Same as *dwelling, multiple*.

(c) *Automobile Parking, Private*. An open area, located on the same lot with a dwelling or hotel, for parking automobiles of the occupants of such buildings.

(d) *Automobile Parking Area, Public*. An open area, other than a street or private automobile parking area, designed to be used for the parking of two or more automobiles.

(1) *Compact automobile*. An automobile whose gross area for parking purposes is one hundred twenty (120) square feet or less.

(2) *Standard-sized automobile*. An automobile whose gross area for parking purposes is one hundred sixty (160) square feet or less.

(e) *Building*. Any structure built for the support, shelter or enclosure of persons, animals, chattels, or property of any kind.

(f) *Building Height*. The vertical distance measured from the average level of the highest and lowest point of that portion of the lot covered by the building to a point midway between the highest and lowest point of the roof.

(g) *Compact Automobile*. An automobile whose gross area for parking purposes is one hundred sixty (160) square feet or less.

(h) *Cluster Development*. Placement of residential units in close association to each other in order to consolidate required lot area into usable open space for the benefit of those living in such residential units.

(i) *Commission*. Shall mean the Territorial Land Use Commission of Guam.

(j) *Dwelling*. A building or portion thereof designed exclusively for residential occupancy, including one-family, two-family and multiple dwellings, but not including hotels.

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(k) *Dwelling Unit*. One or more rooms and a single kitchen in a dwelling, designed as a unit for occupancy by one family for living and sleeping purposes.

(l) *Dwelling, One-Family*. A detached building containing only one dwelling unit.

(m) *Dwelling, Two-Family*. A detached building containing two dwelling units.

(n) *Dwelling, Multiple*. A building containing three or more dwelling units.

(o) *Family*. An individual, or two or more persons related by blood or marriage, or a group of not more than five persons who need not be related by blood or marriage living together as a single housekeeping unit.

(p) “*Home occupation*” means any activity operated for pecuniary gain conducted in, or directed from, a residential dwelling or unit restricted to family members residing within that dwelling as a secondary use of such dwelling unit.

(q) *Hotel*. A building containing six or more rooms intended or designed to be used, or which are used, rented, or hired out to be occupied, or which are occupied for sleeping purposes.

(r) *Junk Yard*. An open area where waste, scrap metal, paper, rags, or similar materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including the dismantling or storing of wrecked automobiles or other vehicles, and buildings. The terms dismantling or storing do not include the action of a licensed automobile repairer or garage owner in stripping an automobile or other vehicle of its usable parts as long as such action is accomplished within ten (10) days of the arrival of the motor vehicle being so stripped on the premises of the garage or automobile repair business.

(s) *Lot*. A parcel of land occupied or to be occupied by a use or building, and accessory buildings and uses, together with such yards, open spaces and lot area as are required by this Title, and having frontage on a street.

(t) *Lot Line, Front*. The line separating the lot from the street. For the purposes of yard requirements, a corner lot has two front yards and no rear yard. Within a panhandle lot, the front lot line begins at the interior end of the panhandle.

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(u) *Lot Line, Rear.* The lot line which is opposite and most distant from the front lot line.

(v) *Lot Line, Side.* Any lot line not a front lot line or a rear lot line.

(w) *Lot Depth.* The horizontal distance between the front and rear lot lines, measured in the mean direction of the side lot lines.

(x) *Lot Width.* The horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

(y) *Lot Area.* The total horizontal area within the lot lines of a lot.

(z) *Nonconforming Building.* A building or structure which does not conform to the regulations of this Chapter and which lawfully existed at the time the regulations, with which it does not conform, became effective.

(aa) *Nonconforming Use.* A use of a building or land which does not conform to the regulations of this Chapter and which lawfully existed at the time the regulations, with which it does not conform, became effective.

(bb) *Planned Unit Development District.* A substantial area in which development follows an approved plan integrating a combination of uses in an appropriate and unified manner.

(cc) *Standard-sized automobile.* An automobile whose gross area for parking purposes is greater than one hundred sixty (160) square feet.

(dd) *Story.* That portion of a building between the surface of any floor and the surface of the floor or ceiling next above it.

(ee) *Structure.* Anything constructed or erected which requires location on the ground or attached to something having a location on the ground.

(ff) *Use.* The purpose of which land or a building is arranged, designed or intended or for which either land or a building is or may be occupied or maintained.

(ff) *Yard.* An open space on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this Chapter.

(gg) *Yard, Front.* A yard adjoining the front lot line and extending across the full width of the lot, the depth of which is the minimum

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horizontal distance between the front lot line and a line parallel thereto on the lot.

(hh) *Yard, Rear.* A yard extending across the full width of the lot between the most rear main building and the rear lot line. The depth of the required rear yard shall be measured horizontally from the nearest part of a main building toward the nearest point of the rear lot line.

(ii) *Yard, Side.* A yard between a main building and the side lot line, extending from the front yard or front lot line where no front yard is required to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest part of the main building.

SOURCE: GC §17004; amended by P.L. 10-5 and P.L. 21-49:1. Nos. 1 and 2 of subsection (d) added by P.L. 22-123. Subsection (p) repealed and reenacted by P.L. 28-068:IV:76 (Sept. 30, 2005).

§ 61104. Interpretation.

In interpreting and applying the provisions of this Chapter, they shall be held to be the minimum requirements for the protection and promotion of the public health, safety and general welfare, and shall be liberally construed in furtherance of these objectives.

SOURCE: GC §17003.

§ 61105. Vote Requirements for the Commission.

In any action by the Commission under this Title, including but not limited to approvals of zone, changes in zones, variances, appeals, and all other actions, four (4) affirmative votes of the members of the Commission shall be required. The Chairperson of the Commission shall vote on all matters\before it.

SOURCE: Added by P.L. 21-129:10.

ARTICLE 2
ESTABLISHMENT OF ZONES AND BOUNDARIES

§ 61201. Zones.

§ 61202. Zoning Map: Agana: Adopted.

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- § 61203. Zone Boundaries.
- § 61204. Church Zone in Dededo.
- § 61205. Maina R-2 Zone.
- § 61206. Maina Commercial Zone.
- § 61207. Tumon Commercial Zone.
- § 61208. Yigo Commercial Zone.
- § 61209. Nimitz Hill R-2 Zone.
- § 61210. Tumon Bay *H Resort-Hotel Zone*.
- § 61211. Artero Urunao Property Zoned H.
- § 61212. Notification & Appeal of Zoning (Tumon Bay).
- § 61213. Interim Regulations to Enforce *H Zone*.
- § 61214. Split-Zoned Lots.
- § 61215. Paseo de Susana Planned Development District.
- § 61215.1. Compliance to United States Public Law 86-664.
- § 61216. Yigo Lot Rezoned.

§ 61201. Zones.

In order to carry out the purposes and provisions of this Chapter, areas within the Territory of Guam are hereby divided into eight zones, known as:

- A** Agricultural Zone.
- R1** One-Family Dwelling Zone.
- R2** Multiple Dwelling Zone.
- P** Automobile Parking Zone.
- C** Commercial Zone.
- M1** Limited Industrial Zone.
- M2** Industrial Zone.
- LC** Limited Commercial Zone.

The aforesaid zone symbols and the boundaries of such zones shall be shown upon a map or maps which shall be designated as the *Zoning Map*.

The *Zoning Map* shall be adopted by the Commission and shall be effective upon its approval by the Committee on Rules of the Legislature and by the Governor. The *Zoning Map* shall be submitted to the Committee on Rules prior to its submission to the Governor and such map shall be deemed approved by said Committee unless within fifteen (15) days of its

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receipt thereof, said Committee shall adopt a resolution disapproving the same, in which case the map shall be returned to the Commission. No such map shall be adopted by the Commission except after public hearing, ten (10) days notice of time and place of which shall be given in a newspaper of general circulation.

The Zoning Map may be divided into separate parts and separately adopted and approved as the necessary planning and study therefor is completed.

SOURCE: GC §17050.

§ 61202. Zoning Map of Agana.

The zoning map of Agana, identified as Drawing No. GI-54517 and heretofore adopted as part of the zoning map, is hereby amended by extending the commercial zones appearing on said map, north of Route 8 and south of the Mongmong-Maite road, two hundred (200) feet in depth on each such area. Notwithstanding any other provision of law, these two commercial zones may not hereafter be altered or changed except by statute. The zoning map of Agana is further amended by extending the commercial zones north and south of Route Four, from Marine Drive to Lot 83 Sinajana on the north side and to Lot 3202 Sinajana on the south side, to a depth of two hundred (200) feet where the zones are not already of that depth and by further extending the commercial zone on said map to include the entire area bordered by Route Four, 3rd Street South, First Street East and Cliff Drive Extension.

SOURCE: GC §17050.1 repealed and reenacted by P.L. 10-5 as amended by P.L. 12-160.

§ 61203. Zone Boundaries.

Where the zone boundaries indicated on the Zoning Map, said map, and all the notations, references and their extensions; such lines shall be construed to be the zone boundaries.

Where the zone boundaries indicated on said map are not street, alley or lot lines, or extensions thereof, the zone boundaries shall be determined by the use of the scale appearing on the Zoning Map, unless otherwise specifically shown by dimension.

In any case where there is uncertainty as to the intended location of a zone boundary, the Commission shall have the power and duty to determine its intended location.

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SOURCE: GC §17051.

§ 61204. Church Zone in Dededo.

As an amendment to the Dededo Zoning Map (Land Management Drawing No. E3-67S39), adopted by the Committee on Rules of the Guam Legislature pursuant to the provisions of § 61201 of this Chapter, the area in the municipality of Dededo, bounded by West Santa Monica Avenue to the north, Dolores Street to the east, and West San Antonio Avenue to the south and west, is hereby declared to be zoned for church and church-related activities.

SOURCE: GC §17052 enacted by P.L. 10-106.

§ 61205. Maina R-2 Zone.

Basic Lots Nos. 242, 243 and 269 REM, all in Maina in the municipality of Asan, are hereby rezoned to R-2, multiple dwelling.

SOURCE: GC §17053 enacted by P.L. 12-111.

§ 61206. Maina Commercial Zone.

Lots Nos. 235-REM-3-1 and 235-REM-3-2 in Maina in the municipality of Asan are hereby rezoned to C, commercial.

SOURCE: GC §17053.1 enacted by P.L. 12-111.

§ 61207. Tumon Commercial Zone.

All property lying on either side of Route 1 (Marine Drive) between the two intersections of Tumon Loop with Route 1, to a depth of 200 feet from the edge of the right of way along Route 1, is hereby established as commercial zone property. The Department of Land Management is hereby directed to amend its zoning maps accordingly.

SOURCE: GC §17053.2 enacted by P.L. 12-160.

§ 61208. Yigo Commercial Zone.

All property lying on either side of Route 1 (Marine Drive) between the Old Marbo PX and the Yigo Catholic Church, to a depth of 200 feet from the edge of the right of way along Route 1, is hereby established as commercial zone property. The Department of Land Management is hereby directed to amend its zoning maps accordingly.

SOURCE: GC §17053.3 enacted by P.L. 12-160.

§ 61209. Nimitz Hill R-2 Zone.

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All property lying on either side of the road from Top 'O The Mar (Nimitz Hill -Spruance Drive) to the New Piti Elementary School, to a depth of 200 feet from the edge of the right of way along Route 6, is hereby established as R-2 zone property. The Department of Land Management is hereby directed to amend its zoning maps accordingly.

SOURCE: GC §17053.4 enacted by P.L. 12-160.

§ 61210. Tumon Bay H Resort-Hotel Zone.

All land in the area known as Tumon Bay as designated by the Bureau of Planning's Tamuning Community Design Map No. 10, at the effective date of this Act is zone **H Resort-Hotel Zone** pursuant to the provisions of this Act.

SOURCE: GC §17111 enacted by P.L. 14-41 as amended by P.L. 14-82:7.

§ 61211. Artero Urunao Property Zone H.

The following described real property is zoned **H Resort-Hotel Zone**:

The Artero Urunao property consisting of Lots 10080; PO 2.2; PO 2.3; PO 2.5; PO 3.1; PO 4.1; PO 5.30; and that lot starting at the shoreline of the Pacific Ocean at a point northeast of Double Reef, thence 360 meters due east, thence 900 meters north 7 degrees, thence 173 meters north 81 degrees; thence 69 meters north 27 degrees, thence 425 meters north 60 degrees to the Pacific Ocean thence generally south along the Pacific Ocean shoreline to the starting point northeast of Double Reef as shown on the map entitled Marianas Area, Real Estate Requirements, Northwest Guam Air Force Base, Y and D Drawing No. 597 - 464, Marianas Area Drawing No. 10995, as approved by the Base Development Officer for the Chief of Bureau on September 24, 1963.

SOURCE: GC §17112 added by P.L. 18-48:9.

§ 61212. Notification and Appeal of Zoning [Tumon Bay].

Any property owner affected by the rezoning in this Law may, notwithstanding the provisions of this Law and not more than ninety (90) days after the effective date of this Law, notify the Territorial Land Use Commission that he desires that his land remain zoned as it is on the effective date of this Law and his land shall then remain so zoned.

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The Director of the Department of Land Management, as the Executive Secretary of the Territorial Land Use Commission, shall, within forty-eight (48) hours of the effective date of this Law, send each landowner affected herein with a written notice concerning the provisions of this Section of this Law.

SOURCE: P.L. 14-41:3, effective June 28, 1977, which enacted §§17110 and 17111 GC [renumbered §§ 61311 and 61210 respectively] establishing H Zone and designating Tumon Bay. GC §1711 was subsequently amended by P.L. 14-82:7 codified by Compiler.

§ 61213. Interim Regulations to Enforce H Zone.

The Territorial Land Use Commission shall adopt within thirty (30) days following enactment of this Act such interim regulations as required to enforce the intent and provisions of the **H Resort-Hotel Zone**. Such interim regulations shall be adopted pursuant to those procedures outlined in the Administrative Adjudication Law, 5 GCA Ch. 9. Such interim regulations shall be in effect until adoption of final regulations by the Territorial Land Use Commission.

SOURCE: P.L. 14-82:8 effective December 8, 1977. Codified by Compiler.

NOTE: The Legislature has often rezoned areas on Guam by uncodified legislation. Please check the various session laws and the appropriate maps at the Department of Land Management for the latest zone changes.

§ 61214. Split-Zoned Lots.

Whenever a lot has two (2) separate zoning designations within its boundaries, the property owner shall have the right to select one of the two (2) zones and to have it apply to the entire lot. Upon receiving a written request by a property owner to correct a split-zoning situation, the Director of the Department of Land Management shall approve the request, shall process all necessary documents to reflect the approval, and shall update all official maps of the Island to indicate the zone which the property owner has chosen.

SOURCE: Added by P.L. 25-131:2.

§ 61215. Paseo de Susana Planned Development District.

(a) Real estate conveyed to the government of Guam pursuant to United States Public Law 86-664, recorded as Department of Land Management Document No. 44682, inclusive of Lot Number A-4, Municipality of Hagåtña, containing an area of 36.75 acres, rezoned Planned Development District by the Guam Land Use Commission on July

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27, 1989, is, upon the adoption of the Master Plan, as authorized within this Section, known as the 'Paseo de Susana Planned Development District'. The nomenclature of this zoning amendment shall be the 'Paseo de Susana Planned Development District.'

(b) All existing uses and activities inclusive of the proposed Guam Fishermen's Cooperative Association facility expansion shall be made a part of the Paseo de Susana Planned Development District Master Plan.

(c) The Directors of Public Works, Land Management, Parks and Recreation, and the Administrator of the Guam Economic Development and Commerce Authority shall, within sixty (60) days, prepare a master plan following the drawing requirements outlined in 21 GCA § 62402(a)(1). The master plan shall reflect the as-built locations of all fixed structures including the combination of uses that constitutes a Planned Development District required by 21 GCA § 61635. The Guam Land Use Commission and the Guam Seashore Protection Commission shall review and act on, within ninety (90) days, the submitted Master Plan.

SOURCE: Added by P.L. 27-24:3 (7.18.2003).

§ 61215.1. Compliance to United States Public Law 86-664.

The Paseo de Susana Planned Development District shall enable the unified development of the property conveyed by United States Public Law 86-664, to the government of Guam and recorded at the Department of Land Management as Document Number 44682, inclusive of any fraction of public land therein consolidated. The Planned Development District shall exhibit a combination of uses appropriate to an integrated plan solely for civic, park, and recreational purposes. All facilities, uses or activities not put to use for civic, park or recreational purposes but appurtenant, subsidiary, complimentary, supportive or secondary towards the unified Planned Development District shall be made to be an accessory use or accessory structure as provided within 21 GCA Chapter 61.

SOURCE: Added by P.L. 27-24:5 (7/18/2003).

§ 61216. Yigo Lot Rezoned.

Notwithstanding any provision of law, Lot No. 7061-8, located in the municipality of Yigo, is hereby rezoned from Planned Unit Development District ("PUD") to Agricultural ("A") zone.

SOURCE: Added as uncodified law by P.L. 27-62:2. Codified by Compiler.

ARTICLE 3

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USE REGULATIONS

- § 61301. Conformance of Uses to Zone Regulations.
- § 61302. Regulations Along District Boundaries.
- § 61303. Conditional Use.
- § 61303.1. Departmental Responsibilities: Costs Allocated.
- § 61304. A Rural Zone.
- § 61305. R1 One Family Dwelling Zone.
- § 61306. R2 Multiple Dwelling Zone.
- § 61307. C Commercial Zone.
- § 61308. P Automobile Parking Zone.
- § 61309. M1 Light Industrial Zone.
- § 61310. M2 Heavy Industrial Zone.
- § 61311. H Resort-Hotel Zone.
- § 61312. S-1 (School Zone).
- § 61313. Public Facility (PF).

§ 61301. Conformance of Uses to Zone Regulations.

No building or structure shall be altered, enlarged, moved or maintained, and no building or land shall be used for any purpose, except for a use permitted in the zone in which such building or land is located, as hereafter provided in this article.

SOURCE: GC §17100.

§ 61302. Regulations Along District Boundaries.

Where a commercial or industrial use occurs in zones permitted such uses, but in areas which are located adjacent to rural or residential zones, the yard requirement shall be twice that required of such use or twenty (20) feet, whichever is the greater.

SOURCE: GC §17101.

§ 61303. Conditional Use.

(a) In addition to permitted uses in each of the zones, specified uses are permitted upon approval by the Commission of the site plan including, but not limited to, disposal of sewage, access, parking, structure location and dimensions of buildings, impact of the proposed use on adjacent land uses, and accompanying covenants that may include performance standards. The Commission shall also consider such other elements as may be reasonably related to the health, safety and general welfare of the community.

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(b) Notwithstanding any prior conditional use as provided in subsection (a) of this section, any amendment to a site plan which plan was previously approved by the Commission shall be approved by the Commission in accordance with the criteria set forth in subsections (a) and (c) of this section.

(c) In any hearing or meeting on an application for conditional use whether based on an original or amended site plan, in each of the zones, the Commission shall require the applicant to give personal written notice at least ten (10) days prior to the hearing to property owners within a radius of five hundred feet (500') or if personal notice is not possible, then written notice to the last known address of such owner at least twenty-five (25) days prior to the hearing by certified mail, return receipt requested. In addition, the commission shall require the applicant to erect a sign on the subject location, no smaller than four feet (4') by eight feet (8') in height and width, displayed to make the following information available to the general public in a reasonable manner:

1. a Statement of Public Notice that an application for conditional use has been filed with the Territorial Land Use Commission;
2. the title of the application as filed, containing the name of the owner, the name of the developer, the lot number, and the proposed conditional use; and
3. the date, time and place of each public hearing and Commission meeting where public comments can be presented to the Commission. The sign shall be required to be erected and displayed with current information no less than ten (10) consecutive days prior to each scheduled public hearing or meeting.

The Commission shall not render a decision in favor of any applicant that fails to comply with this sign requirement and any other public notice requirement that is prescribed or imposed. Failure to meet the notice requirements as provided herein renders any approval by the commission null and void.

SOURCE: Repealed and reenacted by P.L. 21-14:11.

§ 61303.1 Departmental Responsibilities: Costs Allocated.

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(a) Pursuant to § 61303 of this Article, the Department of Land Management (the *Department*) shall determine the names and addresses and properly serve or mail all required notices to all persons within the five hundred foot (500') radius of the proposed project who will be affected thereby. As provided in § 61303 of this Article, the notices shall be served not less than ten (10) calendar days before any public hearing is to be conducted. The five hundred foot (500') radius shall be measured from the exterior boundary lines of the project, and not from the center.

(b) The Department shall charge the applicants with all costs incurred in carrying out the requirements of subsection (a) of this section, and all costs and fees so collected shall be deposited in the Department's operational funds to be expended for the Division of Planning as the Director of Land Management may determine.

COMMENT: P.L. 21-14:11(a) repeals and reenacts § 61303. Subsections (b) and (c) of P.L. 21-14:11 are **not** part of the amendment to § 61303, but, though uncoded, form an integral part of the implementation of § 61303. Therefore, the Compiler has codified P.L. 12-14:11, subsections (b) and (c) as § 61303.1 in order to provide a complete understanding of § 61303. P.L. 12-14:11(d) is an appropriation and, therefore, will remain uncoded.

§ 61304. A Rural Zone.

(a) Uses permitted:

- (1) One-family dwellings and duplexes.
- (2) Farming and fisheries, including all types of activities and pursuits customarily carried on in the field of agriculture and fisheries, including the raising of crops and fruits, poultry and livestock, grazing and dairying, tree and other vegetative production whether for commercial or personal uses.
- (3) Cockpits.
- (4) Uses customarily accessory to any of the above uses including home occupations, and private auto mobile parking areas as well as accessory buildings and structures such as private garages, warehouses, barns, corrals or other similar structures.

(b) Conditional Uses:

- (1) Parks, playgrounds and community centers.
- (2) Biological gardens.
- (3) Schools and churches.

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- (4) Hospitals, sanitariums, and institutional uses.
- (5) Cemeteries.
- (6) Recreational use including golf courses, marinas, beaches, swimming pools and accessory residential and commercial use.
- (7) Extractive industry.
- (8) Utilities and public facilities.
- (9) Wholesale and retail stores, shops and businesses.
- (10) Automobile service stations, including service shops.
- (11) Accessory uses and structures for the above.

SOURCE: GC §17103 is repealed and reenacted by P.L. 21-72:23.

§ 61305. *R1* One-Family Dwelling Zone.

(a) Use Permitted.

- (1) One-family dwellings.
- (2) Gardening and the keeping of pets for noncommercial purposes.
- (3) Use customarily accessory to any of the above uses including home occupations and private parking areas with accessory buildings and structures.

(b) Conditional Use.

- (1) Duplexes.
- (2) Schools and churches.
- (3) Parks, playgrounds and community centers.
- (4) Health service office, outpatient with laboratory.
- (5) Utilities and public facilities.

SOURCE: GC §17104.

§ 61306. *R2* Multiple Dwelling Zone.

(a) Use Permitted.

- (1) One-family dwellings.
- (2) Duplexes.
- (3) Multi-family dwellings.

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- (4) Hotels, private groups, and institutions.
- (5) Accessory uses and structures for the above.

(b) Conditional Uses.

- (1) Any conditional uses permitted in the R1 zone.
- (2) Health Clinics.
- (3) Utilities and public facilities.
- (4) Air, bus, taxi, auto, rental terminals.
- (5) Accessory uses and structures for the above.

SOURCE: GC §17105. Subsection (b) as amended by P.L. 11-60.

§ 61307. C Commercial Zone.

(a) Use Permitted.

- (1) One-family dwellings.
- (2) Duplexes.
- (3) Wholesale and retail stores, shops and businesses.
- (4) Amusement enterprises.
- (5) Automobile service station, including minor repairs.
- (6) Bakeries.
- (7) Mortuaries.
- (8) Offices, business or professional, inclusive of professional healing arts offices and clinics, and banks.
- (9) Personal service shops, including barber shops, beauty parlors, laundromats, and the like.
- (10) Repair shops and service shops, including shoe repairs, lumbing, dressmaking, and the like, but not including automobile repair hops for major work.
- (11) Restaurants and cafes.
- (12) Studios.
- (13) Other uses which in the judgment of the Commission, as evidenced by resolution in writing, are similar to those listed herein.

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(14) Uses customarily accessory to any of the above listed uses, including only those accessory to manufacturing, storage, compounding or processing activities which are necessary for the ordinary conduct of said listed uses and which are an integral part thereof.

(15) Accessory structures for the above.

(b) Conditional Use.

(1) Hospital and clinics.

(2) Public utility and other public buildings.

(3) Shopping centers.

(4) Recreation, including cockpits, marinas, amusement centers and drive-in theaters.

(5) Multi-family.

(6) Hotels, motels and tourist accommodations.

(7) Air, bus, taxi and auto rental terminals.

(8) Auto sales and car wash.

(9) Parking garages and lots.

(10) Service vehicle storage.

(11) Mini-storage or mini-warehouse.

(12) Laundries and cleaning and dyeing establishments.

(13) Schools and churches.

(14) Parks, playgrounds and community centers.

(15) Utilities and public facilities.

(16) Accessory uses and structures for the above.

SOURCE: GC §17106. Repealed and reenacted by P.L. 21-40:20. Again repealed/reenacted by P.L. 22-72:44. Amended by P.L. 24-7:2.

COMMENT: P.L. 22-72:44(a) gave the following **Legislative Intent**: Section 61307 of Title 21, Guam Code Annotated, was amended by Section 20 of Public Law 21-40 to include the phrase, inclusive of professional healing arts offices and clinics after the phrase, *Offices, business or professional* in item (8) of subsection (a) of the section. At the time that this amendment was made, the introductory phrase repealing and reenacting § 61307 of Title 21, Guam Code Annotated, cited § 61307 of Title 21, Chapter 61, Guam Code Annotated rather than Subsection (a) of

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§ 61307 of Title 21, Chapter 61, Guam Code Annotated, thereby inadvertently repealing subsection (b) of that section, which contained conditional uses in the Commercial ("C") Zone. For this reason, it is necessary to correct this inadvertent repeal and restore subsection (b) of § 61307 of Title 21, Guam Code Annotated.

§ 61308. *P* Automobile Parking Zone.

(a) Use Permitted.

- (1) Public or commercial parking area and garages.
- (2) Public access to adjoining parking areas.
- (3) Loading and unloading of automobiles or trucks, but not to use portions of required parking space.
- (4) Service vehicle storage after commercial hours.
- (5) Utilities and public facilities.
- (6) Accessory uses and structures for the above.

SOURCE: GC §17107.

§ 61309. *MI* Light Industrial Zone.

(a) Use Permitted.

- (1) Any use permitted with or without condition in the commercial zone.
- (2) The manufacturing, compounding, processing or treating of such products as drugs, cosmetics, and food products (not including fish and meat products nor the rendering of fats and oils).
- (3) The manufacturing, compounding, assembling or treating of articles or merchandise from previously prepared materials.
- (4) Automobile repair shops including painting, body and fender work and rebuilding; truck and tractor repairing; and tire retreading.
- (5) Bottling and packaging plants.
- (6) Ceramic products manufacturing.
- (7) Laundries and cleaning and dyeing establishments.
- (8) Machine shops and sheet metal shops.
- (9) Warehouses and cold storage plants.

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(10) Lumber yards, building material salesyards, contractor's equipment storage yards, and the like.

(11) Other uses which in the judgment of the Com missions, as evidence by a resolution in writing, are similar to those listed herein.

(12) Uses customarily accessory to any of the above listed uses, and accessory buildings.

(b) Conditional Use.

(1) Other industrial uses not objectionable, obnoxious or offensive by reason of odor, dust, smoke, noise, gas fumes, cinders, vibration, flashing lights, or water-carried waste.

(2) Utilities and public facilities.

(3) Accessory uses and buildings for the above.

SOURCE: GC §17108.

§ 61310. M2 Heavy Industrial Zone.

(a) Use Permitted.

(1) Any uses permitted in the M1 zone, excepting residential use.

(2) Junk Yards. Under the special provisions set forth in part 6, Article 5 of this Chapter.

(3) Any other uses not specifically prohibited by law, including those which are or may be objection able, obnoxious, or offensive by reason of odor, dust, smoke, noise, gas fumes, cinders, vibration, or water-carried waste.

(4) Uses customarily accessory to any of the uses herein permitted, and accessory buildings and structures.

(b) Conditional use.

(1) all residential uses.

(2) Accessory uses and structures for the above.

SOURCE: GC §17109.

§ 61311. H Resort-Hotel Zone.

Notwithstanding any other provision of law, rule or regulation to the contrary, there is hereby created a **H Resort-Hotel Zone** for the purpose of

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being applied to areas to accommodate the needs and desires of visitors, tourists and transient guests.

(a) **Purpose.** It applies to specific areas where public roads and public utilities are available or where suitable alternative private facilities are assured. It may apply to a single isolated hotel or resort with or without a commercial mall or shopping section.

This Zone provides for high-intensity development in a compatible arrangement of structures and uses in a unique setting. It shall be designed to promote a superior level of convenience, comfort and amenity within the zone; to encourage safe and pleasant pedestrian circulation; to preserve existing attractions; and to assure beneficial visual relationships from principal viewpoints.

Development shall be designed to establish an open character, with higher portions of buildings well spaced and oriented with respect to principal views from within the zone. Pedestrian circulation systems shall form a convenient and coordinated network through buildings and landscaped open spaces, supplementing sidewalks along streets; and where extensive areas of the shoreline are in such configuration as to allow it conveniently, walkways and/or bikeways shall be provided along the waterfront on both public and private property.

Since hotels complement other activities in this zone without creating excessive automotive traffic, it is intended to permit higher floor-area ratios for hotel uses than for other uses within the zone.

Since the zone is separated from major parking facilities in adjoining areas, it is intended that off-street parking requirements shall apply within its boundaries. It is further intended in view of the unusual visual exposure that adverse visual influences such as excessive signs, inappropriate lighting and open-storage shall be prohibited.

(b) **Permitted Uses.**

(1) Cultural and recreational facilities, hotels, restaurants, tourism related shops and offices, dwellings, parks, marinas, zoos, amusement activities and supportive services.

(2) **Permitted Accessory uses and Structures.** Uses and structures which are customarily accessory and clearly complementary to permitted principal uses and structures shall be permitted. Service

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stations shall be permitted only within, and as accessory to, parking garages containing two hundred fifty (250) or more parking spaces.

SOURCE: GC §17110 enacted by P.L. 14-41.

§ 61312. S-1 (School Zone).

(a) Use permitted:

(1) public schools and school related facilities.

SOURCE: § 61312 added by P.L. 28-068:II:I:21 (Sept. 30, 2005).

§ 61313. Public Facility (PF).

(a) Use permitted.

(1) Schools, police stations, fire stations, community centers, recreation centers, senior citizen centers, public health centers, libraries, government buildings and other related facilities.

SOURCE: § 61313 added by P.L. 28-134:2 (July 11, 2006).

**ARTICLE 4
HEIGHT REGULATIONS**

§ 61401. Height Limit Established.

§ 61402. Buildings and Structures Permitted Above Height Limit.

§ 61401. Height Limit Established.

In the A, R1, LC, R2, C, M1 and M2 Zones, no building or structure shall be erected or maintained, nor shall any existing building or structure be altered, enlarged, moved, or maintained, to exceed a height limit of three stories (the three stories shall not exceed a height of thirty (30) feet), except that in the C Zone within the New Agana lot and block system the building height limit shall be six (6) stories (the six stories shall not exceed a height of seventy-five (75) feet).

SOURCE: GC §17150. Amended by P.L. 21-14:21.

§ 61402. Buildings and Structures Permitted Above Height Limit.

The following buildings, structures and equipment may be erected and maintained above the permitted height limit:

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(a) In the *A* Zone, any building may exceed the height limit of two stories or thirty (30) feet, if such building is located at least at a distance equal to two times the height of the building from any lot line;

(b) Shelters accessory to roof gardens or decks, providing such shelters are open on two or more sides, occupy less than half the roof area, do not exceed the height limit by more than ten (10) feet, and are set back at least eight (8) feet from each lot line;

(c) Roof structures for the housing of stairways, tanks, ventilating fans, or similar structures and equipment for the maintenance of the building; and

(d) Aerials, flagpoles, skylights, steeples, towers, fire or parapet walls, or other similar structures.

(e) Hotels, provided, that for every foot in elevation exceeding the standard limitation, two feet shall be added to each of the required yard depths and widths; and provided, further, that the height limit for any such hotel shall be six (6) stories (the six (6) stories shall not exceed a height of seventy-five (75) feet).

SOURCE: GC §17151.

**ARTICLE 5
YARD AND AREA REGULATIONS**

- Part 1. Yard and Area.
- Part 2. Accessory Buildings.
- Part 2A. Family Home Occupation Act Accessory Use
- Part 3. Nonconforming Buildings and Uses.
- Part 4. Automobile Parking and Loading Space Regulations.
- Part 5. Sign Regulations.
- Part 6. Junk Yards.

**PART 1
YARD AND AREA**

§ 61501. Minimum Yards and Lot Areas Established.

§ 61502. General Yard and Area Requirements.

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§ 61503. Exceptions to Yard and Area Regulations.

§ 61504. Statement of Purpose: Building and Building Height
Restrictions in Beach Areas.

§ 61501. Minimum Yards and Lot Areas Established.

(a) Minimum Yards and Lot Areas Established.

No building or structure shall be erected or maintained, nor shall any existing building or structure be altered, enlarged, moved or maintained, on any lot, unless a front yard, a rear yard and two (2) side yards are provided and maintained on such lot. The depth of such front and rear yards and the width of such side yards shall not be less than the depth and width specified in the following Yards and Lot Area Table. Further, no lot width or lot area, nor any lot area per dwelling shall be less than that specified in “(b) Table.” A commercial building to occupy the whole width of a lot must be of four-hour fire resistive construction. If party walls are to be erected, the written consent of the owners of adjacent lots must be obtained as a prerequisite for the issuance of a building permit to start construction. If the building to be erected is not of fireproof construction, the side yards of eight (8) feet must be provided. In the rural (A) Zone, all structures shall have a front yard of fifteen (15) feet, a rear yard of ten (10) feet, and side yards of eight (8) feet. The width of each lot shall be no less than fifty (50) feet with an area equal to or greater than ten thousand (10,000) square feet, provided that no lot shall have a length to width relationship that exceeds a three-to-one (3:1) ratio. The lot area per dwelling unit in the Rural Zone (A) shall not be less than nineteen thousand two hundred (19,200) square feet without sewer connection only if located on top of the Northern Aquifer. The lot area per dwelling unit in the Rural Zone (A) shall not be less than nine thousand six hundred (9,600) square feet with sewer connection, if located on top of the Northern Aquifer.

(b) Table.

	Front Yard Depth	Rear Yard Depth	Side Yard Depth	Lot Width	Lot Area	Lot Area Per* Dwelling Unit
Single Family	15 ft.	10 ft.	8 ft.	50 ft.	5,000 sq. ft.	5,000 sq. ft.
Multi-family	15 ft.	10 ft.	8 ft.	50 ft.	5,000 sq. ft.	1,250 sq. ft.
Commercial	-----	20 ft.	-----	20 ft.	2,000 sq. ft.	400 sq. ft.
Light Industrial	-----	20 ft.	8 ft.	50 ft.	5,000 sq. ft.	1,250 sq. ft.

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Heavy Industrial	25 ft.	25 ft.	15 ft.	120 ft	40,000 sq. ft. -----
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Unless facilities are otherwise provided for loading, the rear yard must be no less than twenty (20) feet in depth.

* For properties not located on top of the Northern Aquifer.

(c) Lots Over the Aquifer. Lot sizes and set-back on properties above the aquifer shall be established by the Guam Environmental Protection Agency.

SOURCE: Repealed/reenacted by P.L. 21-72:20(b) (11/27/91). Amended by P.L. 22-161:5(c) (12/30/94). Amended by P.L. 23-59:4. Amended by P.L. 24-51:2.

NOTE: Prior to this latest repeal and reenactment, 21 GCA § 61501 contained a table of Yard and Lot Areas, which were a part of §17200 of the Govt. Code (the source of this Section) as amended by P.L. 15-57:7. This section, as repealed and reenacted, contains no such table. Because this table still has potential use, the Compiler has included the Table as adopted by P.L. 15-57 below.

§ 61502. General Yard and Area Requirements.

(a) No required yard or other open space provided about any building or structure for the purpose of complying with the provisions of this Title, shall be considered as providing a yard or open space for any other building or structure.

(b) No lot or parcel of land under separate ownership at the time this law became effective shall be separated in ownership or reduced in size below the minimum lot width or lot area set forth in the Yards and Lot Area table.

(c) Where a lot in the R1 zone has an area of ten thousand (10,000) square feet or more, a one family dwelling may be erected and maintained on each five thousand (5,000) square feet thereof, if front, side and rear yards of the depth and width specified in the Yard and Lot Area table are provided and maintained for each such dwelling.

(d) In the C and M1 zones, every building hereafter erected on a lot which abuts a primary or secondary highway, as shown on a highway plan adopted by the Commission or Legislature, shall provide and maintain a front or side yard having a depth or width, as the case may be, of not less than that required to conform to the line of such highway.

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(e) A hotel or motel, while considered a multi-family use, requires a minimum of four hundred (400) square feet of lot area per living unit in a commercial zone.

(f) A cluster development may have a reduction of yards and lot width upon approval by the Commission.

SOURCE: GC §17201 as amended by P.L. 10-5.

§ 61503. Exceptions to Yard and Area Regulations.

(a) No front yard need be provided on a lot in a hillside area where the topography of the lot is such as to make it unreasonable or impractical to locate a building on the lot and provide a front yard.

(b) No side yard need be provided for a dwelling or hotel erected above the ground floor of a building, where the ground floor is designed for commercial or industrial purposes.

(c) Cornices, eaves, belt courses, sills, canopies or other similar architectural features, may project into a required side yard not more than two inches for each one foot of width of such side yard and may project into any other required yard space not more than thirty (30) inches.

(d) Open, unenclosed stairways or balconies, not covered by a roof or canopy, may project into a required rear yard not more than for (4) feet, and such balconies may project into a required front yard not more than six (6) feet.

(e) Open, unenclosed porches, platforms, places, not covered by a roof or canopy, or landings, which do not extend above the level of the first floor of the building, may project into any required front, side, or rear yard, not more than six (6) feet.

(f) A fence, lattice work screen, wall, or hedge, not more than six (6) feet in height, may be located in any required front, side or rear yard.

(g) In computing the lot area of a lot which abuts upon an alley one-half (½) the width of such alley may be assumed to be a portion of the lot.

(h) Accessory buildings or structures may be located and maintained in a rear yard, except in the required ten (10) foot rear yard which is that portion adjoining the rearmost main building on the lot. Such buildings or structures may also be located and maintained in any side yard, except in the required eight (8) foot side yards adjoining each of the side lot lines. When such buildings or structures are to be used exclusively for storage or

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as outdoor cooking facilities, they may be located in a side or rear yard with walls erected on the rear and/or side lot lines; provided that such buildings or structures shall not exceed two hundred (200) square feet of floor space and the roofs thereof shall not project beyond the rear or side lot lines and shall be sloped in such a manner as to prevent rain run off from flowing to adjacent property. A storage or cooking facility may only be constructed on residential lots which meet the yard requirements provided by § 61501 of this Code

SOURCE: GC §17202. Subsection (h) amended by P.L. 15-61:1 and 17-25:III:4 and 18-32:10.

§ 61504. Statement of Purpose: Building and Building Height Restrictions in Beach Areas.

(a) The Legislature finds that the indiscriminate building of structures on the beaches of the Territory of Guam creates a menace to the well-being of the people of the territory by increasing the pollution of tidal waters, that such construction, in addition, deprives the people of Guam of their right to the untrammelled use of beach areas beyond the high water mark, and finally, that such construction destroys the natural beauty of Guam's beaches, one of the territory's greatest natural resources. Accordingly, it is the purpose of the restrictions hereinafter contained to protect the beaches of Guam for future generations, to alleviate the health problems caused by construction near tidal areas, and to make certain that the people of Guam remain free to use the beaches of the territory to the maximum extent not incompatible with private ownership of the lands adjoining said beaches.

(b) Along any beach in the territory of Guam, no building may be constructed within thirty-five feet (35') of the mean high watermark bounding said beach, nor may any building higher than twenty feet (20') be constructed within seventy-five feet (75') of the said mean high water mark. For the purpose of this section, the term, *beach* does not include those areas where the shoreline is a cliff or bluff higher than twenty-five feet (25'), nor shall it include those areas where the shoreline is bounded by village lots containing no more than a thousand (1000) square meters in those villages wherein residences have been constructed along the shoreline since prior to the Second World War, and term building included any structure except a retaining wall that cannot be seen.

SOURCE: GC §17203. Subsection (b) amended by P.L. 12-19.

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**PART 2
ACCESSORY BUILDINGS**

§ 61511. Location of Accessory Buildings.

§ 61511. Location of Accessory Buildings.

In the **A**, **R1**, and **R2** zones, no accessory building shall be erected or maintained and no existing building shall be enlarged, moved or maintained, unless such accessory building is located on the lot in conformance with following regulations:

(a) Every accessory building shall be located on the rear one-half (½) of the lot and shall be not less than eight (8) feet from the side street lot line of a corner lot;

(b) Every accessory building located in a rear yard (between the rear lot line and the rearmost main building on the lot) shall not be less than ten (10) feet from said main building and not less than five (5) feet from any lot line which is not a street line;

(c) Every accessory building located in a side yard (between the side lot line and side of a main building) shall be not less than five (5) feet from such main building and not less than eight (8) feet from the side lot line; and

(d) No accessory building shall be located in a front yard or on the front one-half (½) of a lot, except on hillside lots where the topography makes it impractical to conform to the other regulations of this article.

SOURCE: GC §17250.

**PART 2A
FAMILY HOME OCCUPATION ACT
ACCESSORY USE**

SOURCE: Part 2A of Article 5, was added by P.L. 28-068:IV:76:b (Sept. 30, 2005).

§ 61515. Title.

§ 61516. Purpose.

§ 61517. Family Home Occupation Requirements.

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- § 61517.1. Exceptions Where not Allowed.
- § 61517.2. Community Property Regime Restrictions.
- § 61517.3. Community Regime May Establish Standards.
- § 61518. Saving Clause.

§ 61515. Title.

This subdivision of the “*The Zoning Law of the Territory of Guam*” shall be known and may be cited as the “*Family Home Occupation Act.*”

§ 61516. Purpose.

The purpose of this subdivision of “*The Zoning Law of the Territory of Guam*” is to permit family home occupations in residential dwelling units as an accessory use without a use variance through the establishment of certain minimum regulations for the protection of the community.

§ 61517. Family Home Occupation Requirements.

Notwithstanding any zoning law to the contrary, a family home occupation shall be an accessory use to a residential dwelling or unit within any zone, and shall not require a use variance provided that:

- a. the activity does not create a consternation with the residential use of the property and surrounding residential uses;
- b. the activity employs no employees other than family members residing in the dwelling or unit;
- c. there is no outside appearance of a family home occupation including, but not limited to, parking, signs or lights;
- d. the volume of deliveries and other vehicular traffic is not in excess of what is normally associated with residential use in the neighborhood;
- e. the activity uses no equipment or process that creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, that would create a consternation to adjacent neighbors;
- f. the activity does not generate solid waste or sewage discharge, in volume or type, which is not normally associated with a residential use in the neighborhood; and
- g. the activity does not involve any illegal activity.

§ 61517.1. Exceptions Where not Allowed.

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1. In the case of a dwelling that is a part of a horizontal and community property regime or a common interest ownership community in which at least some of the property is owned in common by all of the residents; or, in the case of a dwelling unit that is part of a planned unit development or subdivision to which a covenant or condition is attached upon the purchase of the property, this section shall not supersede any deed restriction, covenant, agreement, master deed, master lease, declaration, by-laws or other documents which prohibit a family home occupation within a dwelling unit.

2. A community created through a property regime shall not be required to amend or modify an existing rule or regulation pertaining to family home occupations so long as no conflicts occur with the provisions of this Article.

§ 61517.2. Community Property Regime Restrictions.

1. A Community Property Regime (herein after referred to as ‘Regime’) may establish limitations for, or prohibit entirely, any family home occupation which it deems incompatible with the character of the residential community in which it is located.

2. After the effective date of this Article, any Regime may ban any or all family home occupations by the lawful adoption of rules.

§ 61517.3. Community Regime May Establish Standards.

In accordance with the purpose of this Article, a Regime may establish, through rule, regulation, by-law, covenant, agreement, condition or other documents:

1. standards for delivery or truck traffic;
2. standards concerning the acceptable volume of invitees or guests to a family home occupation;
3. Any standards established pursuant to this Section shall apply to all residences within the Regime.

§ 61518. Saving Clause.

This Article shall not limit the power of the government to protect the health, safety and welfare of its residents, including the investigation and elimination of nuisances.

PART 3
NONCONFORMING BUILDINGS AND USES

- § 61521. Nonconforming Buildings.
- § 61522. Application of § 61521(c).
- § 61523. Nonconforming Use of Buildings.
- § 61524. Nonconforming Use of Land.
- § 61525. Nonconforming by Reclassification or Change.
- § 61526. Exception for Nonconforming Buildings and the Nonconforming Use of Land.

§ 61521. Nonconforming Buildings.

(a) A nonconforming building may be maintained and repaired, except as otherwise provided in this section.

(b) A building nonconforming as to use regulations shall not be added to or enlarged in any manner, unless said building, including such additions and enlargements, is made to conform to all the regulations of the zone in which it is located.

(c) A building nonconforming as to height or yard regulations may be added to or enlarged if such addition or enlargement conforms to all the regulations of the zone in which it is located; provided, that a residential building nonconforming as to height regulations may be added to or enlarged notwithstanding the fact that such addition or enlargement may violate yard regulations, and a building nonconforming as to yard regulations may be added to or enlarged notwithstanding the fact that such addition or enlargement violates height regulations.

(d) A nonconforming building which is damaged or partially destroyed by fire, flood, wind, earthquake, or other calamity, to the extent of not more than fifty percent (50%) of its value at the time of such damage or destruction, may be restored if the total cost of such restoration does not exceed fifty percent (50%) of the value of the building at the time of such damage or destruction. Where the damage or destruction exceeds said value, the building shall not be repaired or reconstructed unless the entire building is made to conform to all regulations for a new building in the zone in which it is located.

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(e) A building nonconforming as to restrictions set forth in § 61504 of this Chapter may be maintained and repaired but may not be enlarged, and in the case of its damage or partial destruction by fire, flood, wind, earthquake, or other calamity, to the extent of not more than fifty percent (50%) of its replacement cost at the time of such damage or destruction, then it may be restored if the total cost of such restoration does not exceed fifty percent (50%) of the replacement cost of the building at the time of such damage or destruction. Where the damage or destruction exceeds said cost, the building shall not be repaired or reconstructed.

SOURCE: GC §17300. Subsection (c) amended by P.L. 12-160:7.

§ 61522. Application of § 61521(c).

The provisions of § 61521(c) shall be applied to alterations, additions, or improvements constructed prior to the effective date of this law.

SOURCE: P.L. 12-160:7, effective August 27, 1974; codified by the Compiler.

§ 61523. Nonconforming Use of Buildings.

(a) The nonconforming use of a building, existing at the time this law became effective, may be continued.

(b) The use of nonconforming building may be changed to any other use which is permitted in the same zone as the use for which the building or structure is designed or intended. The use of a non-conforming building may also be changed to any use permitted in a more restricted zone classification. Where the use of a nonconforming building is hereafter changed to a use of a more restricted zone classification, it shall not thereafter be changed to a use of a less restricted zone classification. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

SOURCE: GC §17301.

§ 61524. Nonconforming Use of Land.

The nonconforming use of land, existing at the time this law became effective, may be continued except that such use shall not be extended either on the same or on to adjoining property. Where a nonconforming use of land is discontinued or changed, any future use of such land shall be in conformity with the provisions of this Chapter.

SOURCE: GC §17302.

§ 61525. Nonconforming By Reclassification or Change.

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The foregoing provisions of this Chapter shall also apply to buildings, land and uses which hereafter become nonconforming due to any classification or reclassification of zone or to any change in the provisions of this Chapter.

SOURCE: GC §17303.

§ 61526. Exception for Nonconforming Buildings and the Nonconforming Use of Land.

(a) Any building or structure constructed on a Single Family (R-1) Zone during the period of November 1991 through June 1997 and not meeting the Yard and Lot Area Table set forth in § 61501 of this Chapter shall be deemed as a legal nonconforming building and continue as a legal nonconforming use of the land under its designated zone.

(b) The property owners or authorized representative shall bear the burden of proof that the building or structure was constructed sometime during the period of November 1991 through June 1997. The Guam Chief Planner shall verify and ascertain the eligibility of the building or structure as a legal nonconforming building and submit his findings to the Director for action. The Director, within five (5) working days, shall record a Notice of Action document of his determination.

(c) The interpretation and application of § 61526(a) shall be held to be the minimum requirement subject to all other provisions within this Chapter prior to the enactment of Public Law 24-51.

SOURCE: Added by P.L. 27-91:3.

PART 4

AUTOMOBILE PARKING AND LOADING SPACE REGULATIONS

§ 61531. Automobile Parking Space.

§ 61531.1.Option for Compact Automobiles.

§ 61532. General Requirements.

§ 61533. Loading Space.

§ 61531. Automobile Parking Space.

Off-street automobile parking space shall be provided as follows:

(a) For dwellings, at least one automobile parking space for each dwelling unit;

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(b) For hotels, at least one automobile parking space for each four guest rooms;

(c) For places of assembly, such as churches, auditoriums or theaters with seating facilities, one parking space for each four seats;

(d) For places of assembly, such as restaurants or night clubs without fixed seating facilities, one parking space for each one hundred (100) square feet of customer area in such use;

(e) For retail sales of building materials, and goods requiring extensive display areas, industrial buildings and warehouses, one parking space for each eight hundred (800) square feet of area in such use, exclusive of loading requirements;

(f) For retail and wholesale sales and services, exclusive of warehouse activity, at least one space for each one hundred (100) square feet or portion thereof of usable commercial floor area;

(g) For professional and business offices, public administration offices, one parking space for each four hundred (400) square feet or portion thereof of floor area;

(h) For offices and clinics, of healing arts, at least five (5) spaces for each practitioner;

(i) For hospitals and nursing homes, at least one space for each two (2) beds;

(j) Three spaces for every four (4) employees.

(k) Total parking requirements will be a total of all applicable elements in paragraphs (a) through (k);

(l) Appropriate parking space for open space activities such as swimming beaches, picnic areas, campgrounds, boating areas, shall be determined by the Territorial Land Use Commission.

SOURCE: GC §17350 as amended by P.L. 11-160, P.L. 12-142; P.L. 12-163; subsection (g) amended by P.L. 12-177.

COMMENT: Subsection (f) as amended by P.L. 12-163 reduced the area of square footage from one hundred fifty (150) as found in P.L. 12-142, to one hundred (100) square feet as it was originally. The figure of 150 feet was erroneously printed in the 1974 Government Code Supplement, and previously in this section. Likewise, subsection (a) was amended by P.L. 12-163 but not reported in either the Government Code Supplement or earlier editions of this Code.

61531.1 Option for Compact Automobiles.

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The off-street automobile parking space required under §§ 61531 and 61532 of this Chapter shall be laid out at the ratio of seventy-five percent (75%) for compact automobiles to twenty-five percent (25%) for standard-sized automobiles or at any greater percentage of compact automobiles.

SOURCE: Added by P.L. 21-49:3. Amended by P.L. 22-123:3.

§ 61532. General Requirements.

(a) Automobile parking space required by this Chapter shall be provided at the time of the erection of any main building or at the time any existing main building is enlarged or increased in capacity by adding dwelling units, guest rooms or floor area, and such parking space shall thereafter be maintained.

(b) In the case of a dwelling, the automobile parking space shall be on the same lot and may be provided either in a private garage or in a private automobile parking area.

(c) In the case of multi-residential buildings, churches, theaters, clinics, commercial or industrial buildings, the automobile parking space shall be on the same lot or may be provided in a parking garage available to the public or a private parking area adjacent thereto.

(d) Every automobile parking space shall be of the following sizes:

(1) Standard-sized automobile parking spaces shall be at least nineteen feet (19') in length and eight and one-half feet (8 1/2') in width, with parallel spaces at least twenty-two feet (22') in length.

(2) Compact spaces shall be at least sixteen feet (16') in length and seven and one-half feet (7 1/2') in width, with parallel spaces at least nineteen feet (19') in length.

(3) Minimum aisle widths for parking bays shall be provided in accordance with the following:

Parking angles:	Aisle widths in feet:
0° - 44°,	12,
45° - 59°,	13.5,
60° - 69°,	18.5,
70° - 79°,	19.5,
80° - 89°,	21,

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90°,

22.

SOURCE: GC §17351 as amended by P.L. 12-142; subsection (d) of § 61532 is amended by P.L. 21-49:2. Subsection (d) amended by P.L. 22-123:4.

§ 61533. Loading Space.

Off-street loading spaces for every commercial or industrial building shall be provided, located and scaled to meet the anticipated needs of all establishments and activities likely to require such space. In general, off-street loading space shall be located in service areas at the rear or sides of establishments in such a way that there will be minimum interference with off-street parking or vehicular movement in off-street parking areas.

SOURCE: GC §17352; repealed and reenacted by P.L. 12-142.

**PART 5
SIGN REGULATIONS**

§ 61541. Restriction of Use.

§ 61542. Regulation of Political Candidates' Signs.

§ 61543. Erection of Signs.

§ 61544. Signs in Other Than English or Chamorro Language.

§ 61545. Penalty.

§ 61546. Signs on School Bus Stop Shelters.

§ 61541. Restriction of Use.

No structure of any kind or character erected or maintained for outdoor advertising or identification purposes, upon which any poster, bill, printing, painting, or other advertisement of any kind whatsoever is placed, including statuary for advertising or identification purposes, and no card, cloth, paper, metal, painted or wooden sign of any character placed for outdoor advertising or identification purposes, on or to the ground or any tree, wall, bush, rock, fence, building, structure or thing, either privately or publicly owned, shall be placed or maintained on property adjacent to any highway, road, street, boulevard, lane, court, place, summons, trail, way, or other right of way or easement used for or laid out and intended for the public passage of vehicles or of vehicles and persons except as provided below:

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(a) In Residential and Agricultural zones no exterior name plate or sign shall be erected, displayed, or maintained, except the following:

(1) One non-moving, non-flashing sign for each family residing on the premises indicating the name of the resident or pertaining to a permitted occupation provided that each such sign does not exceed three (3) square feet in area.

(2) One non-moving, non-flashing sign, not exceeding twelve (12) square feet in area, pertaining to permitted buildings, structures, and uses of the premises other than dwellings and occupations permitted therein.

(3) Temporary unlighted signs aggregating not over twenty-four (24) square feet in area pertaining to the sale or lease of the premises.

(4) Unlighted directional signs not exceeding three (3) square feet in area pertaining to churches, schools, institutions and other public or nonprofit uses.

(b) In Commercial zones, no exterior signs shall be erected displayed or maintained except the following:

(1) Signs indicating the name of a person or the type of business occupying the premises or the name of the building, provided that:

(i) Individual signs shall be non-flashing and non-moving.

(ii) Individual signs shall be placed flat on the building wall, shall not be higher than the roof line of the building, and shall project no further than eighteen (18) inches from the wall to which they are attached.

(iii) Individual signs shall not cover an area in excess of ten percent (10%) of the surface of the wall to which they are attached.

(2) Free standing, doubled faced signs indicating the name of a person or the type of business occupying the premises or the name of the building, provided that:

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(i) such signs shall not exceed forty (40) square feet in area on each face nor twelve (12) feet in height;

(ii) such structure shall not be placed closer than ten (10) feet to any street or high way right-of-way; and

(iii) one such sign shall be permitted for each premises or building.

(c) In Industrial zones no exterior signs shall be erected, displayed or maintained except the following:

(1) Signs indicating the name of a person, or the type of industry occupying the premises or the name of the building, provided that:

(i) Individual signs shall be non-flashing and non-moving.

(ii) Individual signs shall be placed flat on the building wall, shall not be higher than the roof line of the building, and shall project no further than eighteen (18) inches from the wall to which they are attached.

(iii) Individual signs shall not cover an area in excess of ten percent (10%) of the surface of the wall to which they are attached.

(2) Free standing signs identifying the name of the owner or occupant of the premises, or advertising goods manufactured or produced, or services rendered, on the premises, provided that:

(i) Such sign shall not exceed sixty (60) square feet in area nor twelve feet (12) in height.

(ii) Such structure shall not be placed closer than ten (10) feet to any street or high way right of way.

(iii) Such signs shall be non-moving and non-flashing.

(iv) One (1) such sign shall be allowed for each industrial structure, or complex or structures housing a single industrial user.

(d) The provisions of this section shall not apply to any sign placed by or for purposes of any charitable, religious and civic

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organization, individual or entity, if the same remains posted or erected for a period of not more than sixty (60) days.

SOURCE: GC §17400. Subsection b(1)(c) amended by P.L. 16-77; subsection (b)(2) repealed and reenacted by P.L. 15-140:13.

§ 61542. Regulation of Political Signs.

Candidates for public office or other persons having an interest in an election may place political signs which advocate voting for or against candidates, or other matters to be considered by the electorate, on government property in accordance with the following provisions:

(a) Definitions.

(1) *Candidate* means a person seeking public office.

(2) *Government property* means any tangible or real property held by the government of Guam.

(3) *Organization* means any political organization or political action group advocating an issue in a special or general election.

(4) *Political sign* means all billboards, posters, banners or displays which advocate a candidate for political office or any matter to be presented to the electorate for vote.

(5) *Utility pole* means any pole erected for street lighting, power lines, and cable television lines.

(b) Permit: Fee; Deposit. Any candidate or organization may apply for a permit to post campaign signs with the Department of Public Works. The Director of Public Works is authorized to charge a non-refundable permit fee of One Hundred Dollars (\$100.00) and a deposit of Two Hundred Dollars (\$200.00), or as increased from time to time by rules and regulations promulgated by the Director of Public Works in accordance with the Administrative Adjudication Law. Such rules and regulations shall provide for procedures governing approval or rejection of permits, manner and location of posting, maintenance of sign and surrounding area, procedures for notification, removal of signs, forfeiture of deposit of any sign found in violation of this Section, and any other rules or regulations necessary to ensure the safety of the public.

(c) Restrictions on Posting of Political Signs.

(1) No political sign may be erected or posted upon the shoulder of any roadway unless it is eight (8) feet from the paved portion of the

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roadway and in such a manner that would not impede traffic or a driver's visibility, or erected upon any traffic median strip, sidewalk, road, or driveway.

(2) No political sign may be erected upon , on or within any government building, or nailed to any tree or attached to any fence on government property.

(3) No political sign may be erected or posted within one hundred (100) feet of any entrance to a public school, or upon any public school property, including school fences and gates, except after 6:00 p.m. on the day before the election date.

(4) No political sign may be posted upon any utility pole.

(5) No political signs may be posted upon any public park within the jurisdiction of the Department of Parks and Recreation, the Department of Public Works, or the village Mayors.

(6) No political sign may be erected or posted within one hundred (100) feet of any intersection.

(d) Period for Posting of Political Signs. Political signs shall not be erected any earlier than ninety (90) days before any special or primary election.

(e) Size Restriction. No political sign may exceed one hundred ninety-two (192) square feet in gross sign surface area. Any sign which exceeds one hundred ninety-two (192) square feet shall be removed immediately by the Department of Public Works, and all sign materials and any deposit made shall be automatically forfeited to the government of Guam.

(f) Maintenance of Political Signs. It shall be the responsibility of every candidate or organization to maintain their sign in a manner which does not impede the safety of the public, and which complies with applicable rules and regulations as adopted by the Department of Public Works. Failure of a candidate or any organization to maintain campaign signs shall be grounds for forfeiture of any deposit and all sign materials.

(g) Removal of Signs. Any sign in violation of any of the provisions of Subsections (c), (d), (e) or (f) shall be removed within forty-eight (48) hours by the candidate or organization after notification by the Department of Public Works or a Mayor of the village in which the sign is located. A sign not removed within forty-eight (48) hours of notification may be removed immediately by the Department of Public Works or the village Mayor.

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Failure to remove any political sign in violation of this Section shall be grounds for forfeiture of any deposit. Every political sign shall be removed no later than fifteen (15) calendar days after the conclusion of any general or special election. Failure to remove any political sign within fifteen (15) days after the conclusion of any general or special election shall be grounds for forfeiture of any deposit.

SOURCE: GC §17400.1 added by P.L. 18-40:36. Repealed and reenacted by P.L. 24-55:2.

§ 61543. Erection of Signs.

All permitted signs shall be erected in such a manner as not to create a hazard to public safety or property, and shall be resistant to winds, typhoon, earthquake or other natural phenomenon. Engineering design shall be based on applicable sections of the Building Law of Guam (Chapter 66 of 21 GCA).

The Building Official shall set specific engineering design standards. Application, accompanied by detailed drawings and specifications shall be submitted to the Building Official, who will review said plans and grant permit for the erection of said sign, free-standing or attached. The Building Official shall refer said plans to the zoning inspector to assure conformity to the provisions of this Chapter.

SOURCE: GC §17401.

§ 61544. Signs in Other Than English or Chamorro Language.

Any permitted sign erected, displayed or maintained pursuant to § 61541(b)(1) and (2) of this Chapter which contains a message in a language other than English or Chamorro in Roman alphabet characters shall contain a meaningful translation in the English or Chamorro language which shall be printed on the sign using Roman alphabet characters. The Chamorro Language Commission shall assist in translating and approve all Chamorro translations required by this Section for existing and new signs. The English or Chamorro translation must predominate the sign.

SOURCE: GC §17402 enacted by P.L. 15-100:2 as amended by P.L. 15-147:10.

COURT DECISIONS: This section, requiring that covered by either in English, Chamorro or have a translation, is contrary to the owner's rights of free speech and, thus, void. *Govt. of Guam v. Wang & Tung Hua Trading Co., Ltd.*, 2 Guam R. 102 (1980).

§ 61545. Penalty.

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Any person who violates the provision of § 61544 of this Chapter shall be subject to a civil penalty not to exceed One Thousand Dollars (\$1,000) for each such violation. Actions to recover the penalty provided for in this Section shall be brought by the Attorney General at the request of any person in the territory of Guam. All penalties recovered in any such action shall be paid into the General Fund.

SOURCE: GC §17402.1 enacted by P.L. 15-100:2.

§ 61546. Signs on School Bus Stop Shelters.

Notwithstanding any law in this Chapter to the contrary, it shall not be illegal for the Guam Public School System to place a sign on any school bus stop shelter to identify and commemorate a public business or individual who contributed money to provide for the erection and maintenance of such shelters. Such signs shall be non-moving and non-flashing and not larger than the dimensions of the bus stop shelter.

SOURCE: GC §17403 enacted by P.L. 15-144:5.

COMMENT: Reference to “Department of Education” changed to “Guam Public School System” pursuant to P.L. 28-045:10 (June 6, 2005).

PART 6
JUNK YARDS

- § 61561. Permits Required.
- § 61562. Improvement Standards
- § 61563. Application Required.
- § 61564. Hearing Required.
- § 61565. Permit Issued or Denied.
- § 61566. Nonconforming Junk Yards.

§ 61561. Permits Required.

No person shall establish a junk yard or extend the boundaries of an existing junk yard without obtaining a permit from the Territorial Land Use Commission. Junk yards which are established on the effective date of this Part shall be governed by the provisions of § 61566.

§ 61562. Improvement Standards.

- (a) The minimum enclosed area for a junk yard shall be forty thousand (40,000) square feet.

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(b) The junk yard shall be enclosed by a fence not less than eight (8) feet in height.

(c) The junk yard enclosure shall be set back forty (40) feet from any public road, and twenty (20) feet from all abutting property lines.

(d) The exterior yards established by subparagraph (c) above shall be maintained in a sanitary and not unsightly manner.

§ 61563. Application Required.

The owner shall make application for the issuance of a permit under Part 6 of this Article to the Territorial Land Use Commission. Such application shall include:

- (a) A statement of intent;
- (b) A map of the general area showing the subject lot and all abutting properties, with names and addresses of owners; and
- (c) A proposed site plan, showing proposed enclosure, access and egress.

§ 61564. Hearing Required.

Within one month of the first regularly scheduled Territorial Land Use Commission meeting after receipt of an application, the Territorial Land Use Commission shall hold a public hearing on the proposed junk yard. The Territorial Land Use Commission shall cause notice of such application and hearing to be sent to abutting property owners by registered mail, and advertisement of such hearing to be sent to abutting property owners by registered mail, and advertisement of such hearing to appear in a newspaper of general circulation throughout the territory at least ten (10) days prior to the hearing.

§ 61565. Permit Issued or Denied.

After such public hearing, if the Territorial Land Use Commission determines that the standards set forth in § 61602 are met, the Territorial Land Use Commission shall issue a permit. Any person aggrieved by a decision of the Territorial Land Use Commission under this section shall have the right to appeal to the Superior Court as provided in § 61621 of this Chapter.

§ 61566. Nonconforming Junk Yards.

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(a) The nonconforming use of a building or premises for the purpose of operating a junk yard within any Agricultural (A), Residential (R1 and R2), or Commercial Zone (C and LC) shall, within five (5) years after the effective date of this Chapter, be discontinued and the building or premises thereafter devoted to a use permitted in the zone in which such building or premises are located.

(b) The nonconforming use of a building or premises for the purpose of operating a junk yard within a Light Industrial (M1) Zone may continue subject to the provisions of Article 5, Part 3 of this Chapter, provided that it is made to conform to the provisions of § 61562 within the (1) year of the effective date of this Part. If such action is not taken, the provisions of subparagraph (a) shall apply.

SOURCE: This Part was sourced in GC §§17425-17430, effective March 29, 1968.

ARTICLE 6
ADMINISTRATION AND ENFORCEMENT

- Part 1. Administrating and Enforcing.
- Part 2. Appeals & Reviews.
- Part 3. Changes of Zones.
- Part 4. Recording - Submission to the Legislature.
- Part 5. Fees.
- Part 6. Penalty for Violation.

PART 1
ADMINISTRATING AND ENFORCING

- § 61601. Enforcement.
- § 61602. Building Permit Required.
- § 61603. Building Permit Not to be Issued.
- § 61604. License Approval Required.

§ 61601. Enforcement.

The Building Official designated in Chapter 66 of this Title shall have the power and duty to enforce the provisions of this law. All authority granted to him by Chapter 66 of this Code may be used in furtherance of

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these enforcement activities, whenever such authority is necessary and applicable.

SOURCE: GC §17450.

§ 61602. Building Permit Required.

Before commencing the construction of a new building or structure, or the alteration, enlargement or moving of an existing building or structure, a building permit authorizing such work shall first be obtained from the Building Official as provided for in Chapter 66 of this Code; provided however that the Building Official may delegate the authority to issue permits outside of the organized villages to the commissioners referred to in Title 1, Chapter 40 of this Code.

SOURCE: GC §17451

NOTE: §17451 was included in the original Government Code and was amended by P.L. 2-21 which added "... commissioners referred to in Title XXVI of this Code (Alcoholic Beverage Control Law)". Reference to Title XVI, GC 1970 Ed., Commissioners of Guam, may have been intended. Commissioners of Guam is now located in Chapter 40 of Title 5 Guam Code Annotated, Government Operations.

CROSS-REFERENCES: P.L. 19-51:5 states:

Notwithstanding any provision of law, a building permit, application or notice to the building official shall not be required to paint or clean any building or structure or to build any fence which otherwise complies with Government of Guam laws, rules and regulations.

§ 61603. Building Permit Not to be Issued.

No building permit or certificate of occupancy shall be issued by the Building Official for the erection, alteration, enlargement, or use of any building or structure or part thereof, or for the use of any land, which is not in accordance with all provisions of this law. Any building permit or certificate of occupancy issued in conflict with the provisions of this Chapter, shall be null and void.

SOURCE: GC §17452.

§ 61604. License Approval Required.

No license pertaining to the use of land or building shall be issued by any department, officer or employee of the government of Guam, vested with such duty, unless the application for such license has been approved by the Building Official as to the conformance of said use with the provisions

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of this Chapter. Any license issued in conflict with the provisions of this Chapter shall be null and void.

SOURCE: GC §17453.

**PART 2
APPEALS AND REVIEWS**

- § 61615. Appeals Involving Administration Enforcement.
- § 61616. Variances.
- § 61617. Variance Requirements.
- § 61618. Variance Application-Form and Contents.
- § 61619. Hearing Date-Notice.
- § 61620. Decision by Territorial Land Use Commission.
- § 61621. Decision Final-Appeal.
- § 61622. Jurisdiction.
- § 61623. Review by Municipal Planning Council.
- § 61624. No Use of Parks.

§ 61615. Appeals Involving Administration Enforcement.

The Territorial Land Use Commission shall also have and exercise the following powers:

(a) To hear and decide appeals where it is alleged by the appellant that there is an error in any refusal of a building permit or certificate of occupancy, or other order, requirement, or decision made by the Building Official or other administrative official in the administration of this Chapter; and

(b) To hear and decide appeals from any order, requirement, decision or determination made by the Building Official in the enforcement of the provisions of this Chapter.

The procedure for filing such appeals as well as the procedure governing the actions of the Commission thereon, shall be similar to that set forth in §§ 31062 to 31071 inclusive of Chapter 66 of this Code.

(c) Four (4) affirmative votes of its members shall be required to approve any action by the Territorial Land Use Commission, and the chairperson thereof is required to vote on all matters.

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SOURCE: GC §17500. Subparagraph (c) is added to § 61615 by P.L. 21-72:25 (c).

NOTE: The Compiler has changed the reference in the first sentence of subsection (a)(a) from *Territorial Land Use Commission* to *Territorial Land Use Commission* to conform to the clear intent of the Legislature as evidenced in the amendment to subsection (d).

§ 61616. Variances.

Where practical difficulties, unnecessary hardships, or results inconsistent with the general purposes of this Chapter would occur from its strict literal interpretation or enforcement, the Territorial Land Use Commission shall have authority to grant such variances therefrom as may be in harmony with its general purpose and intent, so that the spirit of the law shall be observed, public safety secured, and substantial justice done, including the following:

(a) Permit the extension of an existing or proposed conforming building or use into an adjoining more restricted zone for a distance not exceeding fifty (50) feet;

(b) Permit a building or use (including automobile parking) on a lot immediately adjoining or across an alley from a less restricted zone, upon such conditions and safeguards as will tend to cause an effective transition from the less restricted to the more restricted zone;

(c) Permit the addition, enlargement or moving of a nonconforming building or structure;

(d) Permit such modification of the height regulations as may be necessary to secure an appropriate building or structure on a lot which has such physical characteristics or is so located with relation to surrounding development that it cannot be properly improved without such modification;

(e) Permit such modification of the yard, lot width or lot area regulations or requirements as may be necessary to secure an appropriate building or structure on a lot which is of such size, shape or topography, or is so located in relation to adjacent property or improvements that it cannot be appropriately improved without such modification;

(f) Permit such modifications on the lot area per dwelling unit (density) requirements as may be necessary to secure an appropriate development of a lot in keeping with its size and location;

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(g) Permit the modification or waiver of the automobile parking space or loading space requirements where such modification would not be inconsistent with the purposes of this Chapter;

(h) Permit temporary buildings or uses for a period not to exceed two (2) years in undeveloped areas;

(i) Permit the following uses in zones from which they are prohibited by this Chapter: governmental enterprises; public utilities and public service uses or structures; hospitals or institutions; or development of natural resources.

(j) Permit the construction of buildings in violation of the restrictions of § 61504 of this Chapter;

(k) Permit the owner of a lot in a rural zone to parcel therefrom one lot not less than ten thousand (10,000) square feet in area to be used for a single family residence, such variance to be conditioned upon a prohibition on any subsequent parcelling of the lot and that the parcelled out lot be served by water and power and a public road.

(l) Notwithstanding other provisions within this Section, establish guidelines through resolution to permit the Director of the Department of Land Management, with advisement from the Guam Chief Planner, to utilize his discretion in approving minor yard setback variances specifically for single family residential dwellings or any accessory structure of a residential use which, at a minimum, satisfies the following requirements:

1. The variance is for not more than three (3) feet beyond the setback requirement of only one (1) yard (side, front, or rear) to allow the suitable location of a structure where practical difficulties exist due to special circumstances applicable to the building or property, including size, shape, topography, location or surroundings, depriving such property of privileges enjoyed by other property in the vicinity and under identical zoning classification consistent with the general welfare of the adjacent neighbors.

2. The granting of the variance does not authorize a use or activity which is not authorized by the zone regulations governing the parcel or property.

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3. Water runoff from the roof line of any structure shall not encroach beyond the property line of a parcel.

4. No encroachment onto an area engrossed by a grant of easement shall occur.

5. Concurrence from the adjacent property owners located along the property line closest to the setback encroachment shall be obtained.

6. Real property chattels or any transient residential accommodations including breakfast inns, motels or hotels are not considered as residential dwellings for the purpose of this Subsection.

7. No other setback variance shall be granted by the Commission on the parcel affected by a grant of variance through this Subsection. The physical removal of any structure or a portion thereof approved through this Subsection shall void the restrictions imposed by this Subsection.

The Department shall notify all contiguous property owners of the proposed minor yard setback variance. Upon notification by the Department, the property owners shall have thirty (30) days to submit written objections to the Director.

SOURCE: GC §17501. Subsection (k) added by P.L. 10-173 as (j) and renumbered by the Ed., GC (1974 Supp.) Subsection (l) added by P.L. 27-91:2.

§ 61617. Variance Requirements.

No variance shall be granted by the Commission unless it finds:

(a) That the strict application of the provisions of this Chapter would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the law;

(b) That there are exceptional circumstances or conditions applicable to the property involved or to the intended use thereof that do not apply generally to other property in the same zone;

(c) That the grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or neighborhood in which the property is located; and

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(d) That the grant of such variance will not be contrary to the objectives of any part of the Master Plan adopted by the Commission or Legislature;

(e) That, as to variances from the restrictions of § 61504 of this Chapter, the proposed building will substantially enhance the recreational, aesthetic or commercial value of the beach area upon which the building is to be constructed, and that such building will not interfere with or adversely affect the surrounding property owners' or the public's right to an untrammelled use of the beach and its natural beauty.

The above requirements need not apply to the types of uses specified in § 61616(i), and variances for such uses shall only be granted by the Commission where it finds that they are deemed essential or desirable to the public convenience or welfare, are in harmony with the various elements or objectives of the Master Plan, and will not be materially detrimental or injurious to the property or improvements in the immediate neighborhood.

SOURCE: GC §17502.

§ 61618. Variance Application-Form and Contents.

An application for variance shall be filed with the Executive Secretary of the Commission upon a form and accompanied by such data and information as the Commission may prescribe.

SOURCE: GC §17503.

§ 61619. Hearing Date-Notice.

Upon the filing of variance application the Commission shall fix a reasonable time for hearing the same and shall give notice thereof to the applicant and may give notice to any other parties in interest. All hearings shall be conducted in the affected municipality and shall be in accordance with the rules established by the commission, but any party in interest may appear in person, or by designated attorney or agent. At least one such hearing shall be conducted after six o'clock p.m.

SOURCE: GC §17504 as amended by P.L. 20-217:3.

§ 61620. Decision by Territorial Land Use Commission.

If, from the facts presented with the application at the hearing, or by investigation by or at the instance of the Commission, the Commission makes the findings set forth in § 61617, it may grant the variance in whole or in part, upon such terms and conditions as it deems necessary to conform to the general intent and purpose of this law. If the Commission fails to

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make said findings, it shall deny the application. Each decision by the Commission authorizing a variance from the regulations herein established must be by resolution adopted by a majority of its membership, setting forth in writing the findings required by § 61617, except that no written findings shall be required in granting minor variances from the height, yard, lot width, lot area or lot area per dwelling unit requirements. The Commission shall make its decision on each variance application within a reasonable time and shall forthwith furnish a copy thereof to the applicant and to other parties in interest who have requested to be notified. Additional copies of the decision shall be filed in the records of the Department of Public Works. If the decision filed involves a variance granted by the Commission, said variance shall be the authority for the Director of Land Management to endorse and to issue any building permit or certificate of occupancy in conformance thereto and for the approval of any application for the approval of a required license.

SOURCE: GC §17505.

§ 61621. Decision Final-Appeal.

The decision by the Commission on any variance shall be final, except that any party aggrieved by such decision shall be entitled to a judicial review thereof by application to the Superior Court within fifteen (15) days after the filing of the Commission's decision in the Department of Land Management and the Department of Public Works.

SOURCE: GC §17506.

§ 61622. Jurisdiction.

The Superior Court of Guam shall have jurisdiction over all actions arising from the provisions of this Title.

SOURCE: GC §17507. *Island* changed to *Superior* Court pursuant to P.L. 12-85.

§ 61623. Review by Municipal Planning Council.

The Municipal Planning Council of each municipal district to be affected by a proposed variance shall review the request and express its opinion thereon by resolution adopted by a majority of its members, and submit such resolution to the Commission within twenty (20) days from the date of its public hearing thereon for the Commission's consideration thereof pursuant to § 61620.

SOURCE: § 61623 added by P.L. 20-217:4.

§ 61624. No Use of Parks.

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The government of Guam shall not, in considering proposed variances, allow any part of the Guam Territorial Park System to be used by a private landowner to fulfill the parking or other requirements of the construction which is the subject of the proposed variance.

SOURCE: Added by P.L. 20-188:8. Renumbered by Compiler because previous section number already in use.

PART 3
CHANGES OF ZONES

- § 61630. Requirements for Changes.
- § 61631. Procedure.
- § 61632. Application-Form and Contents.
- § 61633. Hearing Date-Notice.
- § 61634. Decision by Commission.
- § 61635. Planned Development Districts.
- § 61636. Change of Zoning Map.
- § 61637. Agricultural Impact Statement.
- § 61638. Review by Municipal Planning Council.
- § 61639. Summary Procedure for Agricultural and Single Family Residential Rezoning.

§ 61630. Requirements For Changes.

The Commission may, with the approval of the Governor, change the zones established under this Chapter whenever it finds that the public necessity, convenience and general welfare justify such action.

SOURCE: GC §17600.

§ 61631. Procedure.

A proposed change may be initiated by the Commission or by an application directed to the Commission by any person owning or leasing real property within the area covered by the zone.

SOURCE: GC §17601.

§ 61632. Application-Form and Contents.

An application for a change of zone shall be filed with the Commission upon a form and accompanied by such data and information as the Commission may prescribe.

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SOURCE: GC §17602.

§ 61633. Hearing Date-Notice.

Upon the filing of an application for change of zone, the Commission shall hold at least one hearing thereon in the municipal district where the property to be rezoned is located, as such districts are described in Chapter 40, 5 GCA Government Operations, notice of time and place of which shall be given at least one publication in a newspaper of general circulation, at least ten (10) days before the day of said hearing, and by mail to the Commissioner of the municipal district concerned, and to those landowners owning land within five hundred (500) feet of the property for which rezoning is requested, the mailing addresses for such landowners to be in the Real Estate Tax records.

SOURCE: GC §17603 as amended by P.L. 10-158.

§ 61634. Decision by Commission.

The Commission shall consider the proposed change of zone and may approve or disapprove the same, in whole or in part. The Commission shall make its findings and determination within forty (40) days from the date of the hearing thereon and shall forward notice of such decision to the applicant, if any. If the application is approved in whole or in part by the Commission, the same shall be forwarded to the Governor who may approve or disapprove the proposed change in whole or in part.

SOURCE: GC §17604.

§ 61635. Planned Development Districts.

A **PD** District enables the unified development of a substantial land area with such combination of uses as shall be appropriate to an integrated plan for the area. The procedure for establishing a PD District is the same as that for the rezoning of an area, providing that a detailed plan be submitted to and discussed with the Territorial Land Use Commission. The application shall be accompanied by the appropriate fee and the detailed plan, or revision thereof. The Territorial Land Use Commission may approve the detailed plan and rezoning, following the required hearing, upon findings that the plan, considering structures, uses, access, regulations and layout fixed in it, comprises:

(a) An area of sufficient acreage to constitute a large planning unit having special attributes for integrated development;

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(b) An appropriate development of the area from the viewpoints of its natural features, location and suitability for particular uses;

(c) A combination of structures and uses which are in reasonable association and proportion to make a harmonious unit and likely to continue compatibly with one another;

(d) All structures, including accessory structures, shall not cover more than thirty percent (30%) of the area;

(e) A project adequately serviced by the necessary public services, existing or proposed;

(f) A project consistent with an appropriate development of adjacent areas and not unreasonably detrimental to the existing structures and uses in such areas; and

(g) An appropriate evolution of the comprehensive plan for that portion of the territory.

(h) All impermeable surfaces considered as a structure constituting gardens, sidewalks, fences, barrier walls, retaining walls, open air recreational facilities exposed to sunlight, swimming pools, and all subterranean structures located beneath grade and covered by earth shall be considered as an open area.

In approving a detailed development plan, the Territorial Land Use Commission may impose such regulations of yards, open space, lot coverage, density, and height as are reasonably required to permit the foregoing findings.

SOURCE: GC §17605. Subsection (h) added by P.L. 27-24:9 (7/18/2003).

§ 61636. Change of Zoning Map.

Any changes of zones or approval of comprehensive community plan pursuant to this Chapter shall be endorsed and delineated upon the Zoning Map and shall constitute an amendment of said map.

SOURCE: GC §17606.

§ 61637. Agricultural Impact Statement.

No additional land may be established as a rural zone and no land presently zoned A may be rezoned without the Commission first having considered an agricultural impact statement which shall be submitted by the Director of the Department of Agriculture. This statement shall provide a detailed statement of:

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(a) The agricultural impact of the proposed rezoning upon the agricultural components of the Guam Master Plan.

(b) Any adverse conservation or agricultural effects which cannot be avoided should the rezoning be approved.

(c) The Director's opinion whether said rezoning should be approved and reasons therefor.

SOURCE: GC §17607 enacted by P.L. 12-208.

§ 61638. Review by Municipal Planning Council.

The Municipal Planning Council of each municipal district to be affected by a proposed zone change shall within forty (40) days from the date of a public hearing held thereon by such council express its opinion thereon by resolution adopted by the majority of its members. Such resolution shall be forwarded to the Governor for his consideration thereof pursuant to § 61634 within twenty (20) days from the date of its adoption.

SOURCE: Added by P.L. 20-217:5.

§ 61639. Summary Procedure for Agricultural and Single Family Residential Rezoning.

The Department of Land Management (the *Department*) is directed to set up a procedure whereby landowners of agriculturally- or single family residentially-zoned properties in Guam can expeditiously apply for rezoning of their parcels. Owners of agriculturally-zoned property may apply to rezone their property as either Single Family Residential (**R-1**) or Multi-Family Residential (**R-2**); owners of single-family residentially-zoned property may apply to rezone their property to Multi-Family Residential (**R-2**). Such procedure shall be incorporated into rules and regulations to be promulgated by the Director of Land Management pursuant to the Administrative Adjudication Law, which rules shall include provisions as to lot size and required infra structure and shall include the following steps:

(A) The submission of a completed application to the Director of Land Management who shall render a decision thereon within sixty (60) calendar days; provided, that:

1. The Division of Planning, Department of Land Management, provides a written report whether there is adequate infrastructure to accommodate the zone change. The Public Utility Agency of Guam, the Guam Power Authority, the Guam Environmental Protection Agency and the Department of Public Works are directed to provide

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such information without delay as the Department of Land Management ("DLM") may require to complete the written report. Answers by such agencies to such requests must be provided to DLM not later than ten (10) working days from the date such request is made. If such requests are not answered within such period, DLM may proceed with its report with the assumption that the agency not answering the request has no objection to the rezoning.

2. The applicant meets all other requirements established by DLM. This shall include the provision of a rough sketch of the development which the applicant intends to undertake on the land involved. The submission of a comprehensive development plan shall not be necessary until such time as the actual developer applies for the required permits.

3. If, in the opinion of the Director of DLM, the rezoning requested is of such a nature that there is a need for a public hearing and/or notification to all landowners within a five hundred foot (500') radius of the parcel to be rezoned, DLM shall be responsible for determining the landowners to be notified, and shall bear all costs of public notification and the service of notification to the owners of all parcels within said five hundred foot (500') radius.

4. The Director of DLM shall determine any additional funding or personnel required for the most efficient and economical accomplishment of the provisions contained herein and shall submit a request for such funding to the Legislature within thirty (30) days of the enactment hereof.

(B) Upon receipt of the completed application, the Director shall immediately transmit copies of the same to all the member departments and agencies constituting the Development Review Committee, which departments and agencies shall expeditiously make recommendations on the change request. Failure of any member department or agency to reply within forty-five (45) days of receipt of the application shall constitute concurrence with the requested change. The Director shall then approve or disapprove the application, and submit the same to the Legislature with his reasons for approval or disapproval, within sixty (60) days of its submission to him.

(C) If the application has been approved by the Director, the property the subject of the application shall be rezoned to either Single Family

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Residential (**R-1**) or Multi-Family Residential (**R-2**) as the case may be, unless within forty-five (45) days of its submission to the Legislature, the Legislature, by statute, amends or rejects the same. If the application has been disapproved by the Director, the property the subject of the application shall not be rezoned unless within forty-five (45) days of its submission to the Legislature, the Legislature, by statute, overrules the Director and approves the change of zone.

SOURCE: Added by P.L. 21-82. Subparagraph (A) amended by P.L. 21-144:8(b) (12/29/92).

COMMENT: P.L. 21-144:8(a) enacted the following **Legislative Intent**:

The Legislature, aware of the need to expedite the process of rezoning through the office of the Director of Land Management, and aware of the costly and inordinately time-consuming TLUC process which has frustrated many landowners who do not have access to limitless financial resources and who desperately need the most expeditious accomplishment of their rezoning applications if they are to avail themselves of economic opportunities, enacted Public Law 21-82 in order to streamline the process of rezoning small parcels of land on which large scale development could not be undertaken but which parcels the families desire to utilize to the highest and best uses. In order to further assist small landowners to realize the full potentials of their property, the Legislature finds it desirable to amend Public Law 21-82.

PART 4

RECORDING--SUBMISSION TO THE LEGISLATURE

- § 61645. Recording.
- § 61646. Inspection.
- § 61647. Submission to the Legislature.
- § 61648. Failure to Submit.

§ 61645. Recording.

Upon the approval of any Zoning Map or amendment thereto, a copy of same shall be recorded in the Department of Land Management.

SOURCE: GC §17625.

§ 61646. Inspection.

Any Zoning Map or amendment thereto recorded pursuant to this Part shall be open to public inspection during normal government business hours.

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SOURCE: GC §17626.

§ 61647. Submission to the Legislature.

The Zoning Map or any amendments thereto adopted by the Commission and approved by the Governor shall be submitted to the next portion of the next regular session of the Legislature convening after the said approval. The Zoning Map or any amendments thereto shall remain in effect unless amended or repealed by statute.

SOURCE: GC §17627.

§ 61648 Failure to Submit.

The Zoning Map or any amendments thereto not submitted to the Legislature in accordance with this Part shall become automatically inoperative and void at midnight of the last day of the session to which it should have been submitted.

SOURCE: GC §17628.

**PART 5
FEES**

§ 61660. Filing Fees.

§ 61660. Filing Fees.

The Commission shall establish a schedule of fees required for the filing of any application or for any services provided to carry out the requirements of this Chapter following the requirements of Chapter 9 of Title 5 of the Guam Code Annotated, the Administrative Adjudication Law.

SOURCE: GC §17650 as amended by P.L. 10-156. Repealed/reenacted by P.L. 27-91:4.

**PART 6
PENALTY FOR VIOLATION**

§ 61670. Penalty.

§ 61670. Penalty.

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Any person, firm, corporation or officer thereof, violating any of the provisions of this Chapter shall be guilty of a petty misdemeanor. Such person, firm or corporation shall be deemed guilty for each day during any portion of which any violation is committed, continued, or permitted and shall be punishable as herein provided.

SOURCE: GC §17700 as amended by P.L. 13-187:25.
