

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

2 **Section 1301 Purpose**

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

5 **Section 1302 General Review Procedures**

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

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

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

12 (c) **Concurrent Processing Preferred**

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

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

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

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

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

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

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

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

1 **Section 1303 Fees**

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

11 **Section 1304 Procedure for Zoning Permits**

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

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

- 40 (a) **Purpose.** A temporary use permit is required to ensure that the design, construction, and
41 operation of the proposed use meet the appropriate requirements of this law.
42 (b) **Applicability.** A temporary use shall be required to have a temporary use permit prior to
43 development and/or issuance of a building permit. The provisions of this Section shall
44 apply to all proposed temporary uses unless otherwise specifically exempted.
45 (c) **Procedures**
46 (1) The Administrator shall publish a temporary use application form and shall
47 specify filing procedures and requirements.
48 (2) Within 7 days of filing the Administrator shall determine in writing whether the

- 1 application complies with the requirements of this Law.
- 2 (3) If the Administrator finds that the application complies with the requirements of
- 3 this Law, the temporary use permit shall be issued.
- 4 (4) If the Administrator makes any other determination the applicant shall have 7
- 5 days to respond in writing with a second submittal.
- 6 (5) The Zoning Administrator shall review the second submittal within 7 days and
- 7 approve, disapprove, or approve with conditions.
- 8 (d) **Compliance.** Following the issuance of the temporary use permit, the Administrator shall
- 9 ensure that establishment and discontinuance of the temporary use are undertaken in
- 10 compliance with the permit.
- 11 (e) **Effective Date and Expiration.** A temporary use permit shall be effective beginning on
- 12 the date of approval, and shall expire in no more than 364 days (52 weeks). Upon written
- 13 request, the Administrator may grant an extension for good cause shown.
- 14 (f) **Amendment.** A temporary use permit may be amended, extended or modified only in
- 15 accordance with the procedures and requirements established for its original approval.

Section 1306 Procedure for Site Plan Permits

- 16
- 17 (a) **Purpose.** Site plan review is required to ensure that the proposed layout and general design
- 18 of proposed development complies with the appropriate requirements of this Law and that
- 19 the proposed development is compatible with surrounding land uses.
- 20 (b) **Applicability.** All development shall be required to have an approved site plan prior to
- 21 development and/or the issuance of a building permit, except for development exempted
- 22 from site plan review
- 23 (c) **Exemptions.** The following development or activities shall be exempted from the
- 24 requirements of this Section if they are otherwise permissible:
- 25 (1) A single family home and accessory building located on an individual lot.
- 26 Provided that such development shall obtain a Zoning Permit.
- 27 (2) An apartment building or townhouse containing 4 or fewer units.
- 28 (3) A duplex or residential condominium. Each building type is located on its own
- 29 lot.
- 30 (4) A permitted temporary use.
- 31 (5) The expansion, normal maintenance, repair, demolition, or re-use of existing
- 32 buildings, structures, or land.
- 33 (6) Except that the following are not exempted under this Subsection:
- 34 (A) Enlargement of a building or structure that amounts to a major expansion.
- 35 (B) Expansion of the number of parking spaces by more than 5;
- 36 (C) The addition of a new building or structure.
- 37 (d) **Eligible Applicants.** The owner(s) of record, contract tenant or lessee, or an authorized
- 38 representative or agent may apply for a site plan review.
- 39 (e) **Definition of Minor and Major Site Plans**
- 40 (1) The Board shall, by regulation, establish procedures for the review and approval
- 41 of minor and major site plans.
- 42 (2) A major site plan shall include a project that involves construction of a new
- 43 building or major expansion of an existing structure.
- 44 (3) A minor site plan shall include a project that involves the development of a
- 45 fence, retaining wall, accessory building, or parking lot addition/expansion, and
- 46 similar structures for development not exempted under Section 1306.
- 47 (f) **Applications.** The Administrator shall publish application forms for site plan approval and
- 48 shall specify filing procedures and requirements.
- 49 (g) **Approval of a Minor Site Plan**
- 50 (1) Within 21 days of filing, the Administrator shall make an initial determination

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

- 1 (2) Modifications other than minor modifications shall require a new site plan
2 permit.

3 **Section 1307 Procedure for Sign Permits**

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

25 **Section 1308 Procedure for Conditional Use Permits**

- 26 (a) **Purpose.** Conditional use permits shall be obtained for certain uses that would become
27 harmonious or compatible with neighboring uses through the application and maintenance
28 of qualifying conditions and siting in specific locations within a zoning district, but that
29 would not be allowed under the general conditions of the zoning district as stated in this
30 Law. The Board shall decide these applications.
- 31 (b) **Application**
- 32 (1) The Administrator shall publish application forms for conditional uses and shall
33 specify filing procedures and requirements.
- 34 (2) Complete application. The Administrator shall determine when the application
35 is complete in accordance with Article 13.
- 36 (c) **Decision by the Board.** An application for a conditional use permit shall be determined as
37 follows:
- 38 (1) A public hearing preceded by notice shall be held within 42 days of the filing of
39 a completed application. Provided, the Board may delay the public hearing
40 upon a finding of good cause or at the request of the applicant.
- 41 (2) The Board shall decide the application within 35 days after the close of the
42 record. Provided, upon good cause shown, the Board may extend the date of
43 decision.
- 44 (d) **Criteria for approval.** No application for a conditional use shall be granted unless the
45 application is consistent with the requirements of Article 7.
- 46 (e) **Expiration.** A conditional use permit shall expire 12 months from the date of issuance
47 unless the permit has been exercised. The permit shall be considered exercised when the
48 use has been established or when a building permit has been issued and substantial

- 1 construction accomplished.
- 2 (f) **Modification of Plan.** Modification of a plan submitted and approved as part of the
- 3 original conditional use application may be approved, provided the modification does not
- 4 violate the original intent of the plan, a condition of approval, or the public health, safety or
- 5 general welfare.

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

7 The Board shall have the power and authority without further procedure to correct the text of

8 this Law and/or the Official Saipan Zoning Map for drafting or other technical error by

9 resolution at a meeting of the Board. This provision shall only apply to minor technical and

10 non-substantive amendments that are strictly necessary to effectuate the intent of the legally

11 approved SNILD provision.

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

- 13 (a) **Purpose.** Every landowner should enjoy a beneficial use of property provided such use
- 14 does not require a public subsidy to protect the property, its structures, or inhabitants from
- 15 damages.
- 16 (b) **Appeal for Relief Procedure.** A claim regarding the denial of the beneficial use of
- 17 property due to this Law shall be brought to the Board for a decision. This is an
- 18 administrative remedy that shall be exhausted prior to an action in the courts. The Board
- 19 shall provide for notice and an opportunity for a hearing regarding the claim.
- 20 (c) **Deprivation Requirements.** In determining if an applicant has been deprived of all
- 21 beneficial use of the land in question, the Board shall explicitly consider all the following
- 22 factors:
- 23 (1) **Diminution in Value.** The value of the land, without the regulation, that caused
- 24 the applicant to apply for relief shall be compared to the value of the land with
- 25 the regulation applied. A mere diminution in value does not deprive the owner
- 26 of a beneficial use; the diminution shall be so drastic that it effectively deprives
- 27 the owner of any significant use or enjoyment of the land.
- 28 (2) **Similar Application of District to Adjoining Properties.** The zoning of the
- 29 property is applied to adjoining properties, and the parcel has not been uniquely
- 30 singled out for different treatment.
- 31 (3) **External Costs**
- 32 (A) The amount or nature of any subsidy that may be required by government,
- 33 neighbors, purchasers, tenants, or the public at large if the remaining use is
- 34 beneficial.
- 35 (B) Any other adverse effects on other property owners, the public or the
- 36 environment of permitting greater development. Specifically, the following
- 37 shall be evaluated:
- 38 (i) Increased stormwater or flooding;
- 39 (ii) Impact of debris moved by water or wind;
- 40 (iii) Decreased water supply or decreased quality of water; and
- 41 (iv) Impact of noise, dirt or airborne pollutants on adjoining properties,
- 42 waterbodies, or streets.
- 43 (4) **Revenues to Property**
- 44 (A) All revenues that can be obtained through the zoned use of the land.
- 45 (B) Any revenues from other government sources under the provision of this
- 46 Law.
- 47 (d) **Granting of Relief**
- 48 (1) If the finding is that a landowner has been denied all beneficial use of a

- 1 property, then relief shall be recommended.
- 2 (2) In recommending the granting of relief, the landowner shall be given the
- 3 minimum increase in use intensity or other possible concessions pursuant to this
- 4 Law to permit a beneficial use of the land. The highest use, or even an average
- 5 or generally reasonable expectation, is not required or intended. The following
- 6 requirements shall be used for determining the minimum beneficial use of a
- 7 parcel and, therefore, the amount of relief to be granted a landowner to reach
- 8 that minimum.
- 9 (A) A minimum beneficial use of the land should be one that does not have any
- 10 governmental subsidy attached to the long-term safe occupation of the site.
- 11 If such a subsidy is needed, then that should be reflected by lowering the
- 12 use intensity that is considered minimum beneficial use on a valuation
- 13 basis.
- 14 (B) A use common to Saipan, although it may not involve further development
- 15 of the land, is considered a beneficial use. Attention shall also be given to
- 16 land uses that are considered to be the lowest intensity in Saipan and still
- 17 provide for occupation and living within Saipan.
- 18 (C) If a use is in an area that has frequently flooded and received insurance or
- 19 emergency assistance, then the use has been government-subsidized. If a
- 20 use is government-subsidized (for example a homestead lot), then that
- 21 subsidy should be reflected in a beneficial use determination by lowering
- 22 the use intensity that would otherwise be considered a minimum beneficial
- 23 use on a valuation basis. That is, if the owner does not have as great an
- 24 investment in a piece of property because of government assistance to the
- 25 owner, then the property cannot be valued as highly as property bought by
- 26 the owner at fair market value.
- 27 (D) The limits posted on development by the natural condition of the land shall
- 28 be considered. If the land is such that it cannot safely accommodate
- 29 development with normal grading and clearing practices, this fact shall
- 30 lower the intensity of use that is considered a minimum beneficial use.
- 31 (E) The degree to which extraordinary site preparation costs are needed to
- 32 safely build on a property shall also be used to decrease the use intensity of
- 33 the minimum beneficial use.
- 34 (F) The potential for damages to either residents or property shall be assessed
- 35 in determining beneficial use. The need for a government subsidy to future
- 36 landowners shall be considered, and the cost of such subsidy shall be
- 37 deducted from the otherwise established minimum beneficial use.
- 38 (G) Expectations shall, in general, not be considered unless they are backed by
- 39 investments substantially above the cost of the land and normal planning
- 40 investments.

41 **Section 1311 Procedure for Variances**

- 42 (a) **Purpose.** A variances is a deviation from the dimensional requirements in the applicable
- 43 zoning district when, owing to special circumstances or conditions (like exceptional
- 44 topographical conditions, narrowness, shallowness, or the shape of a specific piece of
- 45 property), the literal enforcement of this Law would result in peculiar and practical
- 46 difficulties to, or exceptional and undue hardships on the owners of the property, and the
- 47 deviation would not be contrary to the public interest. This Section sets forth the
- 48 procedures and conditions for application, review, and permission of variances from the
- 49 requirements of this Law.
- 50 (b) **Procedures for a Petition for a Variance**

- 1 (1) An application for a variance may be made by a person:
 2 (A) Aggrieved by any decision of the Administrator or the Board; or
 3 (B) Who seeks relief from a provision of this Law.
 4 (2) The person may request an administrative variance when it appears that the
 5 variance will be minor.
- 6 (c) **Notice and Hearing.** The Board shall provide notice and an opportunity for hearing to
 7 each interested person.
- 8 (d) **Repeated Applications.** The Board shall not be required to consider another application
 9 for substantially the same proposal until after one year from the date of its decision.
- 10 (e) **Requirements**
- 11 (1) In authorizing a variance, the Board may attach such conditions regarding the
 12 location, character, and other features of the proposed structure or use as it
 13 deems necessary in the interest of furthering the purposes of this Law and in the
 14 public interest.
- 15 (2) In authorizing a variance the Board shall require such evidence and guarantee or
 16 bond as it may deem necessary to ensure compliance with the attached
 17 conditions.
- 18 (3) No variance shall be granted unless all of the following considerations apply:
 19 (A) A special property condition exists (like exceptional topography,
 20 narrowness, shallowness, or shape) that is peculiar to the land or structure
 21 for which the variance is sought, and that is not applicable to other land or
 22 structures in the same zoning district;
 23 (B) The special circumstance is not the result of the actions of the applicant;
 24 (C) The literal interpretation and enforcement of the terms and provisions of
 25 this Law would deprive the applicant of rights commonly enjoyed by other
 26 land in the same zoning district and would cause an unnecessary and undue
 27 hardship;
 28 (D) The granting of the variance is the minimum action that will make possible
 29 a use of the land or structure that is not contrary to the public interest;
 30 (E) The granting of the variance will not materially affect adjacent land
 31 adversely; and
 32 (F) The granting of the variance will be consistent with the purposes and intent
 33 of this Law.
- 34 (f) **Limited Effect of a Variance**
- 35 (1) A variance permit shall authorize only the particular variation that is approved
 36 in the variance permit.
- 37 (2) A variance permit shall not run with the land unless the new property owner
 38 signs a request for transfer of the variance permit, promises acceptance of any
 39 applicable conditions and submits same to the Administrator.
- 40 (g) **Limitations on Granting a Variance.** No variance shall be allowed for any of the
 41 following:
- 42 (1) Permitting a use that is not otherwise permitted in a zoning district;
 43 (2) Curing an asserted taking or deprivation of all beneficial use of a property;
 44 (3) With respect to floodplain and floodway variances:
 45 (A) Permitting a lower degree of flood protection in the floodplain than the
 46 flood protection elevation specified by the Federal Emergency
 47 Management Agency (FEMA) in its most recent National Flood Insurance
 48 Program flood insurance maps for the Commonwealth or
 49 (B) Allowing any floor, basement, or crawlspace below the FEMA-established
 50 flood elevation for residential or commercial structures.
 51 (C) Except that a floodplain or floodway decision shall recognize the

- 1 difference between a riverine flood plain and an ocean-related storm surge
 2 flood plain.
- 3 (4) Changing use to a category not permitted in the district; or
 4 (5) Hardship of a financial nature, hardship that is self-created, and hardship that is
 5 personal to the user and not to the property.
- 6 (h) **Administrative Variance.** The Administrator may grant an administrative variance in the
 7 following circumstances:
- 8 (1) If the variance does not increase the use's nonconformity; and
 9 (2) The variance is for either:
- 10 (A) Repair or other alteration which does not change the use, footprint or square
 11 footage; or
 12 (B) One of the following changes:
- 13 (i) A decrease of up to 50% of the required dimension requirements,
 14 size of the lot or front yard, side yard, or rear yard setback.
 15 (ii) A change in fence height or requirements regarding specific decorative
 16 elements required by the law, such as building façade design; or
 17 (iii) A decrease of up to 33% in the number of required parking spaces; or
 18 (iv) An increase of up to 20% in the number of compact parking spaces
 19 allowed on a site.
- 20 (i) **Amendment to a variance.** A variance permit may be amended, extended or modified
 21 only in accordance with the procedures and requirements for its original approval. A
 22 change in a condition of approval of a variance permit shall be considered an amendment.
- 23 (j) **Lapse of Permit.** If development occurs pursuant to a variance permit and the
 24 development is discontinued for any reason for a period of 12 months, the variance permit
 25 shall automatically become null and void and the permitted development may not be
 26 resumed. Upon written application during the 12-month period and upon a showing of
 27 good cause, the Board may grant an extension.

28 **Section 1312 Revocation or Suspension of Permits**

- 29 (a) The violation of any provision of this Law or of any permit or approval condition granted
 30 under this Law shall be grounds for the suspension or revocation of any permit, rezoning,
 31 variance, or approval granted pursuant to this Law.
- 32 (b) Summary suspension or revocation.
- 33 (1) When there is an immediate danger to health, safety or welfare of:
 34 (A) The public; or
 35 (B) A neighboring use or property;
- 36 (2) The Board or Zoning Administrator may summarily suspend or revoke any
 37 permit, rezoning, variance, or approval granted pursuant to this Law,
 38 (3) Without public notice if provision is made for public notice and an opportunity
 39 for a hearing as soon as practicable thereafter, pursuant to one of the procedures
 40 presented in Article 14 Section 1409(c).
 41