

TITLE 165: LOCAL RULES AND REGULATIONS; SAIPAN AND NORTHERN ISLANDS (THIRD SENATORIAL DISTRICT)

**SUBCHAPTER 165-30.1
COMMONWEALTH ZONING BOARD REGULATIONS**

Part 001	General Provisions	§ 165-30.1-301	Fees for Zoning Permits and Actions and Other Services
§ 165-30.1-001	Purpose	Table 300-1	Zoning Fees
§ 165-30.1-005	Authority		
§ 165-30.1-010	Numbering and Headings		
§ 165-30.1-015	Scope	Part 400	Wind Energy Systems
§ 165-30.1-020	Seal	[Removed]	
§ 165-30.1-025	Principal Office	§ 165-30.1-401	[Removed]
§ 165-30.1-030	Organization and Membership	§ 165-30.1-405	[Removed]
§ 165-30.1-035	Conflicts of Interest	§ 165-30.1-410	[Removed]
§ 165-30.1-040	Powers and Duties	Part 500	Adult Businesses
§ 165-30.1-045	Decisions as Orders	[Repealed]	
§ 165-30.1-050	Internal Administration	§ 165-30.1-501	[Reserved]
§ 165-30.1-055	Definitions	Part 600	All Terrain Vehicle, Utility Vehicle, and Motorcycle Rental Establishments
§ 165-30.1-060	Notices and Mailings	§ 165-30.1-600	Purpose
Part 100	Meetings	§ 165-30.1-601	ATV, UTV, and Motorcycle Rental Establishments Limited to Rural Zoning District
§ 165-30.1-101	In General	§ 165-30.1-605	Mandatory Permit Conditions for ATV, UTV, and Motorcycle Rental Establishments
§ 165-30.1-105	Time and Frequency	§ 165-30.1-610	Transition Period for Non-Conforming ATV, UTV, and Motorcycle Rental Establishments
§ 165-30.1-110	Location	Part 700	[Reserved]
§ 165-30.1-115	Calling a Meeting	Part 800	[Reserved]
§ 165-30.1-120	Types of Meetings	Part 900	Miscellaneous Provisions
§ 165-30.1-125	Accessibility	§ 165-30.1-901	Severability
§ 165-30.1-130	Meeting Rules	§ 165-30.1-905	Effective Date
Part 200	Practice and Procedure		
[Reserved]			
Part 300	Fees, Charges, and Assessments		

Subchapter Authority: 2 CMC §§ 7201-7255; 10 CMC §§ 3511-3517.

Subchapter History: Amdts Adopted 41 Com. Reg. 42806 (Sept. 28, 2019); Amdts Proposed 41 Com. Reg. 41627 (Apr. 28, 2019); Certified and Adopted 37 Com. Reg. 36931 (Sept. 28, 2015), *Amdts Adopted 37 Com. Reg. 36783 (July 30, 2015); Amdts Proposed 37 Com. Reg. 36555 (May 28, 2015); Amdts Proposed 37 Com. Reg. 36395 (Apr. 28, 2015); Amdts Adopted 30 Com. Reg. 28747 (Sept. 25, 2008); Amdts Proposed 30 Com. Reg. 28563 (July 28, 2008); Amdts Adopted 30 Com. Reg. 28136 (Jan. 22, 2008);

TITLE 165: LOCAL RULES AND REGULATIONS; SAIPAN AND NORTHERN ISLANDS (THIRD SENATORIAL DISTRICT)

Amdts Emergency 29 Com. Reg. 26502 (Apr. 16, 2007) (effective for 120 days from March 14, 2007); Amdts Proposed 29 Com. Reg. 26462 (Mar. 15, 2007); Adopted 28 Com. Reg. 25523 (Feb. 28, 2006); Proposed 27 Com. Reg. 25256 (Nov. 25, 2005).

Commission Comment: The Commission changed the title of part 001, “General Regulations,” to “General Provisions” and the title of part 900, “Other,” to “Miscellaneous Provisions” in this subchapter.

PL 6-32 (effective June 27, 1989), codified as amended at 2 CMC §§ 7201-7255, contains the Commonwealth of the Northern Mariana Islands zoning code. The zoning code established a Commonwealth Zoning Board to prepare for review and adoption by the legislature, and to administer, subsequent to enactment, a land use and zoning system in the Commonwealth. See 2 CMC § 7211(d); 2 CMC § 7221(c). 2 CMC § 7221(d) authorizes the Zoning Board to promulgate regulations to carry out the intent and purposes of the zoning code.

Saipan Local Law 8-7 (effective Apr. 29, 1993), codified at 10 CMC §§ 3511-3517, approved the Saipan Zoning Law pursuant to 2 CMC § 7221(c)(4). Saipan Local Law 9-1 (effective Aug. 15, 1994) suspended Saipan Local Law 8-7. See Saipan LL 9-1 § 1; see also the Commission comment to 10 CMC § 3511. According to Saipan LL 9-1 § 2: “All employees and equipment of the Zoning Board shall be transferred to the Office of Coastal Resource Management together with the appropriations relative to their positions.”

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles, and effected numerous other revisions. According to Executive Order 94-3 §§ 104 and 306(c):

Section 104. Department of Lands and Natural Resources.

The Department of Natural Resources is re-designated the Department of Lands and Natural Resources.

...

Section 306. Department of Lands and Natural Resources.

...

(c) Zoning Board. The Zoning Board is abolished and, except as provided in Section 401(c) of this plan, its functions transferred to a Division of Zoning in the Department of Lands and Natural Resources, which shall have at its head a Director of Zoning. The Zoning Board of Rota, established by [Rota LL 8-2], is not affected by this subsection.

The full text of Executive Order 94-3 is set forth in the Commission comment to 1 CMC § 2001.

In 1997, the Legislature passed the “Public Lands and Natural Resources Administration Act of 1997,” PL 10-57 (effective Apr. 18, 1997), codified as amended at 1 CMC §§ 2651-2691. PL 10-57 repealed and reenacted chapter 13, division 2 of title 1 of the Commonwealth Code, 1 CMC §§ 2651, et seq., and statutorily established the Department of Lands and Natural Resources (DLNR) with the structure, duties and responsibilities set forth in the act. See 1 CMC § 2651 and the Commission comment thereto. PL 10-57 § 4 vacated Executive Order 94-3 § 306. PL 10-57 § 3, enacted a new article 5, entitled “Division of Zoning,” in title 1, div. 2 of the Commonwealth Code, codified as amended at 1 CMC § 2691. 1 CMC § 2691(d) directs the Secretary of DLNR to submit to the Governor recommendations for a simplified system of zoning for the third senatorial district.

Attorney General Opinion 04-07 (issued Mar. 11, 2004), reprinted at 26 Com. Reg. 22213-22222 (Mar. 23, 2004), concluded that the suspension of the Saipan Zoning Law in Saipan Local Law 9-1 is invalid because the third senatorial district delegation lacked the authority to enact such a suspension. Attorney General Opinion 04-07 found that the Saipan Zoning Law created pursuant to 2 CMC §§ 7201-7255, and approved pursuant to Saipan Local Law 8-7 is still in force.

TITLE 165: LOCAL RULES AND REGULATIONS; SAIPAN AND NORTHERN ISLANDS (THIRD SENATORIAL DISTRICT)

For more information regarding zoning and regulations see NMIAC chapter 85-80.

Executive Order No. 2006-06, entitled “Zoning Board Reorganization Plan No. 1 of 2006,” was issued on August 7, 2006. EO 2006-06 established the Zoning Board as an independent regulatory agency with members appointed by the Governor. EO 2006-06 transferred the Zoning Board from DLNR to the Office of the Governor for administration and coordination.

Saipan Local Law 15-22, the “Saipan Adult Entertainment Business Zoning Act of 2007” (effective August 7, 2007) amended Saipan Local Law 8-7 to include, among other things, restrictions on the location of adult businesses. SLL 15-22 provides the Zoning Board with the authority to establish, by regulation, districts for the operation of adult businesses.

Saipan Local Law 15-29 (effective Feb. 1, 2008) repealed the Saipan Zoning Law of 1993 in its entirety and enacted the Saipan Zoning Law of 2007, codified at 10 CMC § 3511 et seq. Saipan Local Law 16-06 (effective Dec. 5, 2008) repealed SLL 15-19 and enacted the Saipan Zoning Law of 2008, codified at 10 CMC § 3511 et seq. SLL 16-06 was subsequently amended by Saipan Local Law 17-2 (effective June 17, 2010). Not all of these regulations have been updated the changes made by SLL 16-06 and SLL 17-2. To the extent that these regulations conflict with SLL 16-06 or SLL 17-2, they are superseded.

The 2008 amendments to these regulations changed the name of this and subchapter from “Saipan Zoning Board Regulations” to “Commonwealth Zoning Board Regulations.”

* In July 2015 the Zoning Board purported to adopt amendments proposed in the April 2015 register. 37 Com. Reg. 36395 (Apr. 28, 2015). The text of the proposed regulations were not published in the April 2015 register, but were later republished in the May 2015 register. 37 Com. Reg. 36555 (May 28, 2015). The Zoning Board included the entirety of subchapter 30.1 in its proposed amended regulations, and thus were codified by the Commission as amendments.

Part 001 - General Provisions

§ 165-30.1-001 Purpose

The regulations in this subchapter describe the organization, powers, duties, and operations of the Commonwealth Zoning Board. They also provide the rules of procedure required in 2 CMC § 7221(j)(2).

History: *Amdts Adopted 37 Com. Reg. 36783 (July 28, 2015); Amdts Proposed 37 Com. Reg. 36555 (May 28, 2015); Amdts Proposed 37 Com. Reg. 36395 (Apr. 28, 2015); Adopted 28 Com. Reg. 25523 (Feb. 28, 2006); Proposed 27 Com. Reg. 25256 (Nov. 25, 2005).

Commission Comment: The Commission changed the title of part 001, “General Regulations,” to “General Provisions.” The Commission inserted a comma after the word “duties” pursuant to 1 CMC § 3806(g).

* In July 2015 the Zoning Board purported to adopt amendments proposed in the April 2015 register. 37 Com. Reg. 36395 (Apr. 28, 2015). The text of the proposed regulations were not published in the April 2015 register, but were later republished in the May 2015 register. 37 Com. Reg. 36555 (May 28, 2015). The Zoning Board included the entirety of subchapter 30.1 in its proposed amended regulations, and thus were codified by the Commission as amendments.

§ 165-30.1-005 Authority

TITLE 165: LOCAL RULES AND REGULATIONS; SAIPAN AND NORTHERN ISLANDS (THIRD SENATORIAL DISTRICT)

(a) The regulations in this subchapter are promulgated pursuant to PL 6-32, § 1(d), as amended, 2 CMC § 7221(d) (Zoning Board: Regulations.), and 1 CMC § 9908(a) (times and places of meeting). See also 10 CMC § 3511 Section 309 Zoning Board.

(b) Authority lies in: PL 6-32 (effective June 27, 1989), the “Zoning Code of the Commonwealth of the Northern Mariana Islands.” PL 6-32 § 1; 2 CMC § 7201. The zoning code is codified at 2 CMC §§ 7201, et seq. and creates the Zoning Board. PL 6-32 § 1(a), as amended by PL 7-41, § 2, and modified; and by PL 8-10, §§ 3, 4, 5. (Source: LRC Comment to 2 CMC § 7221.) The Saipan Zoning Law is 10 CMC §3511 and the Zoning Map.

(c) The zoning code empowers the Board to regulate all zoning in the Commonwealth and administer its provisions. PL 6-32 § 1(b) and (c), 2 CMC § 7221(b) and (c).

Modified, 1 CMC § 3806(d), (f).

History: *Amdts Adopted 37 Com. Reg. 36783 (July 28, 2015); Amdts Proposed 37 Com. Reg. 36555 (May 28, 2015); Amdts Proposed 37 Com. Reg. 36395 (Apr. 28, 2015); Amdts Adopted 30 Com. Reg. 28747 (Sept. 25, 2008); Amdts Proposed 30 Com. Reg. 28563 (July 28, 2008); Adopted 28 Com. Reg. 25523 (Feb. 28, 2006); Proposed 27 Com. Reg. 25256 (Nov. 25, 2005).

*See Commission Comment to § 165-30.1-001 regarding the July 2015 amendments.

Commission Comment: The 2008 amendments corrected cross-references and struck former subsection (d).

§ 165-30.1-010 Numbering and Headings

The regulations in this subchapter are organized as follows:

(a) There is a “table of contents”, which summarizes the provisions. There are headings for each part and section. There are also citations and comments to statutes in brackets. The table of contents, headings and citations, and comments are not part of the regulations in this subchapter, and are placed in this subchapter for the convenience of the reader. When in doubt as to meaning, the reader should look to the text and not to the heading, citation, or comment. Exception: the heading for a definition is part of the definition.

(b) There are outline divisions to the regulations, as follows:

(1) There are “parts”, like this part 100.

(2) Each part may be divided into “sections,” like section 1.03.

(3) Each section may be divided into subsections, then paragraphs, and subparagraphs, and so forth, each indicated by double parentheses, like section 1.03, subsection (a), paragraph (1), subparagraph (i), sub-subparagraph (A).

(4) Further divisions may be provided after/below outline level “(A)” in single parentheses, like 1), then a), then i), and A).

TITLE 165: LOCAL RULES AND REGULATIONS; SAIPAN AND NORTHERN ISLANDS (THIRD SENATORIAL DISTRICT)

(c) There may be annexes containing graphic or other detailed material. Each annex may be divided into sections, subsections, paragraphs, and subparagraphs.

Modified, 1 CMC § 3806(d), (f).

History: *Amdts Adopted 37 Com. Reg. 36783 (July 28, 2015); Amdts Proposed 37 Com. Reg. 36555 (May 28, 2015); Amdts Proposed 37 Com. Reg. 36395 (Apr. 28, 2015); Adopted 28 Com. Reg. 25523 (Feb. 28, 2006); Proposed 27 Com. Reg. 25256 (Nov. 25, 2005).

*See Commission Comment to § 165-30.1-001 regarding the July 2015 amendments.

Commission Comment: The Commission inserted commas after the words “citation” in subsection (a) and “paragraphs” in subsection (c) pursuant to 1 CMC § 3806(g).

§ 165-30.1-015 Scope

The regulations in this subchapter shall apply to all matters before the Board.

Modified, 1 CMC § 3806(d), (f).

History: *Amdts Adopted 37 Com. Reg. 36783 (July 28, 2015); Amdts Proposed 37 Com. Reg. 36555 (May 28, 2015); Amdts Proposed 37 Com. Reg. 36395 (Apr. 28, 2015); Adopted 28 Com. Reg. 25523 (Feb. 28, 2006); Proposed 27 Com. Reg. 25256 (Nov. 25, 2005).

*See Commission Comment to § 165-30.1-001 regarding the July 2015 amendments.

§ 165-30.1-020 Seal

The official seal of the Board is a vignette of the official flag of the Commonwealth surrounded by the words “Commonwealth Zoning Board.”

History: *Amdts Adopted 37 Com. Reg. 36783 (July 28, 2015); Amdts Proposed 37 Com. Reg. 36555 (May 28, 2015); Amdts Proposed 37 Com. Reg. 36395 (Apr. 28, 2015); Adopted 28 Com. Reg. 25523 (Feb. 28, 2006); Proposed 27 Com. Reg. 25256 (Nov. 25, 2005).

*See Commission Comment to § 165-30.1-001 regarding the July 2015 amendments.

§ 165-30.1-025 Principal Office

The principal office of the Board shall be at such place as the Board shall designate by resolution.

History: *Amdts Adopted 37 Com. Reg. 36783 (July 28, 2015); Amdts Proposed 37 Com. Reg. 36555 (May 28, 2015); Amdts Proposed 37 Com. Reg. 36395 (Apr. 28, 2015); Amdts Adopted 30 Com. Reg. 28747 (Sept. 25, 2008); Amdts Proposed 30 Com. Reg. 28563 (July 28, 2008); Adopted 28 Com. Reg. 25523 (Feb. 28, 2006); Proposed 27 Com. Reg. 25256 (Nov. 25, 2005).

*See Commission Comment to § 165-30.1-001 regarding the July 2015 amendments.

§ 165-30.1-030 Organization and Membership

TITLE 165: LOCAL RULES AND REGULATIONS; SAIPAN AND NORTHERN ISLANDS (THIRD SENATORIAL DISTRICT)

(a) Officers.

(1) Chair.

(i) A chairman or chairwoman (“chair”) shall be elected by a majority vote of the Board each December for a term of one year from January to December. S/he is eligible for re-election without limitation.

(ii) The chair shall preside over all meetings and hearings, appoint such committees as directed by the Board, and shall affix his/her signature in the name of the Board.

(iii) The chair shall serve as the Board’s expenditure authority for the purposes of signing checks, receiving funds, and making deposits. The chair may, with the Board’s approval, delegate some or all of this authority to the zoning administrator.

(2) Vice-chair.

(i) A vice-chair shall be elected annually by a majority vote of the Board in the month of December for a term of one year. S/he is eligible for re-election without limitation.

(ii) The vice-chair shall preside as acting chair in the absence of the chair and shall have the full powers of the chair on matters that come before the Board during the absence of the chair.

(3) Secretary.

(i) A secretary shall be elected annually by a majority vote of the Board in the month of December for a term of one year. S/he is eligible for reelection without limitation.

(ii) The secretary shall preside as acting chair in the absence of the chair and vice-chair, and shall have the full powers of the chair on matters that come before the Board during such absence.

(iii) The secretary shall be responsible for the recording of minutes, publishing of notices, and maintenance of the books and records of the Board. The secretary shall sign all orders and other decisions on which the Board’s signature is required.

(4) Treasurer.

(i) The Board may elect a treasurer annually by majority vote in the month of December for a term of one year. S/he is eligible for re-election without limitation.

(ii) The treasurer shall be responsible for the maintenance of the Board’s accounts and the reporting and auditing of the Board’s funds. If there is no treasurer, the secretary shall be given this responsibility.

(b) Committees.

(1) The Board may provide by resolution for standing and ad hoc committees.

(2) Once a committee is designated, the chair shall appoint the members.

(3) The chair may provide for and appoint the members of ad hoc committees.

(c) Removal of Members.

(1) A member may be removed by a majority vote of the Board for breach of fiduciary duty or for an intentional violation of conflict of interest prohibitions, as provided in the zoning code (2 CMC § 7221(i)).

(2) Such a member shall be brought promptly before the Board for a vote of the members.

TITLE 165: LOCAL RULES AND REGULATIONS; SAIPAN AND NORTHERN ISLANDS (THIRD SENATORIAL DISTRICT)

(3) The chair shall give such a member prior notice and an opportunity to defend him/herself before the Board.

(4) The chair shall notify the Governor if any member has been absent in any 12 month period from more than 50 percent of, or from three consecutive, duly noticed, regular meetings, unless such absence is the result of a documented health problem (2 CMC § 7221(i)).

Modified, 1 CMC § 3806(f), (g).

History: *Amdts Adopted 37 Com. Reg. 36783 (July 28, 2015); Amdts Proposed 37 Com. Reg. 36555 (May 28, 2015); Amdts Proposed 37 Com. Reg. 36395 (Apr. 28, 2015); Adopted 28 Com. Reg. 25523 (Feb. 28, 2006); Proposed 27 Com. Reg. 25256 (Nov. 25, 2005).

*See Commission Comment to § 165-30.1-001 regarding the July 2015 amendments.

Commission Comment: The Commission changed “shall be brought promptly brought” to “shall be brought promptly” to correct a manifest error in subsection (c)(2). The Commission inserted commas after the words “Board” in subsection (a)(1)(ii) and “notices” in subsection (a)(3)(iii) pursuant to 1 CMC § 3806(g).

§ 165-30.1-035 Conflicts of Interest

Any Zoning Board member, staff, or consultant having a personal or financial interest in any official proceeding of the Board, or a familial relationship to the second degree of consanguinity, or any familial relationship that may influence or may appear to influence any party to a proceeding or decision, shall disqualify himself or herself from officially hearing or ruling in the proceeding or decision (2 CMC § 7254(c)).

History: *Amdts Adopted 37 Com. Reg. 36783 (July 28, 2015); Amdts Proposed 37 Com. Reg. 36555 (May 28, 2015); Amdts Proposed 37 Com. Reg. 36395 (Apr. 28, 2015); Adopted 28 Com. Reg. 25523 (Feb. 28, 2006); Proposed 27 Com. Reg. 25256 (Nov. 25, 2005).

*See Commission Comment to § 165-30.1-001 regarding the July 2015 amendments.

Commission Comment: *See Commission Comment to § 165-30.1-001 regarding the July 2015 amendments.

§ 165-30.1-040 Powers and Duties

(a) Specific powers. The Board shall have all powers provided it by law to ensure compliance with the requirements of the regulations in this subchapter, including:

- (1) Inspection at reasonable times;
- (2) Use of or entry upon private land;
- (3) Giving of notices;
- (4) Granting of permits;
- (5) Conduct of hearings and issuance of orders; and
- (6) Levying of fines, penalties and suspension and/or revoking of permits.

(b) Enforcement and delegation of power. The regulations in this subchapter shall be read to authorize their enforcement by the Board, by the zoning administrator, and by any

TITLE 165: LOCAL RULES AND REGULATIONS; SAIPAN AND NORTHERN ISLANDS (THIRD SENATORIAL DISTRICT)

other instrumentality of CNMI government, including, the office of a mayor, as provided by the Board's written designation.

(c) Public safety. The Board may request the assistance of the Department of Public Safety in enforcing the provisions of the regulations in this subchapter and/or protecting the public health, safety, and welfare with respect to them.

(d) Zoning administrator. The Board may employ a zoning administrator, as provided by statute (2 CMC § 7222).

(1) Form. The Board, may, by agreement, provide for an instrumentality of the CNMI Government to provide the services of the administrator, subject to statutory qualifications.

(2) Duties and responsibilities.

(i) The administrator shall have the duties provided by statute:

(A) To act as staff to the Board;

(B) To maintain and keep custody of the dockets, files, and records of the Board;

(C) To prepare and maintain all necessary land use and zoning maps; and

(D) To carry out the Board's directives (2 CMC § 7222(b)).

(ii) The administrator shall have the following additional duties:

(A) Negotiate and administer contracts and other agreements;

(B) Receive and collect fees, gifts, appropriations, and other funds;

(C) Manage the day-to-day affairs of the Board;

(D) Hire and supervise staff and consultants;

(E) Sign checks, as authorized by the Board;

(F) Take part in contested case proceedings as a party;

(G) Sue and defend lawsuits on the Board's behalf;

(H) Enforce compliance with the zoning code and the zoning law.

(3) Consultants and employees. The administrator may employ and/or retain executive staff, in-house and consulting attorneys, planners, engineers, architects, and other experts, consultants, secretaries, office clerks, and other personnel as it may deem necessary to carry out the provisions of the zoning code and the zoning law and/or to perform the duties and exercise the powers conferred by law upon the Zoning Board.

(4) The administrator may negotiate with and provide for such persons' and/or their firms' compensation and other payment.

Modified, 1 CMC § 3806(d), (f).

History: *Amdts Adopted 37 Com. Reg. 36783 (July 28, 2015); Amdts Proposed 37 Com. Reg. 36555 (May 28, 2015); Amdts Proposed 37 Com. Reg. 36395 (Apr. 28, 2015); Adopted 28 Com. Reg. 25523 (Feb. 28, 2006); Proposed 27 Com. Reg. 25256 (Nov. 25, 2005).

*See Commission Comment to § 165-30.1-001 regarding the July 2015 amendments.

Commission Comment: The Commission inserted commas after the words "safety" in subsection (c), "files" in subsection (d)(2)(i)(B), "appropriation" in subsection (d)(2)(ii)(B), and "clerks" in subsection (d)(3) pursuant to 1 CMC § 3806(g).

§ 165-30.1-045 Decisions as Orders

TITLE 165: LOCAL RULES AND REGULATIONS; SAIPAN AND NORTHERN ISLANDS (THIRD SENATORIAL DISTRICT)

- (a) The Board shall issue its decisions whenever practicable as orders, which shall be titled and numbered, signed by the Secretary and indicate votes by the Board.
- (b) The administrator shall whenever practicable issue his/her decisions as orders, which shall be titled, numbered and signed.
- (c) The Board's decisions shall ordinarily be those of the majority of the members transacting business. A majority of the Board members is required to transact official business. (2 CMC § 7221(j)(2)).

Modified, 1 CMC § 3806(f).

History: *Amdts Adopted 37 Com. Reg. 36783 (July 28, 2015); Amdts Proposed 37 Com. Reg. 36555 (May 28, 2015); Amdts Proposed 37 Com. Reg. 36395 (Apr. 28, 2015); Adopted 28 Com. Reg. 25523 (Feb. 28, 2006); Proposed 27 Com. Reg. 25256 (Nov. 25, 2005).

*See Commission Comment to § 165-30.1-001 regarding the July 2015 amendments.

§ 165-30.1-050 Internal Administration

- (a) The Board, in compliance with applicable CNMI law and procurement regulations, may delegate to the administrator, the chair or the officers, as an executive committee, the management of the internal affairs of the Board.
- (b) These affairs shall include, but not be limited to, managing office space, securing materials, services and supplies, budgeting, bookkeeping and financial management, development of educational activities and publications.

Modified, 1 CMC § 3806(f).

History: *Amdts Adopted 37 Com. Reg. 36783 (July 28, 2015); Amdts Proposed 37 Com. Reg. 36555 (May 28, 2015); Amdts Proposed 37 Com. Reg. 36395 (Apr. 28, 2015); Adopted 28 Com. Reg. 25523 (Feb. 28, 2006); Proposed 27 Com. Reg. 25256 (Nov. 25, 2005).

*See Commission Comment to § 165-30.1-001 regarding the July 2015 amendments.

§ 165-30.1-055 Definitions

When used in the regulations in this subchapter the following terms shall have the respective meanings set forth for each such term:

- (a) "Law" means the Saipan Zoning Law of 2013, as amended.
- (b) "Site Plan, Major" means a site plan for a development that is not a minor site plan.
- (c) "Site Plan, Minor" means:

TITLE 165: LOCAL RULES AND REGULATIONS; SAIPAN AND NORTHERN ISLANDS (THIRD SENATORIAL DISTRICT)

- (1) A new building or structure with less than 500 square meters in gross floor area and less than 20 parking spaces (except a single family residence that is constructed by the owner or lessee on an individual lot);
 - (2) A single family residence that is not constructed by the owner or lessee on an individual lot;
 - (3) Enlarging a building or structure from 25% to 50%, or by 500 square meters, whichever is less;
 - (4) Demolishing and reconstructing a building or structure up to 50% of the gross floor area or 500 square meters, whichever is less;
 - (5) Adding one floor with less than 500 square meters to an existing building or structure;
 - (6) Enlarging the land area used for an existing development by from 25% to 50% or by 1,000 square meters, whichever is less;
 - (7) Adding 11 to 20 parking spaces; or
 - (8) Development that the Zoning Administrator determines does not have a potential for significant adverse impact on:
 - (i) Pedestrian movement or vehicular traffic;
 - (ii) Neighborhood character;
 - (iii) Stormwater runoff;
 - (iv) Habitat for endangered species;
 - (v) Wetlands;
 - (vi) Air quality;
 - (vii) Views;
 - (viii) Property values;
 - (ix) Utility demand;
 - (x) Infrastructure; and
 - (xi) Public services including schools, police, ambulance, or fire.
- (d) “Virtual” or “Virtually,” when used with respect to a meeting, means by electronic means that provide for real-time communication to and from the participants in such a manner that each participant can hear and/or read the comments of each other participant.

History: *Amdts Adopted 37 Com. Reg. 36783 (July 28, 2015); Amdts Proposed 37 Com. Reg. 36555 (May 28, 2015); Amdts Proposed 37 Com. Reg. 36395 (Apr. 28, 2015); Amdts Adopted 30 Com. Reg. 28747 (Sept. 25, 2008); Amdts Proposed 30 Com. Reg. 28563 (July 28, 2008); Adopted 28 Com. Reg. 25523 (Feb. 28, 2006); Proposed 27 Com. Reg. 25256 (Nov. 25, 2005).

*See Commission Comment to § 165-30.1-001 regarding the July 2015 amendments.

Commission Comment: The 2008 amendments completely re-wrote this section. The Commission capitalized words at the beginning of subsections (c)(8)(i) through (c)(8)(xi) pursuant to 1 CMC § 3806(f).

§ 165-30.1-060 Notices and Mailings

TITLE 165: LOCAL RULES AND REGULATIONS; SAIPAN AND NORTHERN ISLANDS (THIRD SENATORIAL DISTRICT)

Any notice or mailing for which the regulations in this subchapter provide may be given as an electronic communication, except for public notices specifically required to be given otherwise.

Modified, 1 CMC § 3806(d), (f).

History: *Amdts Adopted 37 Com. Reg. 36783 (July 28, 2015); Amdts Proposed 37 Com. Reg. 36555 (May 28, 2015); Amdts Proposed 37 Com. Reg. 36395 (Apr. 28, 2015); Adopted 28 Com. Reg. 25523 (Feb. 28, 2006); Proposed 27 Com. Reg. 25256 (Nov. 25, 2005).

*See Commission Comment to § 165-30.1-001 regarding the July 2015 amendments.

Part 100 - Meetings

§ 165-30.1-101 In General

(a) The Board shall make its decisions at its public meetings (2 CMC § 7221(j)(2); 1 CMC §§ 9901-9916). The Board shall otherwise act as provided in this subchapter.

(b) The Board shall make provision for the virtual attendance of Board members, if a Board member so requests.

(c) Meetings shall be publicly noticed as required by law. Ordinarily such notice shall be by publication in at least one newspaper of local circulation at least one time each week for two weeks prior to a meeting (2 CMC § 7221(j)(2); 10 CMC § 3511). If a meeting includes a “public hearing”, as defined by the zoning law, the notice must be published at a minimum of one notice per week for two consecutive weeks, no more than 21 days and no less than five days prior to the date of the meeting (10 CMC § 3511).

(d) A copy of meeting materials distributed to the Board members shall be available to any person for review at the meeting site, except for materials subject to confidentiality or privilege as permitted or required by law (See 2 CMC § 7221(j)(3); 1 CMC §§ 9917-9918).

Modified, 1 CMC § 3806(d), (e), (f), (g).

History: *Amdts Adopted 37 Com. Reg. 36783 (July 28, 2015); Amdts Proposed 37 Com. Reg. 36555 (May 28, 2015); Amdts Proposed 37 Com. Reg. 36395 (Apr. 28, 2015); Amdts Adopted 30 Com. Reg. 28747 (Sept. 25, 2008); Amdts Proposed 30 Com. Reg. 28563 (July 28, 2008); Adopted 28 Com. Reg. 25523 (Feb. 28, 2006); Proposed 27 Com. Reg. 25256 (Nov. 25, 2005).

*See Commission Comment to § 165-30.1-001 regarding the July 2015 amendments.

Commission Comment: The Commission changed “1 CMC § 9901 (1)-(16)” to “1 CMC §§ 9901-9916” in subsection (a) to correct a manifest error. The Commission changed “2 CMC § 7221(j)(2)” to “2 CMC § 7221(j)(3)” and “1 CMC § 9901(17)-(18)” to “1 CMC §§ 9917-9918” in subsection (d) to correct manifest errors.

The 2008 amendments corrected cross-references in subsection (c), but made no substantive revisions.

TITLE 165: LOCAL RULES AND REGULATIONS; SAIPAN AND NORTHERN ISLANDS (THIRD SENATORIAL DISTRICT)

§ 165-30.1-105 Time and Frequency

- (a) The Board shall meet monthly, or as the Board determines is as often as necessary to discharge its responsibilities without undue delay (2 CMC § 7221(j)(2)).
- (b) The day for the regular meeting of the Board shall be the first Thursday of every month.
- (c) The regular meeting shall begin at 5:00 p.m., except as the chair shall otherwise provide by notice.
- (d) The chair may change the regular meeting date for any month by providing notice to the Board two weeks in advance of the regular meeting.
- (e) The Board may change the date and time by resolution.

Modified, 1 CMC § 3806(f).

History: *Amdts Adopted 37 Com. Reg. 36783 (July 28, 2015); Amdts Proposed 37 Com. Reg. 36555 (May 28, 2015); Amdts Proposed 37 Com. Reg. 36395 (Apr. 28, 2015); Adopted 28 Com. Reg. 25523 (Feb. 28, 2006); Proposed 27 Com. Reg. 25256 (Nov. 25, 2005).

*See Commission Comment to § 165-30.1-001 regarding the July 2015 amendments.

§ 165-30.1-110 Location

- (a) Meetings shall be held at such place as the chair may determine unless otherwise provided by the Board. The location shall be properly noticed to the public. Ordinarily the Board shall meet at its principal office.
- (b) The Board may meet virtually, and a Board member shall have the right to attend a meeting virtually.
- (c) When the Board meets virtually, access to the virtual meeting shall be freely given through the noticed site so that any person attending at the site shall have the same access to the meeting as each attending Board member. Typically this will include use of a speaker phone for a conference call meeting.
- (d) Votes of Board members may be received by electronic means and announced at a meeting.

Modified, 1 CMC § 3806(f).

History: *Amdts Adopted 37 Com. Reg. 36783 (July 28, 2015); Amdts Proposed 37 Com. Reg. 36555 (May 28, 2015); Amdts Proposed 37 Com. Reg. 36395 (Apr. 28, 2015); Adopted 28 Com. Reg. 25523 (Feb. 28, 2006); Proposed 27 Com. Reg. 25256 (Nov. 25, 2005).

TITLE 165: LOCAL RULES AND REGULATIONS; SAIPAN AND NORTHERN ISLANDS (THIRD SENATORIAL DISTRICT)

*See Commission Comment to § 165-30.1-001 regarding the July 2015 amendments.

§ 165-30.1-115 Calling a Meeting

Either the chair or any three members may call a meeting (2 CMC § 7221(j)(2)).

Modified, 1 CMC § 3806(e), (f).

History: *Amdts Adopted 37 Com. Reg. 36783 (July 28, 2015); Amdts Proposed 37 Com. Reg. 36555 (May 28, 2015); Amdts Proposed 37 Com. Reg. 36395 (Apr. 28, 2015); Adopted 28 Com. Reg. 25523 (Feb. 28, 2006); Proposed 27 Com. Reg. 25256 (Nov. 25, 2005).

*See Commission Comment to § 165-30.1-001 regarding the July 2015 amendments.

§ 165-30.1-120 Types of Meetings

(a) Regular Meetings. Regular meetings shall be held as determined by the Board's regulations, except as otherwise determined by the Board, by resolution. The Board shall publish the schedule and place for regular meetings in the Commonwealth Register (1 CMC § 9909).

(b) Special Meetings. Special meetings may be held from time to time, and shall be duly noticed by the Board (see 1 CMC § 9911).

(c) Executive Session. Ordinarily the Board's meetings shall be open to the public (2 CMC § 7221(j)(2); 1 CMC §§ 9901–9916). The Board may meet privately, in executive session, for the following purposes:

(1) To discuss termination, hiring, or discipline of the zoning administrator (2 CMC § 7221(j)(2));

(2) To discuss other personnel matters, including the hiring, firing, and discipline of staff and/or contractors (1 CMC § 9912(a)(3)–(5));

(3) To discuss acquisition of an interest in real estate when public discussion would likely cause the price to increase (1 CMC § 9912(a)(1)–(2));

(4) To consult with legal counsel (1 CMC § 9912(a)(6));

(5) To discuss a matter which may infringe on a person's right to privacy, including confidential medical or financial information (1 CMC § 9912(a)(7));

(6) To discuss aspects of the Board's business affairs that are confidential and/or proprietary by law; and

(7) To address other matters permitted by law for discussion in a non-public meeting.

(8) In order to meet in an executive session, the Board must:

(i) Have the presiding officer publicly announce the purpose of excluding the public and the time when the executive session will conclude;

(ii) Vote by roll call;

(iii) Secure the vote of 2/3 of those members present; and

(iv) Record these matters in the minutes (1 CMC §9912(b)–(d));

(b) Virtual discussions.

TITLE 165: LOCAL RULES AND REGULATIONS; SAIPAN AND NORTHERN ISLANDS (THIRD SENATORIAL DISTRICT)

- (1) The Board may discuss a matter virtually over time, as well as in real time, provided that access to the virtual discussion shall be freely given to the public so that a person seeking to review the discussion as it happens shall have substantially the same access to the discussion as each participating Board member.
- (2) Typically such a discussion shall be by electronic bulletin board open to the view of the public.
- (3) Such discussion shall be noticed according to the regulations in this subchapter and shall comply with CNMI law regarding open meetings (1 CMC §§ 9901–9916).
- (4) The Board shall arrange for a person, upon request, the reasonable use of a publicly-available computer with internet access in order to allow review of the discussion.
- (5) No electronic communication may be used to circumvent the spirit or requirement of open, public meetings to make a decision or deliberate toward a decision upon a matter over which the Board has supervisory control, jurisdiction, or advisory power, as provided in the regulations in this subchapter (1 CMC § 9912(d)).

Modified, 1 CMC § 3806(d), (f), (g).

History: *Amdts Adopted 37 Com. Reg. 36783 (July 28, 2015); Amdts Proposed 37 Com. Reg. 36555 (May 28, 2015); Amdts Proposed 37 Com. Reg. 36395 (Apr. 28, 2015); Adopted 28 Com. Reg. 25523 (Feb. 28, 2006); Proposed 27 Com. Reg. 25256 (Nov. 25, 2005).

*See Commission Comment to § 165-30.1-001 regarding the July 2015 amendments.

Commission Comment: The Commission changed “1 CMC § 9901 (1)–(16)” to “1 CMC §§ 9901–9916” in subsections (c) and (d)(3) to correct manifest errors. The Commission inserted “(a)” between “§ 9912” and “(1)–(2)” in subsection (c)(3) to correct a manifest error.

§ 165-30.1-125 Accessibility

- (a) The Board shall comply with the accessibility requirements required by law and may, upon a person’s request, accommodate other special needs relating to sight, sound, language, or location.

- (b) Ordinarily the Board shall meet on a ground floor or on a floor accessible by elevator.

History: *Amdts Adopted 37 Com. Reg. 36783 (July 28, 2015); Amdts Proposed 37 Com. Reg. 36555 (May 28, 2015); Amdts Proposed 37 Com. Reg. 36395 (Apr. 28, 2015); Adopted 28 Com. Reg. 25523 (Feb. 28, 2006); Proposed 27 Com. Reg. 25256 (Nov. 25, 2005).

*See Commission Comment to § 165-30.1-001 regarding the July 2015 amendments.

Commission Comment: The Commission inserted a comma after the word “language” in subsection (a) pursuant to 1 CMC § 3806(g).

§ 165-30.1-130 Meeting Rules

TITLE 165: LOCAL RULES AND REGULATIONS; SAIPAN AND NORTHERN ISLANDS (THIRD SENATORIAL DISTRICT)

(a) Meetings of the Board members shall be conducted according to Robert's Rules of Order, most recent revision, unless:

- (1) Otherwise specified in the regulations in this subchapter; or
- (2) The rules are suspended pursuant to a vote of two-thirds of those present and voting.

(b) Quorum.

(1) A quorum shall be a majority of the Board members (2 CMC § 7221(j)(1)). A majority of the Board's members is required to transact business, except as provided in § 165-30.1-130(b)(2) (2 CMC § 7221(j)(2)).

(2) The Board shall meet upon the declaration of a quorum. Except that if a quorum does not exist due to a conflict of interest involving one or more of the members, then three members shall constitute a quorum (2 CMC § 7221(j)(1)).

(c) Votes.

(1) A vote on a motion before the Board shall be either by voice, show of hands, or roll call.

(2) A vote by show of hands or roll call may be required by any member of the Board.

(3) Any motion that does not receive a majority affirmative vote is thereby rejected and cannot be re-introduced in its same form at the same Board meeting, except that a motion to reconsider may be brought.

(4) All decisions shall be made by a majority vote of the members present and voting, unless otherwise specifically stated in the regulations in this subchapter or in the zoning code or zoning law.

(d) Motions.

(1) A motion to be put before the Board must be raised in definitive form, either orally or in writing, by one of the members of the Board.

(2) A motion must then be seconded promptly or it shall fail.

(3) Once a motion has been properly introduced and seconded, that motion shall be restated by the chair before debate. Debate shall continue until the chair closes the debate and calls for a vote on the motion.

(4) Any motion may be withdrawn by the initiator at any time before it has been adopted.

(e) Rulings of the chair.

(1) A ruling of the chair is final.

(2) The Board may reverse a ruling of the chair.

(3) A member may appeal a ruling of the chair to the Board. When an appeal is made from a ruling of the chair, the member making the appeal shall be allowed to state his/her reasons briefly.

(4) The question shall be immediately put in the following form: "Shall the ruling of the Chair be sustained?"

(f) Agendas.

TITLE 165: LOCAL RULES AND REGULATIONS; SAIPAN AND NORTHERN ISLANDS (THIRD SENATORIAL DISTRICT)

- (1) Each agenda shall provide an opportunity for the participation of the public (2 CMC § 7221(j)(2)).
 - (2) The chair shall prepare an agenda for each scheduled meeting listing the items of new and old business to be considered at the meeting.
 - (3) The agenda ordinarily shall be transmitted to the Board members at least 48 hours before the meeting for their review, in writing.
- (g) Minutes.
- (1) Minutes shall be kept for all the meetings, and thereafter reviewed and approved by the Board.
 - (2) Proposed minutes shall ordinarily be transmitted in writing to the members of the Board at least 48 hours before the next meeting.
- (h) Committee reports.
- (1) A committee report does not require a second to be submitted to the Board for discussion or approval.
 - (2) The minority on a committee report shall be given a brief opportunity to state its position and the reasons for it.

Modified, 1 CMC § 3806(c), (d), (e), (f).

History: *Amdts Adopted 37 Com. Reg. 36783 (July 28, 2015); Amdts Proposed 37 Com. Reg. 36555 (May 28, 2015); Amdts Proposed 37 Com. Reg. 36395 (Apr. 28, 2015); Adopted 28 Com. Reg. 25523 (Feb. 28, 2006); Proposed 27 Com. Reg. 25256 (Nov. 25, 2005).

*See Commission Comment to § 165-30.1-001 regarding the July 2015 amendments.

Part 200 - Practice and Procedure

[Reserved.]

History: *Amdts Adopted 37 Com. Reg. 36783 (July 28, 2015); Amdts Proposed 37 Com. Reg. 36555 (May 28, 2015); Amdts Proposed 37 Com. Reg. 36395 (Apr. 28, 2015); Adopted 28 Com. Reg. 25523 (Feb. 28, 2006); Proposed 27 Com. Reg. 25256 (Nov. 25, 2005).

*See Commission Comment to § 165-30.1-001 regarding the July 2015 amendments.

Part 300 - Fees, Charges, and Assessments

§ 165-30.1-301 Fees

- (a) Fees for permits applications, approvals, or petitions shall be assessed according to Table 300-1, Zoning Fees and other provisions of this section.
- (b) Provided, fees shall be waived for government agencies.
 - (1) In addition to the base application fee in Table 300-1, an applicant shall reimburse the Zoning Office for the costs of professional engineers and other consultants hired by

TITLE 165: LOCAL RULES AND REGULATIONS; SAIPAN AND NORTHERN ISLANDS (THIRD SENATORIAL DISTRICT)

the Zoning Administrator to review and inspect the applicant’s proposal when the Zoning Office is unable to do so with existing in-house staff.

(i) These professional services may include, but are not limited to: legal; planning; hearing examiner; environmental review; financial; accounting; soils; and civil, environmental, traffic, mechanical, and structural engineering.

(ii) In the event that a project requires special staff analysis beyond that which is included in the base fee, the applicant shall reimburse the Zoning Office at a rate of \$25.00 per hour for this extra staff time.

(iii) The Zoning Administrator may require the applicant to deposit an amount with the CNMI Treasurer to cover anticipated costs of retaining professional consultants or performing special staff analysis.

(2) If a permit category is not listed in Table 300-1, the Zoning Administrator or his/her designee shall determine the fee schedule for that category, subject to Zoning Board approval.

(3) In the event of unique and unusual circumstances or economic hardship, the Zoning Administrator may waive or reduce a fee. The Zoning Administrator shall notify the Zoning Board of any waivers or reductions, and shall rescind any charges deemed inappropriate by the Zoning Board.

(c) Fees for documents and related services shall be as follows:

(1) Photocopies: less than 10 copies – \$.15 per copy; 1 or more copies: \$0.50 per page;*

(2) Electronic files on CD: \$20.00 for each CD;

(3) Electronic files on DVD: \$30.00 for each DVD;

(4) Copies of meeting minutes on CD: \$20 per CD;

(5) Copies of the Zoning Law: \$50 each;

(6) Copies of the Official Zoning Map: 11 x 17 \$10 each

(7) If complying with a request for information takes longer than one hour, labor shall be charged at the rate of \$20.00 per hour.

* So in original.

History: *Amdts Adopted 37 Com. Reg. 36783 (July 28, 2015); Amdts Proposed 37 Com. Reg. 36555 (May 28, 2015); Amdts Proposed 37 Com. Reg. 36395 (Apr. 28, 2015); Amdts Adopted 30 Com. Reg. 28747 (Sept. 25, 2008); Amdts Proposed 30 Com. Reg. 28563 (July 28, 2008); Adopted 30 Com. Reg. 28136 (Jan. 22, 2008); Proposed 29 Com. Reg. 26462 (Mar. 15, 2007); Emergency 29 Com. Reg. 26502 (Apr. 16, 2007) (effective for 120 days from March 14, 2007); Proposed 29 Com. Reg. 26462 (Mar. 15, 2007).

*See Commission Comment to § 165-30.1-001 regarding the July 2015 amendments.

Commission Comment: The Commission substituted section numbers pursuant to 1 CMC § 3806(d). The Commission inserted semicolons at the ends of subsections (c)(1) through (c)(4) pursuant to 1 CMC § 3806(g).

Table 300-1. Zoning Fees

Permit or Action	Project Cost	Fee (Cost may be
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TITLE 165: LOCAL RULES AND REGULATIONS; SAIPAN AND NORTHERN ISLANDS (THIRD SENATORIAL DISTRICT)

		added. See below)
Minor Subdivision	All projects	\$75.00
Minor Site Plan	All projects	\$75.00
Minor Site Plan Amendments		\$100.00
Major Site Plan	Up to \$200,000	\$200.00
	\$200,001 to \$500,000	\$300.00
	\$500,001 to \$1,000,000	\$750.00
	Over \$1,000,000	\$1,500.00
Major Site Plan Amendments		Same as above per project cost
Major Subdivision	Any Amount	\$200.00
Conditional Use	Up to \$200,000	\$350.00
	\$200,001 to \$500,000	\$450.00
	\$500,001 to \$1,000,000	\$1,000.00
	Over \$1,000,000 to \$5,000,000	\$1,800.00
	Over \$5,000,000	\$3,000.00 plus \$275 for add'l \$1,000,000
Conditional Use Amendments		Same as above per project cost
Temporary Use	All projects	\$40.00
Zoning Permit	All projects	\$50.00
Zoning Permit Amendments		\$50.00
Single Family Dwelling		\$25.00
Home Business		\$25.00
Sign Permit	All projects	\$30.00
Verification of a Nonconformity	All projects	\$30.00
Beneficial Use	All projects	\$100.00
Zoning Clearance	All projects (except renovation of residential dwellings)	\$10.00

Modified, 1 CMC § 3806(a), (f), (g).

History: Certified and Adopted 37 Com. Reg. 36931 (Sept. 28, 2015), *Amdts Adopted 37 Com. Reg. 36783 (July 28, 2015); Amdts Proposed 37 Com. Reg. 36555 (May 28, 2015); Amdts Proposed 37 Com. Reg. 36395 (Apr. 28, 2015); Amdts Adopted 30 Com. Reg. 28747 (Sept. 25, 2008); Amdts Proposed 30 Com. Reg. 28563 (July 28, 2008); Adopted 30 Com. Reg. 28136 (Jan. 22, 2008); Proposed 29 Com. Reg. 26462 (Mar. 15, 2007); Emergency 29 Com. Reg. 26502 (Apr. 16, 2007) (effective for 120 days from March 14, 2007); Proposed 29 Com. Reg. 26462 (Mar. 15, 2007).

*See Commission Comment to § 165-30.1-001 regarding the July 2015 amendments.

Commission Comment: This table was included in § 165-30.1-301 in the original regulation. The Commission moved it to a new section pursuant to 1 CMC § 3806(a). The Commission substituted section numbers pursuant to 1 CMC § 3806(d). The Commission inserted a dollar sign in front of the figure “\$25.00” pursuant to 1 CMC § 3806(g).

TITLE 165: LOCAL RULES AND REGULATIONS; SAIPAN AND NORTHERN ISLANDS (THIRD SENATORIAL DISTRICT)

In July 2015, the Zoning Board amended this section, entirely replacing the previous table of fees. The Commission renumbered the proposed table from “Table 1” to “Table 300-1” to conform to the scheme of the code. The Commission capitalized the word “subdivision” directly beneath the “Permit or Action” table cell for the purpose of conformity. The Commission inserted dollar signs in front of various numeral figures pursuant to 1 CMC § 3806(g). The Commission replaced the terms “mill” directly to the right of the “Conditional Use” table cell with the numerical equivalents pursuant to 1 CMC § 3806(g). The Commission omitted the figures “---” from the cells directly to the right of the “Single Family Dwelling” and “Home Business” table cells pursuant to 1 CMC § 3806(g).

In September 2015, the Zoning Board published a Notice of Certification and Adoption of Rule, “Adoption of ‘Zoning Office Guideline, No. 2012-11, on capping fees under the Commonwealth Zoning Regulations’” in the Commonwealth Register, 37 Com. Reg. 36931 (Sept. 28, 2015). This rule was adopted pursuant to 1 CMC § 9102 and not in accordance with 1 CMC § 9104. As such, the rule is published below and not codified as a numbered section:

Zoning Office Guideline

Title: 1. Limit (Maximum) Amount on Zoning Fees

Purpose: This guideline sets the cap or limit on the amount of Zoning Fees to be charged for conditional use permits and amendments.

Guideline No. 2015-11

Adopted: September 22, 2015

By: Therese T. Ogumoro, Zoning Administrator [signature]

1. To accurately reflect the level of administrative effort required by the Commonwealth Zoning Office and Commonwealth Zoning Board for conditional use applications, the maximum amount of fees to be charged for any conditional use project or any conditional use project amendment, as set forth in Table 300-1, NMIAC 165-30.1-301, shall not exceed \$5,500.00.

Modified, 1 CMC § 3806(c).

The Commission changed the reference number to “165-30.1-301” to agree with the proper code section.

Part 400 - Wind Energy Systems

§ 165-30.1-401 [Reserved]

[Removed]

History: *Amdts Adopted 37 Com. Reg. 36783 (July 30, 2015); Amdts Proposed 37 Com. Reg. 36555 (May 28, 2015); Amdts Proposed 37 Com. Reg. 36395 (Apr. 28, 2015); Adopted 30 Com. Reg. 28747 (Sept. 25, 2008); Proposed 30 Com. Reg. 28563 (July 28, 2008).

*See Commission Comment to § 165-30.1-001 regarding the July 2015 amendments.

Commission Comment: The Commission inserted a comma after the word “machinery” in subsection (e) pursuant to 1 CMC § 3806(g).

In 2015 the Zoning Board removed part 400 because its sections were incorporated into the Saipan Zoning Law of 2013, SLL 18-4. The Commission reserved these sections for future regulations concerning wind energy systems.

TITLE 165: LOCAL RULES AND REGULATIONS; SAIPAN AND NORTHERN ISLANDS (THIRD SENATORIAL DISTRICT)

§ 165-30.1-405 **[Reserved]**

[Repealed]

History: *Amdts Adopted 37 Com. Reg. 36783 (July 28, 2015); Amdts Proposed 37 Com. Reg. 36555 (May 28, 2015); Amdts Proposed 37 Com. Reg. 36395 (Apr. 28, 2015); Adopted 30 Com. Reg. 28747 (Sept. 25, 2008); Proposed 30 Com. Reg. 28563 (July 28, 2008).

*See Commission Comment to § 165-30.1-001 regarding the July 2015 amendments.

Commission Comment: The Commission substituted section numbers pursuant to 1 CMC § 3806(d). The Commission designated the table in subsection (c) as subsection (c)(2) pursuant to 1 CMC § 3806(a).

The Notice of Adoption changed subsections (b), (d), (e), and (k). The notice provided, “Edit subsection ‘(k)’ to add a new subsection ‘(3)’ allowing the Zoning Administrator to grant an extension of the removal deadline for good cause shown.” The original proposed subsection (k) did not include subsections (1) or (2). The Notice did not provide proposed text for this amendment, and the Commission is not authorized to create it. Therefore, the Commission codified subsection (k) as originally proposed.

§ 165-30.1-410 **[Reserved]**

[Repealed]

History: Amdts Adopted 37 Com. Reg. 36783 (July 28, 2015); Amdts Proposed 37 Com. Reg. 36555 (May 28, 2015); Amdts Proposed 37 Com. Reg. 36395 (Apr. 28, 2015); Adopted 30 Com. Reg. 28747 (Sept. 25, 2008); Proposed 30 Com. Reg. 28563 (July 28, 2008).

*See Commission Comment to § 165-30.1-001 regarding the July 2015 amendments.

Part 500 - Adult Business

§ 165-30.1-501 **[Reserved]**

[Repealed]

History: *Amdts Adopted 37 Com. Reg. 36783 (July 28, 2015); Amdts Proposed 37 Com. Reg. 36555 (May 28, 2015); Amdts Proposed 37 Com. Reg. 36395 (Apr. 28, 2015); Adopted 30 Com. Reg. 28747 (Sept. 25, 2008); Proposed 30 Com. Reg. 28563 (July 28, 2008).

*See Commission Comment to § 165-30.1-001 regarding the July 2015 amendments.

Commission Comment: The Commission corrected the capitalization of the word “adult” pursuant to 1 CMC § 3806(f).

In 2015 the Zoning Board repealed the establishment of the adult business overlay zone in accordance with SLL 18-06.

Part 600 - All Terrain Vehicle, Utility Vehicle, and Motorcycle Rental Establishments

§ 165-30.1-600 **Purpose**

TITLE 165: LOCAL RULES AND REGULATIONS; SAIPAN AND NORTHERN ISLANDS (THIRD SENATORIAL DISTRICT)

The regulations in this part provide for and impose conditions upon the issuance of zoning permits for all-terrain vehicle, utility vehicle, and motorcycle rental establishments on the Island of Saipan. Zoning for these types of establishments are regulated as Amusement, Outdoor Intensive pursuant to the Saipan Zoning Law of 2013 (the “Zoning Law”). Uses that fit within the definition of Amusement, Outdoor Intensive as defined in Section 412 of the Zoning Law are permitted as conditional uses only in the Rural (excluding those areas north of Tanko Drive/ Rakka Drive/ Chalan Matuis Drive (Map Sheets 5 & 7)), Beach Road, and Tourist Resort zoning districts. The regulations in this part further restrict and limit all-terrain vehicle, utility vehicle, and motorcycle rental establishments to the Rural zoning district south of Tanko Drive/ Rakka Drive/ Chalan Matuis Drive (Map Sheets 5 & 7) and prohibit their operations within the Beach Road and Tourist Resort districts. The regulations in this part are additive and supplement the other regulations and provisions in this title and the Zoning Law. In the event of any conflict with any other provision of law or regulation, the more restrictive provision shall prevail.

History: Adopted 41 Com. Reg. 42806 (Sept. 28, 2019); Proposed 41 Com. Reg. 41627 (Apr. 28, 2019).

§ 165-30.1-601 ATV, UTV, and Motorcycle Rental Establishments Limited to Rural Zoning District

(a) Establishments Confined to Rural Areas. No conditional use permit may be issued, given, or approved for operation of any establishment (including operation of its equipment) offering for rent (for consideration of any kind, whether payable within or outside of the Commonwealth of the Northern Mariana Islands) any all-terrain vehicle, utility vehicle, or motorcycle on the Island of Saipan outside of the Rural Zoning District, or within the Rural Zoning District but north of Tanko Drive/ Rakka Drive/ Chalan Matuis Drive (Map Sheets 5 & 7). All conditional use permits for such use shall provide as a condition the operator, owner, management and personnel’s full conformance to and compliance with these regulations.

(b) Compliance Required. Operation of any all-terrain vehicle, utility vehicle, or motorcycle rental establishment in violation of the regulations in this part is deemed to be a public nuisance within the definition set forth in Article 1 of the Zoning Law. In addition to any other powers bestowed by law or regulation (including without limitation those set forth in Section 1209 of the Zoning Law), the Zoning Administrator may seize any ATV, UTV, or motorcycle whose operation is deemed a public nuisance hereunder, including without limitation any such machine(s) or equipment emitting noise, exhaust, or dust in excess of those thresholds established in this part, or found to be operating or have been operating in non-permitted areas or operating on unpermitted trails or thoroughfares. Such machine(s) and/or equipment shall forfeit to the Commonwealth in such case.

Modified, 1 CMC § 3806(g).

History: Adopted 41 Com. Reg. 42806 (Sept. 28, 2019); Proposed 41 Com. Reg. 41627 (Apr. 28, 2019).

TITLE 165: LOCAL RULES AND REGULATIONS; SAIPAN AND NORTHERN ISLANDS (THIRD SENATORIAL DISTRICT)

§ 165-30.1-605 Mandatory Permit Conditions for ATV, UTV, and Motorcycle Rental Establishments

At a minimum, all Conditional Use Permits for all-terrain vehicle, utility vehicle, and/or motorcycle rental establishments shall contain the following conditions. The Board may impose such additional conditions as it may in its sole discretion find appropriate or desirable.

(a) **Maximum Permitted Noise Levels.** No all-terrain vehicle, utility vehicle, or motorcycle whose use is permitted hereunder shall emit noise in excess of 92 decibels measured at a 45-degree angle 20 inches from the end of its muffler. No group of all-terrain vehicles, utility vehicles, motorcycles or combination thereof operated simultaneously by permitted establishment or its patrons may collectively emit noise in excess of 105 decibels measured one meter from any one member of the group.

(b) **Restricted Areas.** No all-terrain vehicle, utility vehicle, or motorcycle whose use is permitted hereunder shall be operated within 250 meters of the following:

- (1) Area of Particular Concern (as defined by the Division of Coastal Resource Management);
- (2) Village residential zoning district;
- (3) Village commercial zoning district;
- (4) Public resource zoning district;
- (5) House, apartment, hotel, or bed and breakfast;
- (6) Church;
- (7) School;
- (8) Daycare or other childcare facility;
- (9) Library;
- (10) Golf Course;
- (11) Passive park;
- (12) Beach; or
- (13) Conservation area, mitigation bank, culturally sensitive or historically sensitive place.

Neither shall any all-terrain vehicle, utility vehicle, or motorcycle whose use is permitted hereunder or group thereof pass so close to any of the foregoing (whether or not it is within or outside of the mandatory 250-meter perimeter set forth above) that its (or their) noise emissions may be measured at levels greater than 50 decibels at any such location. The Administrator may rely upon measurements taken by residents, occupants and/or observers at such locations provided they are corroborated by one or more witnesses or are contemporaneously recorded on some visual or electronic media for enforcement of this condition.

(c) **Hours of Operation.** Operation of All-terrain vehicles, utility vehicles, and motorcycles whose use is permitted hereunder shall be limited to the time from three-hours after sunrise until three-hours before sunset. United States government issued publications, tables, and calculators shall be determinative to establish the time of sunrise

TITLE 165: LOCAL RULES AND REGULATIONS; SAIPAN AND NORTHERN ISLANDS (THIRD SENATORIAL DISTRICT)

and sunset on any given day on Saipan. In the event of any discrepancy among published data, the Administrator's selected source shall prevail.

(d) Permitted Trails. Operation of All-terrain vehicles, utility vehicles, and motorcycles whose use is permitted hereunder shall be limited to improved trails approved by the Division of Coastal Resource Management and maintained by permittee. Such trails shall be constructed from permeable materials designed to allow surface water to penetrate and drain without intensification or redirection of water flows, and the borders thereof shall be planted, landscaped and maintained so as to filter any runoff and to prevent erosion that may otherwise result from ATV/ UTV/motorcycle use. All trail materials shall be such that no dust rises or is otherwise emitted or projected from the trail surface when used. No all-terrain vehicle, utility vehicle, or motorcycle whose use is permitted hereunder shall be operated on any public highway, road, street, or right of way.

(e) ATV/UTV/Motorcycle Storage. All all-terrain vehicles, utility vehicles, and motorcycles whose use is permitted hereunder shall be stored within the permitted establishment and shall be screened from view from all adjacent parcels, roads, streets, and rights of way.

(f) Emissions. No all-terrain vehicle, utility vehicle, or motorcycle whose use is permitted hereunder shall emit visible exhaust. All such equipment shall be properly maintained and shall be immediately retired from use at such time as it cannot be operated without visible exhaust emissions. No establishment permitted hereunder shall utilize any all-terrain vehicle, utility vehicle, or motorcycle that does not meet United States Environmental Protection Agency standards and regulations or which may meet such requirements but fails to demonstrate a factory issued and installed sticker, placard, or other visible indication of such compliance.

Modified, 1 CMC § 3806(a), (g).

History: Adopted 41 Com. Reg. 42806 (Sept. 28, 2019); Proposed 41 Com. Reg. 41627 (Apr. 28, 2019).

§ 165-30.1-610 Transition Period for Non-Conforming ATV, UTV, and Motorcycle Rental Establishments

In adoption of the provisions of this part, the Board has determined that expediting elimination of nonconforming all-terrain vehicle, utility vehicle, and motorcycle rental establishments is reasonable, and pursuant to its authority given in Section 1203 of the Zoning Law, the Board provides for the amortization for the elimination of such non-conforming uses over a period of 18 months from the effective date of these regulations. During such transition period operators of non-conforming establishments shall immediately comply with the noise restrictions and hours of operation set forth in this part. Existing previously permitted but now non-conforming uses shall come into full compliance with the provisions of this part within such 18 month amortization period or at the end of such period shall immediately cease operations.

TITLE 165: LOCAL RULES AND REGULATIONS; SAIPAN AND NORTHERN ISLANDS (THIRD SENATORIAL DISTRICT)

Modified, 1 CMC § 3806(a), (e), (g).

History: Adopted 41 Com. Reg. 42806 (Sept. 28, 2019); Proposed 41 Com. Reg. 41627 (Apr. 28, 2019).

Part 700 - [Reserved]

Part 800 - [Reserved]

Part 900 - Miscellaneous Provisions

§ 165-30.1-901 Severability

If any provision of the regulations in this subchapter shall be held invalid by a court of competent jurisdiction, the validity of the remainder of the regulations shall not be affected thereby.

Modified, 1 CMC § 3806(d), (f).

History: *Amdts Adopted 37 Com. Reg. 36783 (July 28, 2015); Amdts Proposed 37 Com. Reg. 36555 (May 28, 2015); Amdts Proposed 37 Com. Reg. 36395 (Apr. 28, 2015); Adopted 28 Com. Reg. 25523 (Feb. 28, 2006); Proposed 27 Com. Reg. 25256 (Nov. 25, 2005).

*See Commission Comment to § 165-30.1-001 regarding the July 2015 amendments.

Commission Comment: The Commission changed the title of part 900, “Other,” to “Miscellaneous Provisions.”

*See Commission Comment to § 165-30.1-001 regarding the July 2015 amendments.

§ 165-30.1-905 Effective Date

The regulations in this subchapter shall take effect upon the notice of adoption and upon final publication in the Commonwealth Register, or if promulgated by emergency regulation, at such earlier time.

History: *Amdts Adopted 37 Com. Reg. 36783 (July 28, 2015); Amdts Proposed 37 Com. Reg. 36555 (May 28, 2015); Amdts Proposed 37 Com. Reg. 36395 (Apr. 28, 2015); Adopted 28 Com. Reg. 25523 (Feb. 28, 2006); Proposed 27 Com. Reg. 25256 (Nov. 25, 2005).

*See Commission Comment to § 165-30.1-001 regarding the July 2015 amendments.

Commission Comment: The Commission notes that regulations are effective ten days after publication of a notice of adoption in the Commonwealth Register pursuant to 1 CMC § 9105(b). Emergency regulations are effective for 120 days from the date of filing with the Commonwealth Register of Corporations pursuant to 1 CMC §§ 9104(b) and 9105(b)(2).