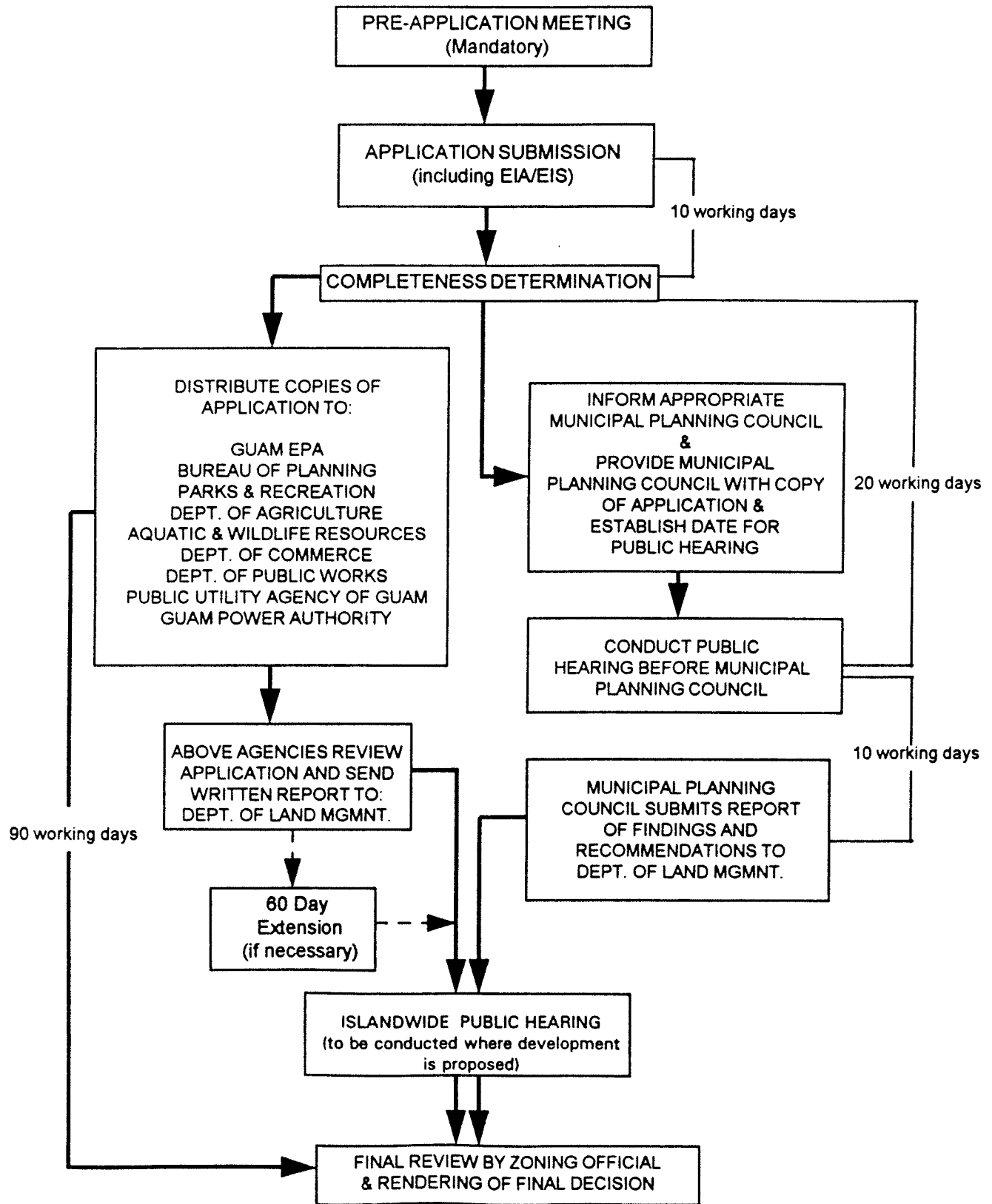
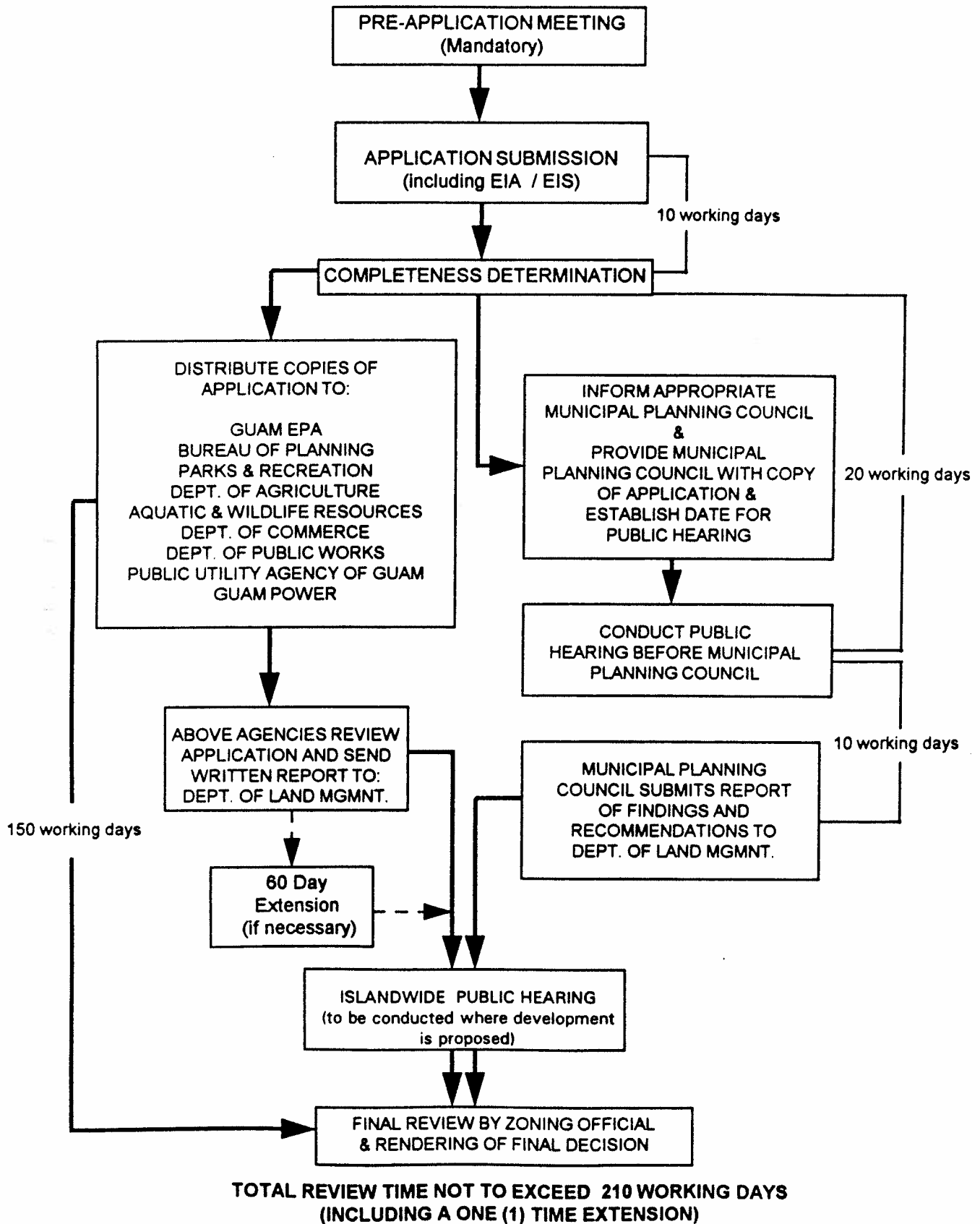


MAJOR PERMIT FLOW DIAGRAM



**TOTAL REVIEW TIME NOT TO EXCEED 150 WORKING DAYS
(INCLUDING A ONE (1) TIME EXTENSION)**

SUPER-MAJOR PERMIT FLOW DIAGRAM



e. Environmental Impact Assessment or Environmental Impact Statement

- (1) An application for a minor permit may require an Environmental Impact Assessment (EIA). During the pre-application meetings, this determination shall be made by the Zoning Official and the Guam Environmental Protection Agency (GEPA) based on the site plan information. However, Single-Family Detached Dwelling Units or Duplexes to be built on their own lot and not part of a subdivision shall be exempt from this EIA requirement.
- (2) During the pre-application meetings for a major or super-major permit, the applicant shall submit an EIA. A determination shall be made by the Zoning Official and GEPA whether or not there is a need for an EIS to be submitted with the development application. If required, the EIS shall outline measures necessary to mitigate the significant impacts identified within the EIA. The guidelines for the preparation of an EIA or EIS shall be as is required by GEPA.

5. Minor Permit Procedures

- a. Prior to submission of an application for a minor permit, the applicant shall attend a pre-application meeting(s) scheduled by the Zoning Official and may include, as determined by the Zoning Official, all other relevant government agencies. A determination shall be made by the Zoning Official and GEPA during the preapplication meeting whether or not an EIA shall be required with the submission of the application.
- b. Upon submission of an application, and any other relevant documents, for a minor permit, the Zoning Official will determine whether such application is complete, and that the project complies with all applicable Performance Standards. If the Zoning Official determines that such application is not complete, or does not comply with all applicable performance standards, they shall promptly notify the applicant, in no event more than ten (10) working days after receipt thereof, of the deficiencies in such application. The applicant must address the deficiencies prior to resubmittal of an application.
- c. Upon determination that a minor permit application is complete, the Zoning Official shall begin his review of the application. Additionally, the Zoning Official shall immediately forward a copy of the application to the Building Official for his concurrent review of the application for the issuance of a building permit.

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- d. If it is found, once the review process for a minor development permit has begun, that additional information is needed to properly evaluate the application, the Zoning Official shall request, in writing, whatever additional data or information is needed. The counting of the days of the official review period shall halt the day the letter is sent from the Zoning Official to the applicant and shall not recommence until the date that the additional information is officially acknowledged to have been received by the Zoning Official.
 - e. Failure of The Zoning Official to act within such time limits established for a minor permit review shall constitute an action taken and shall be deemed an approval of such application. If The Zoning Official fails to make a decision to approve or disapprove an application for a minor permit within the mandated time allotted and there is, therefore, a default to approval on the application, The Department of Land Management shall inform the applicant, in writing, within five (5) working days of the date on which a decision had to be rendered, that the application is approved as submitted, and the applicant may apply for a building permit at any time. A copy of the decision of The Zoning Official on an application for a minor land use permit shall be transmitted in writing to the applicant and to any person who has requested a copy thereof.

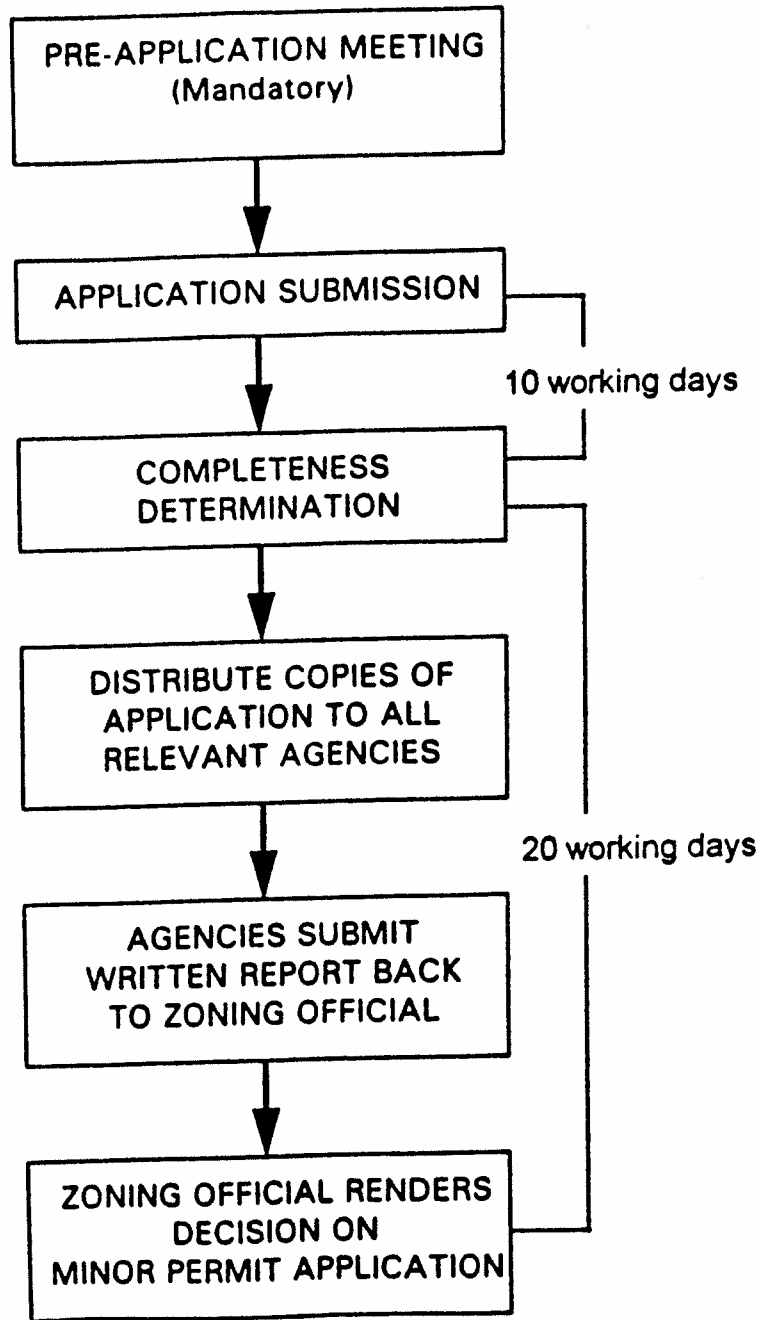
6. Application for Minor Permits

All applications for minor permits shall contain at least the following information; provided, however, that the applicant may request a waiver of any of the following requirements. Unless the applicant can prove to the satisfaction of the Zoning Official that a waiver is appropriate, he shall supply the following information:

- a. Five copies of a site plan, one of which shall be a mylar reproducible of the property to a scale of one-hundred (100) feet to one (1) inch, certified by a registered engineer, architect or land surveyor illustrating the proposed development of the property and may include, but is not limited to the following:
 - (1) Topographical features showing present grades and any proposed grades if present grades are to be altered. When required by the Zoning Official, contours at an interval not greater than twenty (20) feet shall be shown;
 - (2) Property boundary lines and dimensions including any platted lot lines within the property;
 - (3) Location and dimensions of all existing and proposed buildings, including height in stories and feet and including total square feet of ground area coverage;

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- (4) Location and dimensions of all existing and proposed driveways and entrances, minimum yard dimensions, and where relevant, relation of yard dimensions to the height of any side of any building or structure;
 - (5) Location and dimensions of parking spaces, access aisles, and total area of lot coverage of all parking areas and driveways;
 - (6) Location and dimension, including height clearance, of all off street loading areas;
 - (7) Location, designation and total area of all usable open space, including use of any paved areas as distinguished from grass, sodded, or other landscaped areas;
 - (8) Location and height of fences, walls (including retaining walls), or screen planting, and the type or kind of building materials or planting proposed to be used;
 - (9) Proposed surface stormwater drainage treatment;
 - (10) Location of easements or other rights-of-way;
 - (11) Location and designation of any open storage space; and
 - (12) Location and designation of any documented historic sites.
- b. Five (5) copies of a location map, at a scale of two hundred (200) feet to one (1) inch showing, at a minimum, the uses of all property within two hundred (200) feet of the subject property, may include, but is not limited to the following:
- (1) All streets, alleys or other public rights-of-way, public parks and places and all lots and lot lines, drainageways, waterways, and easements;
 - (2) All structures and the principal use of each structure, including the type of residential, commercial, or industrial use; and
 - (3) All off-street parking and loading areas as may be significant to the application in question.
- c. Any other information as may be required by the Zoning Official to determine that the application is in compliance with this Zoning Code shall be furnished, including but not limited to wetlands, aquifer recharge zones, floodplains, elevations, profiles, perspectives, or any other material necessary for a complete understanding of the application.
- d. A statement in writing signed by the applicant stating that the information as shown on the plans, maps, and application is true and correct. Any failure to comply with the provisions of this Section shall be good cause to deny the application and/or to revoke any permit which may have been issued for any building or use of land.

MINOR PERMIT FLOW DIAGRAM



**TOTAL REVIEW TIME NOT TO EXCEED
30 WORKING DAYS**

7. Coordination with Other Permit Requirements

Where the development or occupancy of trust lands or submerged or filled lands, or other development requires separate and distinct approval from the United States Government or any agency, department, commission, or bureau thereof, or the Government of Guam or any agency, department, commission, or bureau thereof, the permit required by this Zoning Code shall be contingent upon receipt of all other such permits and approvals, and no such development or occupancy shall commence prior to receipt of all of such permits and approvals.

D. Criteria for Approval of an Application and Issuance of a Permit

1. A minor land use development permit shall be granted if the Zoning Official finds, based on substantial evidence in the record, that the development complies with each of the following criteria: (1) the development is consistent with the goals, policies, requirements, and performance standards of this Zoning Code and other applicable laws and regulations; (2) the development project as proposed incorporates, to the maximum extent feasible, mitigation measures to substantially lessen or eliminate all adverse environmental impacts of the development; and (3) the applicant has presented certification that the applicant has filed and paid all property taxes, penalties, and interest, and/or that the applicant has satisfactorily made agreement to pay the property taxes.
2. A major or super-major land use permit shall be issued if the Zoning Official makes findings, based on substantial evidence in the record, that the development complies with each of the following criteria:
 - a. The development is consistent with the goals, policies, requirements and performance standards of this Zoning Code and other applicable laws, including Public Law 20-151, which requires that a certificate of approval for any proposed development be issued by the Guam Historic Preservation Officer.
 - b. The development has been conditioned to require that it incorporate such feasible mitigation measures as will be necessary to eliminate or substantially lessen any and all adverse environmental impacts identified in the environmental assessment of the development.
 - c. Such public facilities have been dedicated as may be needed to ensure that the development complies with all standards of this Zoning Code.
 - d. The development is consistent with the goals and objectives of the Comprehensive Land Use Plan of Guam.

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- e. If the development contains more than one hundred (100) housing units, at least twenty (20) percent of those units will be affordable housing, as defined in this Zoning Code. If after calculating the number of affordable housing units required, this amounts to fifty (50) housing units or more, then no greater than one-third ($\frac{1}{3}$) of the affordable housing units shall be for moderate income residents, as defined in this Zoning Code. The remaining required affordable housing units shall be for very low or low income residents, as defined in this Zoning Code. If the proposed housing development is for attached or multiple family dwellings (see Definitions), however, no greater than one-half ($\frac{1}{2}$) of the required affordable housing units shall be for moderate income families and the remainder shall be for very low or low income households.
 - f. The applicant has presented appropriate certification that he has filed and paid all property taxes, penalties and interest, or has satisfactorily made a legally binding agreement to pay the property taxes.
3. Any decision to approve or deny an application shall become final after the forty-fifth (45th) working day following a written decision, incorporating the conditions, if any, unless an appeal is filed. If such an appeal is filed, the operation and effect of the action shall be stayed pending a decision on appeal.

E. Occupancy Permit

1. No land or water area shall be occupied or used and no building hereafter erected or altered shall be occupied or used in whole or in part for any purpose whatsoever until an Occupancy Permit has been issued by the Building Official, stating that the premises, building, or other development complies with all provisions of this Law; except that in the case of an alteration which does not require vacating the premises or where parts of the premises are finished and ready for occupancy before the completion of the alteration, or in the case of a new structure, before its completion, a Conditional Occupancy Permit may be issued.
2. No change or extension of use or no alteration shall be made in a nonconforming use of a building or land or water area without a Building Permit having first been issued by the Building Official that such change, extension or alteration is in conformity with the provisions of the Supplemental Regulations contained in Chapter XVI. of this Zoning Code.
3. Within ten (10) days from the date that an applicant requests, in writing, that an Occupancy Permit be issued on his/her development project, the Building Official shall render a decision as to whether or not said Occupancy Permit is to be issued. If the decision is not to issue the Occupancy Permit, the Building Official shall so notify the applicant including the reasons for denial of the Occupancy Permit. If no Occupancy Permit has been issued within ten (10) working days of the written request thereof, and the Building Official has not informed the applicant of approval or denial, in writing, it shall be deemed that the Building Official approves the request and the applicant may legally occupy the premises.
4. An Occupancy Permit shall be issued within ten (10) working days after the Building Official has determined that the completed development is in conformity with the provisions of this Zoning Code and all conditions of all required permits.

F. Territorial Planning Council and Judicial Review

1. Territorial Planning Council
 - a. There is hereby continued the Territorial Planning Council composed of twelve (12) members as set forth in Public Law 20-147.
 - b. No member shall sit on the Council or vote when the Council discusses an application that the Council member or his or her immediate family, business partner, employer, employee, lessor, lessee, corporate officer, consultant, or an individual or corporation that has a financial relationship with, has ownership, an interest, or has business transactions currently or has had during the previous three hundred and sixty-five (365) calendar days. Such a conflict of interest will administratively render the application as being withdrawn and required to resubmit as a new application.

2. Administrative Appeals of Development Permit Decisions

Notwithstanding any provision of this Zoning Code, any aggrieved person may file a written appeal of a decision by the Territorial Land Use Commission or the Zoning Official taken pursuant to this Zoning Code within forty-five (45) working days thereof with the Territorial Planning Council, and such appeal shall be governed solely by the provisions of this Section.

3. Procedure on Appeal

The Council shall prepare a form of application for such appeals and shall adopt procedures governing the submission and review of decisions and interpretations for appeal. In addition, the Council shall give public notice of a public hearing in a newspaper of general circulation. Such notice shall be printed at least ten (10) working days prior to the date of the public hearing. The Council shall also serve persons notice of such hearing of an appeal on the Zoning Official or the Commission, including any person owning property within one thousand (1,000) feet of the subject property, the applicant for the development permit, the aggrieved person, any person who has requested in writing to be notified of such public hearing date, and any person who testified at the public hearing held by either the Department of Land Management or the Commission to consider the original application or zoning amendment or zoning variance request.

4. Public Hearing

A public hearing on an appeal shall be held by the Council within twenty (20) working days after the appeal is filed with the Council, and an action shall be taken by the Council within fifteen (15) working days after the conclusion of such public hearing. The Council shall notify the Zoning Official or the Commission, whichever is appropriate, the applicant for the permit, and the aggrieved person of its determination by certified mail. Such notice shall be sent within five (5) working days of the Council's action.

5. Council's Determinations

The Council, by majority vote, shall either affirm or nullify the decision of the issuing authority. If the Council finds that the decision of the issuing authority was arbitrary, capricious, or erroneous, the Council shall remand the application to the issuing authority with appropriate instructions. If the Council's determination is that the decision was erroneous, it shall state in what manner the decision was not in conformance with the Performance Standards contained in this Zoning Code, or in the case of a variance, how the standards found in Subsection A.2.a.(3) of this Chapter were not applied. The Council shall set forth, in writing and in detail, the reasons for its determination and findings of fact upon which its determination is based. A copy of the Council's

determination shall be available for public inspection at the Council's staff office during ordinary business hours. The Council's determination shall be final after four (4) working days following its action.

6. Judicial Review

Pursuant to the Territory of Guam Code, a petition for writ of review may be filed in the Superior Court of Guam in the case of any person aggrieved by any determination by the Council within forty-five (45) calendar days after such determination or order shall become final, provided that such administrative remedies as are provided by law have been exhausted.

CHAPTER IX. AMENDMENTS

A. Scope of Amendments

Any provision of this Zoning Code, as well as the boundaries of the various zoning districts established herein, may be amended by the Territorial Land Use Commission or the Legislature of the Territory of Guam, as provided herein, after due public notice and hearing, where parties in interest and citizens shall have an opportunity to be heard, subject to the provisions of this Section of this Zoning Code.

B. Initiation of Amendments

Amendments to this Zoning Code, including the zoning maps, may be initiated by petition of any property owner, to the Territorial Land Use Commission, or to the Territorial Planning Council (TPC).

C. Legislative Amendments

I Tano'-Ta, the Land Use Plan for Guam, provides the framework to manage growth and development of the Territory of Guam. Its purpose is to guide development in a coordinated and harmonious manner which will permit the timely provision of adequate community services and infrastructure, protect the delicate ecological and cultural balance between the natural and man-made environments, and promote health, safety, convenience, prosperity, and general welfare of Guam's citizens and visitors now and for future generations.

In order for I Tano'-Ta to achieve its purpose effectively without external interference, and as a show of good faith on the part of the Legislature to permit the Plan and Code to work, the Legislature hereby imposes a five (5) year moratorium on changes to the Plan and Code, unless the changes are recommended by the Territorial Planning Council.

D. Authority of the Territorial Land Use Commission to Amend the Zoning Maps

1. Every proposed amendment to the Zoning Maps, including changes in the Zoning District boundaries, shall be referred to the Territorial Land Use Commission (TLUC).
2. If the zoning amendment request is one that would call for a revision to the Zoning Map(s), TLUC shall first examine the adopted twenty-five (25) year Land Use Plan to determine if the request is consistent with the long-range land use plan for Guam.

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3. If a zoning amendment request is made to TLUC that goes beyond what is shown on the adopted twenty-five (25) year Land Use Plan (e.g., the land is currently shown as being in Zoning District 2, the Land Use Plan shows the area ultimately being designated in Zoning District 3, but the applicant is requesting that his property be rezoned to Zoning District 4), TLUC shall immediately inform the Territorial Planning Council (TPC), in writing, of this request and shall also inform the applicant, in writing, of this action. TLUC shall not have the authority to grant zoning amendments that exceed the development levels set forth in the adopted twenty-five (25) year Land Use Plan.
 4. If it is determined that the TLUC can hear the petition for an amendment to the zoning maps, the TLUC shall schedule a public hearing no later than sixty (60) calendar days from the date it is officially notified of a request.
 5. Upon submission of a petition for a zoning amendment, TLUC shall give due public notice and conduct a public hearing, wherein the parties in interest and citizens shall have the opportunity to be heard, under the requirements contained in this Zoning Code in Chapter X.
 6. Additionally, TLUC shall contact, in writing, and receive, in writing, statements from the relevant Government of Guam agencies and authorities to inform them as to the availability and capacity of the roadway, water, sewer, and electrical power systems to accommodate the level of development that could occur if the zoning amendment were to be granted. If statements are not available at the time of the public hearing, those agencies shall have an opportunity to make oral statements at said hearing. If no statement, written or oral, is given by any government agency, it shall be assumed that they concur with the requested amendment.
 7. Having taken into account the conditions and requirements set forth in Subsections D.3. and D.4. above, TLUC shall render a decision on the zoning amendment request.
 8. When an applicant requests an amendment to the Zoning Maps(s) that goes beyond what is shown on the adopted twenty-five (25) year Land Use Plan, or if an applicant requests an amendment to the Zoning Code, the TPC shall schedule a public hearing no later than sixty (60) working days from the date it is officially notified by TLUC of such a zoning amendment request.
 - a. Upon submission of a petition for such a zoning amendment, TPC shall give due public notice and conduct a public hearing, wherein the

parties in interest and citizens shall have the opportunity to be heard, under the requirements contained in Chapter X.

- b. TPC shall contact, in writing, and receive, in writing, statements from the relevant Government of Guam agencies and authorities to inform them as to the availability and capacity of the roadway, water, sewer, electrical power, and other infrastructural systems to accommodate the level of development that could occur if the zoning amendment were to be granted. If statements are not available at the time of the public hearing, those agencies shall have an opportunity to make oral statements at said hearing. If no statement, written or oral, is given by any government agency, it shall be assumed that they concur with the requested amendment.
- c. Having taken into account the testimony presented at the public hearing, and the input of reviewing agencies, the TPC shall make a recommendation to the Legislature as to whether or not the an amendment to the Zoning Code or Maps should be granted.

E. Reconsideration of Application Denied by the Territorial Land Use Commission or the Legislature

Whenever TLUC, after hearing all the evidence presented upon any application under the provisions of this Zoning Code, denies same, or the Legislature, under the conditions set forth in Section C.8. above, likewise denies a zoning amendment request, they shall not hold further hearings on a renewal application for the same matter by the same applicant or applicants, their successors or assigns, for a period of one (1) year from and after denial thereof, except and unless they shall find and determine from the information supplied by a request for a rehearing, that changed conditions have occurred relating to the application and that a reconsideration is justified. If the rehearing is denied, the application shall not be reopened for at least one (1) year from the date of the original action.

CHAPTER X. PUBLIC HEARINGS

A. General Regulations on Public Hearings

Public notice of any hearing as required by this Section to be conducted by any Municipal Planning Council, the Department of Land Management, the Zoning Official, the Territorial Planning Council, or the Territorial Land Use Commission shall be deemed to have been given when the following actions have been completed:

1. A notice setting forth the general purpose of any such hearing and the time and place thereof shall have been published in a newspaper of substantial circulation in the area at least twice at intervals of not less than two (2) working days; the first not more than fifteen (15) working days nor less than ten (10) working days, and the last not less than two (2) working days before such hearing;
2. The owner(s) of any/all lot(s) within the area to be changed as well as those within five-hundred (500) feet of such area have been notified by certified mail of the general purpose of any such hearing and the time and place thereof at least fifteen (15) working days prior to the date of such hearing;
3. A notice setting forth the general purpose of any such hearing and the time and place thereof has been posted on the property in question, and said hearings shall be conducted either in the evening of a weekday or on the weekend to allow for full public participation;
4. The Secretary of the body holding the hearing has, prior to the hearing, filed with the appropriate agency of the Territorial Government an official copy of publication of notices published in the newspaper and set forth that certified letters have been sent to all property owners as indicated in Subsection A. 2. above.

B. Transcription of Testimony

In the hearing before the Zoning Official, the Territorial Planning Council, or the Territorial Land Use Commission, all testimony, objections thereto and thereon shall be taken down by a reporter employed for that purpose, or recorded by a recording machine set up for that purpose.

C. Appearance of Parties

Upon the hearing before any Municipal Planning Council, the Zoning Official, the Territorial Planning Council, or the Territorial Land Use Commission, any party may appear in person or be represented by an agent or attorney.

D. Decision on Matters of Public Hearing

Decisions on matters before the Council, the Zoning Official, or the Commission, shall be rendered within thirty (30) working days after the hearing on the matter in question.

CHAPTER XI. ENFORCEMENT AND PENALTIES

A. Non-Conformance

The Department of Public Works shall withhold issuance of any Occupancy Permit until the provisions of this Zoning Code, including the conditions on any permit issued there under, have been met.

B. Violations

The Zoning Official shall withhold the issuance of any development permit or other relevant permits if the provisions of this Zoning Code have been violated.

C. Public Right for Inspections

The Zoning Official and/or the Building Official shall have the right to inspect the lands affected by this Zoning Code and shall have the right to issue cease and desist orders and citations for violations.

1. **Cease and Desist Orders:** For any violation that is contrary to the regulations and standards set forth in this Zoning Code or constitutes a threat to life on public or private property, the Zoning Official and/or the Building Official shall have the authority to issue a cease and desist order. This shall take the form of a written official notice given to the owner of the subject property or to his agent or the persons doing the work where a violation of this Law has been committed or exists. Upon notice from the Zoning Official and/or the Building Official that any land alterations are being done contrary to the provisions of this Zoning Code, or constitutes a threat to life or to public or private property, such work shall immediately be stopped. Such cease and desist notice shall state the conditions under which work may be resumed.

When the Zoning Official or Building Official or other relevant Government of Guam departments or agencies has reason to believe that any person has undertaken or is threatening to undertake any activity that may require a development permit without securing said permit, or that may be inconsistent with any permit previously issued, the Zoning Official or Building Official or other relevant Government of Guam departments or agencies may issue a written order directing such person to cease and desist. The cease and desist order shall state the reasons for the order and may be subject to such terms and conditions as deemed necessary to insure compliance with the provisions of this Zoning Code including, without limitation, immediate removal of any fill or other material, suspension of the permit, or the setting of a schedule within which steps must be taken to

obtain a permit pursuant to this Zoning Code. Said order shall be served by certified mail or hand delivery upon the person being charged with the actual or threatened violation of this Zoning Code, and shall be effective upon issuance; provided, however, that such order shall grant the opportunity for a hearing.

2. Citation: For any violation which does not constitute a threat to life or to public or private property, the Zoning Official and/or the Building Official shall have the authority to issue a citation. The citation shall be in the form of a written official notice issued by certified mail to the owner of the property or his designated agent. The receipt of a citation shall require that corrective action be taken within thirty (30) working days, unless otherwise extended at the discretion of the Zoning Official and/or the Building Official. If the required corrective action is not taken within thirty (30) working days, the Zoning Official and/or the Building Official may use any available remedies to secure compliance including the revocation of the permit.

D. Enforcement and Penalties

1. General

The provisions of this Section shall be cumulative and not exclusive and shall be in addition to any other remedies available at law or equity.

2. Enforcement

- a. Any person may maintain an action for declaratory and equitable relief to restrain any violation of this Zoning Code. On a prima facie showing of a violation of this Zoning Code, preliminary equitable relief shall be issued to restrain any further violation hereof. No bond shall be required for an action under this Subsection.
- b. Any person may maintain an action to compel the performance of the duties specifically imposed upon any Government of Guam agency, the Territorial Land Use Commission, or the Territorial Planning Council by this Zoning Code, provided, however, that no such action shall be brought prior to thirty (30) working days after written notice has been given to the appropriate Government of Guam agency, the Territorial Land Use Commission, or the Territorial Planning Council by the complainant specifying the duties that the complainant alleges have not been performed. No bond shall be required for an action under this Subsection.
- c. The Zoning Official or Building Official or their designated representative, or other agency or department of the Government of

Guam officially charged with enforcing various development regulations shall regularly monitor a permittee's compliance with the terms and conditions of its development permit. For all approved major project permits in which the applicant has stated in his or her application that the project will take one (1) year or longer to complete, it shall be required that the applicant or his or her designated representative submit quarterly reports that indicate progress on completion of the project to the Zoning Official. The first report on any such project shall be due ninety (90) calendar days from the date of approval of the project, and subsequent reports shall be submitted every ninety (90) calendar days thereafter.

- d. Violation of any term or condition of any development permit issued or approved pursuant to this Zoning Code shall be grounds for revocation or suspension thereof. Violation of any term or condition of any occupancy or development permit or lease issued prior to the effective date of this Zoning Code shall, to the maximum extent permitted by law, be grounds for revocation or suspension thereof.
- e. In addition to any other remedy provided herein or at law or equity, the Attorney General, the Territorial Land Use Commission or the Territorial Planning Council may institute a civil action in the Superior Court of Guam for an injunction or other appropriate relief, including revocation of a development permit issued hereunder, or an order to prevent any person from violating the provisions of this Zoning Code, including occupying or developing the trust lands or other submerged or filled lands, or to enforce any cease and desist order or any regulations issued hereunder.

3. Penalties

- a. Any person who makes any false representation knowingly to obtain a development permit, violates any provision of this Zoning Code, or any regulation or order issued hereunder, shall be subject to a civil fine of at least five thousand dollars (\$5,000) per day and not to exceed twenty-five thousand dollars (\$25,000) per day. The responsibility for the determination of the amount of the civil fine and the assessment thereof shall lie with the Zoning Official.
- b. Any violation of this Zoning Code or any regulation or order issued hereunder shall constitute a misdemeanor. Any person convicted of such a violation shall be fined in accordance with the provisions of Subsection 3, Paragraph a. herein above, or imprisoned for not more than one (1) year, or both.

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- c. In addition to the foregoing and to deter further violations of the provisions of this Zoning Code, the Attorney General, the Territorial Land Use Commission, or the Territorial Planning Council may maintain an action for exemplary damages, the amount of which is left to the discretion of the Court, against any person who has intentionally and knowingly violated any provisions of this Zoning Code.
 - d. The Zoning Official, the Territorial Land Use Commission, and the Territorial Planning Council are hereby authorized to promulgate all rules and regulations they deem necessary to implement the provisions of this Section.

CHAPTER XII. REPEAL CLAUSE

All existing codes and laws applying to the Territory of Guam; general laws applying only to Guam or any general law which the Territorial Legislature is authorized to supersede, nullify, or amend; and any part of any such codes or laws in conflict with or inconsistent with any provisions contained herein are hereby repealed, save and except such codes and laws which provide higher standards than those provided herein. (Not including the previously adopted Zoning Code.)

CHAPTER XIII. SEVERABILITY

It is declared to be the legislative intent that, if any section, subsection, sentence, or clause of this Zoning Code is held invalid, the remainder of this Zoning Code shall not be affected.

CHAPTER XIV. INCLUSION OF THIS ZONING CODE

It is the intent of the Territorial Legislature and it is hereby ordained that the provisions of this Zoning Code are hereby made a part of the Guam Code, and any section or subsection may be renumbered or relettered to accomplish such intent.

CHAPTER XV. EFFECTIVE DATE OF THIS ZONING CODE

This zoning code shall become effective on the first day of the month following six months after enactment.

CHAPTER XVI. REGULATIONS

The following Land Use Performance regulations are adopted to set reasonable standards for development in order to achieve the goals and objectives of the Land Use Plan for Guam. These regulations shall be administered by the responsible governmental agency or department. Additions or amendments to these regulations shall be made through the Administrative Adjudication Act process. Any additions or amendments to these regulations may be initiated through the agency responsible for the enforcement of such regulations or through the Territorial Planning Council. Terms used in these regulations have the same definition as set forth in the Zoning Code.

A. Residential Performance Standards

The purpose of these standards is to describe those general and supplemental regulations which apply to residential land uses over and above those standards imposed by the zoning code. These standards regulate building placement and dwelling unit type, and are necessary for those land uses having characteristics which may have negative impacts without the additional regulations.

1. General Residential Uses

- a. Purpose: It is the intent of this Section to describe allowable dwelling unit types and other standards which apply to all residential uses within the Territory.
- b. Standards: The development of any residential use shall be permitted only in full compliance with the following standards.
 - (1) Review: The review procedures for different types of residential uses shall be as follows:
 - (a) Development of a subdivision of six (6) or more lots is subject to all standards provided in the Subdivision Law, in addition to the standards of this Section. A parcel of land may be divided into two (2) or more lots only if the resulting lots are capable of accommodating development in full compliance with all applicable standards of the Zoning Code. A plat, in full compliance with all applicable laws, is required for any division of land and shall be reviewed along with the application for subdivision.
 - (b) Residential developments containing three (3) or more dwelling units per structure are subject to standards for subdivisions if the ownership of individual units and land is to be sold or otherwise conveyed. For any residential development that contains a total of nine (9) or more units, a concept plan shall be required in addition to

a site plan. A development of more than two (2) and fewer than nine (9) units shall require only a site plan.

- (2) Density: The maximum allowable density of dwelling units shall be that density indicated in Chapter VII. of the Zoning Code for the area shown on the Official Zoning Map, which is also a part of the Zoning Code.
- (a) Residential uses shall be considered Class One when developed in Zoning Districts 2, 2M, 3, or 3S as designated on the Zoning Map. Residential uses may be developed at densities lower than that given for a designated dwelling unit type, but may not exceed the maximum density given for that designated dwelling unit type.
 - (b) When a residential use is proposed for a site in Zoning Districts 4 through 7 on the Official Zoning Map, it is to be considered Class Two. Proposed residential uses which would be Class Two are subject to any and all supplemental standards specified for Class Two uses in the Zoning Code.
 - (c) In all cases, density shall be gross density. For a developed or partially developed area for which redevelopment is proposed, gross density shall be calculated as follows:
 - i. The area included in the initial subdivision of land (plat or re-plat) or an addition to an existing subdivision shall form the base area for density calculations. Additionally, where any property owner has granted any agency of the Government of Guam an attachment easement or a maintenance easement to any portion of his or her property, but has made no sale or other disposition of this property, that portion of the property which contains the easement shall not be subtracted from the total land area of the property in determining dimensional and density calculations.
 - ii. Where (i) above is not known, gross density shall be calculated based on the area of the parcel or the total area of continuous parcels under common ownership.
 - (d) One of the primary determinants of whether any given parcel was designated in Zoning District 2 or 2M versus Zoning District 3 or 3S was the availability of public sewer lines connecting to one of the Government's wastewater treatment facilities. If an individual owns Zoning District 2 or 2M property within one thousand (1,000) feet of a District 3 or 3S boundary, he or she may get the property rezoned to District 3 or 3S, provided:
 - i. A letter is received by the Zoning Official from the Public Utility Agency of Guam stating that they have considered the applicant's project and the cumulative impacts of all projects in

the vicinity and have determined that they have the capacity to accommodate the anticipated water supply demand and sewage flows from the proposed development at the appropriate wastewater treatment facility;

- ii. The owner of the subject property shall bear the responsibility of gaining any and all necessary easements;
- iii. The owner of the subject property shall bear full financial responsibility for the acquisition of all materials and installation of all necessary sewer lines and other facilities;
- iv. All necessary sewer lines and other facilities shall be installed as per the Public Utility Agency of Guam's standards; and
- v. After the sewer lines and other facilities have been installed and are operational, they shall be deeded over to the Government of Guam.

(3) Dwelling Unit Type: Subject to the requirements of the Building Code, any dwelling unit type shall be allowed within the Territory. Any dwelling unit type or combination of dwelling unit types shall be permitted on any parcel or group of lots when the structures can be so located in full compliance with the provisions of the Zoning Code. Dwelling unit types are as follows:

- (a) Single-family Dwellings or Two-Family Dwellings/Duplexes: a structure containing one (1) or two (2) dwelling units, and not attached to any other dwelling units by any means.
- (b) Multiple-family Dwellings: any residential building containing three (3) or more separate dwelling units. (Multiple-family Dwellings are considered to be low-rise when they are one (1) or two (2) stories in height; mid-rise when containing between three (3) and six (6) stories; and high-rise when containing seven (7) or more stories.)

(4) Maximum Floor Area Ratio (FAR): Maximum FAR requirements shall apply to multiple-family structures. Floor area ratio is calculated by dividing the total number of square feet of gross floor area of a building by the gross site area (in square feet). For example, if a three (3) story building, with each story containing two thousand (2,000) square feet is built on a twenty thousand (20,000) square foot lot, the floor area ratio is calculated as follows:

$$\begin{aligned} 3 \text{ stories} \times 2,000 \text{ square feet} &= 6,000 \text{ square feet of floor area} \\ 6,000 \text{ square feet} / 20,000 \text{ square feet} &= 0.30 \text{ (floor area ratio)} \end{aligned}$$

The maximum floor area ratio allowed for multiple-family developments shall be in accordance with Table 8, "Table of Maximum Floor Area Ratios" contained in the zoning code.

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- (5) **Building Placement:** Certain minimum building placement standards are hereby established for the protection of the health, safety, and welfare of the general public. These standards apply to all residential uses. There is no minimum distance between adjacent buildings, provided that one of the first two of the following conditions is met.
- (a) If the distance from the exterior wall to the property line is less than the minimum required amount, the application must show evidence of a maintenance easement from adjacent property owner(s).
 - (b) The structure shall be built on the property line and the owner shall give an attachment easement to the adjacent property owner(s).
 - (c) Distance shall be measured at the narrowest space between the structure and property line, and shall not include any roof overhang (eave) in calculating the building/setback measurement. In no instance shall any roof overhang be allowed to extend beyond a property line.
 - (d) When a building exceeds two (2) stories in height, the minimum distance from an adjacent side property line shall be increased by two (2) feet for each story above two.

2. Supplemental Standards for Special Residential Uses

- a. **Purpose:** It is the purpose of this Section to set forth standards for the protection of the health, safety, and welfare of both the community at large and the residents of a facility. These standards are supplementary regulations and are in addition to standards set forth elsewhere in the Zoning Code.
- b. **Special Residential Uses:** Special residential uses include group care homes, homeless shelters, emergency shelters, residential treatment facilities, or recovery homes, school dormitories, and barracks housing provided for construction workers who are recruited and brought in from off-island to work on a specific construction project.
- c. **Standards for Class One Uses:** Special residential uses defined in this Section shall be considered Class One when located in an area designated for Zoning Districts 2, 2M, 3 or 3S on the Official Zoning Map. In addition to other applicable standards, no special residential development shall be located closer than one-thousand, two-hundred (1,200) feet, measured from property lines, from another such facility. For the purpose of this Subsection, a development shall be defined as a building or group of buildings on a single parcel of land. This provision is intended to prevent the creation of a de facto social service district.

d. Standards for Class Two Uses: Special residential uses shall be considered Class Two when located in an area designated for Zoning Districts 4 through 7 on the Official Zoning Map. In addition to any general standards and supplemental standards for Class One uses, the following standards shall apply:

- (1) If the facility is located within a residential neighborhood, it shall be maintained to conform to the character of that neighborhood. This applies to design, density, lot size, landscaping, or other factors affecting the neighborhood character. This will prevent disruption of a neighborhood due to the introduction of a dissimilar structure.
- (2) Only identification signs not exceeding two (2) square feet in area denoting the name and/or purpose of a special residential use shall be allowed in a residential neighborhood.
- (3) Facilities located in non-residential areas shall be maintained in the general character of the surrounding area. This applies to design, lot size, and landscaping affecting the character of the area.
- (4) The total occupancy of a structure designed for special residential use shall be at least one-hundred (100) square feet per occupant. For homes on a local residential street, occupancy shall not exceed two (2) clients each per total number of bedrooms.

3. Supplemental Standards for Home Occupations

- a. Purpose: It is the intent in this Section to allow for and to regulate the establishment of a home occupation in a residential neighborhood. It is also the intent in this Section to regulate the operation of a home occupation so that residential neighbors will not be adversely impacted by its existence.
- b. Standards: A home occupation is allowable as an accessory use in a bona fide dwelling unit in any residential area. All provisions of the Zoning Code pertaining to residential uses shall be met. In addition, all of the following standards shall apply.
 - (1) No outdoor display or storage of materials, goods, supplies, or equipment shall be allowed.
 - (2) There shall be no changes to the exterior of the building nor any visible evidence that the residence also contains a home occupation.
 - (3) A home office use shall not generate nuisances such as on-street parking, noise, electrical interference, or hazards.
 - (4) There shall be no more than one (1) person outside of the immediate household residing in the subject dwelling unit employed in the home occupation.
 - (5) The maximum area devoted to a home occupation shall be twenty-five (25) percent of the gross floor area of the dwelling unit.

4. Manufactured Housing

- a. **Purpose:** It is the purpose of this Section to allow for and to regulate the use of manufactured housing in the Territory. Manufactured housing is important in the provision of low- and moderate-cost housing. Therefore, standards in this Section are provided both to recognize the valid place of manufactured housing and to set forth necessary criteria on location and use of such housing.
- b. **Classifications of Manufactured Housing** Mobile homes are classified as follows for purposes of these Standards.
 - (1) A manufactured housing unit is a factory-built, single-family structure that is manufactured under the authority of 42 U.S. Code, Section 5401 (the National Manufactured Home Construction and Safety Standards Act of 1974), is transportable in one (1) or more sections, and is built on a permanent chassis; but that is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purposes of delivery to a permanent site, and that does not have wheels or axles permanently attached to its body or frame.
 - (2) Type A - New mobile homes certified as meeting U.S. Department of Housing and Urban Development (HUD) Mobile Home Construction and Safety Standards, or used mobile homes certified as meeting either the HUD standards specified above or appropriate and lawful prior code, found on inspection to be in excellent condition and safe and fit for residential occupancy.
 - (3) Type B - Used mobile homes, whether or not certified as meeting HUD prior codes, found on inspection to be in excellent, good, or fair condition, as defined by the HUD Mobile Home Construction and Safety Standards.
- c. **Classifications of Mobile Home Developments**
 - (1) A mobile home community is a development containing five (5) or more mobile homes with continuing local general management. It has special facilities for common use by the occupants, and may include such items as common recreational buildings and areas, common open space, laundries, and the like. This may also include a condominium ownership arrangement.
 - (2) A mobile home park is a parcel of land at least five (5) acres in size under single ownership on which five (5) or more mobile homes are occupied as residences. This does not include the use of mobile homes as allowable accessory uses.
 - (3) A mobile home subdivision is designed and/or intended for the sale of lots for residential occupancy by mobile homes.

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- d. Standards for Manufactured Housing: Manufactured housing, other than mobile homes, is an allowable dwelling unit type in those Zoning Districts in which appropriate residential land uses are permitted. Such housing is subject to the Building Code and all standards in the Zoning Code which apply to residential land uses, as well as the Subdivision Regulations of the Territory of Guam.
 - e. Standards for Type A Mobile Homes: Type A mobile homes are allowed in any mobile home development type as defined in Paragraph c. above or on their own individual lots. (See Paragraph g. below for mobile home development standards.)
 - f. Standards for Type B Mobile Homes: Type B mobile homes are allowed only in a mobile home development. A Type B mobile home to be moved to a new location must meet the following standards.
 - (1) An application for approval to relocate shall be obtained.
 - (2) Upon inspection, the Type B mobile home shall be found to be in excellent or good condition prior to the move. Criteria for determining condition shall be the same as those applied to housing inspections. After moving or relocation of the Type B mobile home, a second inspection shall be required to verify that the mobile home remains in no less than good condition. An Occupancy Permit shall not be issued until such conditions are met.
 - g. Standards for Mobile Home Developments: A mobile home development shall be allowed where all applicable standards of the Zoning Code are met for a residential land use. In addition, the following standards shall apply:
 - (1) A mobile home development is allowed in those zoning districts in which residential land uses are permitted. However, in no case shall mobile home developments be allowed in Zoning Districts 1, 5, 5H, 6, 7 or 8. A mobile home development shall not exceed the densities established for single family detached residential uses within the district proposed for the development.
 - (2) The following are site design standards for a mobile home park or a mobile home community:
 - (a) The minimum land area shall be five (5) acres.
 - (b) Every mobile home shall be located at least eight (8) feet from any internal abutting street.
 - (c) The minimum distance between a mobile home (including allowable accessory buildings) and an adjacent mobile home (including accessory buildings) shall be fifteen (15) feet. This distance shall be measured at the narrowest space between structures, whether they

be the living units or accessory buildings (e.g., carport, storage building).

- (d) All standards contained in the Subdivision Regulations of the Territory of Guam with regard to utilities, streets, sidewalks, and fire protection shall apply to the design and development of a mobile home park or a mobile home community.

5. Standards for Infill Development in Residential Areas

- a. **Purpose:** At the time of enactment of the Zoning Code, there are established residential developments which may have one or more vacant lots available for the location of new dwelling units. In addition, there may be residential developments that are under construction, have an approved master plan (site plan), or an approved subdivision plan. It is the intent of this Section to provide for compatibility in the construction of new residential units in areas approved for development prior to enactment of the Zoning Code. This condition is known as residential infill development.

It is the overall intent of the Zoning Code to regulate the potential impact of new development. Residential infill development has the potential for negative impact on surrounding developed lots under the Zoning Code. It is the intent in this Section to control and prevent such potentially negative impacts.

- b. **Standards for Residential Infill Development:** The following standards shall apply to residential infill development.
 - (1) For any residential structure, an application for building and other necessary permits shall be filed.
 - (2) The proposed dwelling unit(s) shall conform to those dimensional standards in force at the time of development of the surrounding area.
 - (a) If recorded plats, approved master (site) plans, or other documentation are available to provide information on previous standards, such documentation shall be used to determine applicable development standards for the proposed infill development. These may include, but are not necessarily limited to the following:
 - i. minimum lot dimensions and area;
 - ii. minimum building size (gross floor area and building height);
 - iii. minimum yard setbacks on front, sides, and rear;
 - iv. accessory uses, such as storage buildings;
 - v. off-street parking requirements;
 - vi. dwelling unit type (single-family detached, two-family, etc.);
 - vii. stormwater retention;

- viii. dedication or reservation of easements, rights-of-way, or recreation areas;
- ix. landscaping and sight barriers; and
- x. sidewalks

(b) Where documentation is not available concerning standards in effect at the time of initial development, the following procedure shall be used. All developed lots or parcels that abut the property proposed for development shall be considered in determining the average standards for development. The average standards for these abutting properties shall be the minimum standards for the proposed development. Average standards shall not include lot area nor lot dimensions. (For example, if a lot is abutted on three sides by single-family homes with 7-1/2 foot side yard setbacks, the proposed development should have 7-1/2 foot side yards. If the three abutting properties each have side yards of 7-1/2 feet, 5 feet and 5 feet, then the minimum side yard for the proposed development should be $(7-1/2 + 7-1/2 + 5 + 5 + 5 + 5)$ divided by 6, or 5.8 feet.)

Where there is any uncertainty on any applicable standards, the decision shall be in favor of the stricter standard.

6. Planned Unit Development and Planned Affordable Residential Development

- a. With strict limitations for yards and other open spaces, some imaginative developments that could prove beneficial to the Territory would not be constructed, as they do not meet the letter of the law. To allow for sound and imaginative development to take place, Planned Unit Development and Planned Affordable Residential Development projects that meet the spirit of the law, if not its strict letter, may be approved.

The Zoning Code does not contain the normal provisions for yards in regulating individual uses within a Planned Unit Development or a Planned Affordable Residential Development. Instead, the percentage of the total development area that may be occupied is limited and a certain amount of usable open space is required. The Zoning Code does, however, provide that Planned Unit Developments and Planned Affordable Residential Developments might be constructed in Zoning Districts 2, 2M and 3, if certain conditions and requirements are met. Since this is a matter of importance to residents of these Districts, it is required that Planned Unit Developments and Planned Affordable Residential Developments be permitted only after a public hearing, after certain findings have been made by the Zoning Official, and the Territorial Land Use Commission (if necessary), and after action by the appropriate authority.

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- b. **Purpose and Intent:** Planned Unit Developments and Planned Affordable Residential Developments, as permitted by this Section, are intended to provide an opportunity for variety and creative or unique design arrangements and relationships of buildings and uses of land that are built as a single entity under unified control, when the plan of development has been approved in the manner prescribed herein.

To ensure that Planned Unit Developments and Planned Affordable Residential Developments conform to the character and nature of the district in which they are located, achieve a maximum of coordination between the Planned Unit Developments and Planned Affordable Residential Developments and neighboring land uses, promote the intent and purposes of this Section, and encourage the most appropriate use of land within the area of Planned Unit Developments and Planned Affordable Residential Developments, specific and additional standards are hereby established.

c. **Tract Requirements**

- (1) A tract must be under single ownership with area and dimensions not less than those prescribed by the appropriate Dimensional and Density Requirements for Zoning Districts 2, 2M and 3. The tract may be divided by an existing public street that may be retained as a part of the plan for the development. The minimum yard requirements of the Dimensional and Density Requirements for the appropriate Zoning District shall apply only to the periphery of the tract.
- (2) There shall be no access from the tract to existing public roads other than by interior streets at minimum intervals of two hundred (200) feet, and no dwelling unit shall have access to a collector or arterial street incorporated into or created within a Planned Unit Development or Planned Affordable Residential Development.
- (3) The gross density of the project shall not exceed the maximum dwelling units per acre permitted in the appropriate Dimensional and Density Requirements Table.
- (4) Every dwelling unit shall be connected to and properly served by public water and public sanitary sewer or Guam Environmental Protection Agency approved private water and/or sanitary sewer system and by a storm drainage system.

d. Permitted Uses

- (1) The residential housing types permitted are single-family detached dwellings, single-family attached dwellings, and multiple-family dwellings.
 - (a) Single-family attached dwellings shall constitute at least twenty percent (20%), but not more than eighty percent (80%) of the total number of dwelling units to be constructed.
 - (b) Multiple-family dwellings may constitute up to forty percent (40%) of the total number of dwelling units to be constructed.
 - (c) Only single-family detached or attached dwellings or open space shall abut any tract boundary line that is a common line with the boundary line of another parcel or lot of less than five (5) acres in area, which contains a single-family detached dwelling, and which pre-exists the Planned Unit Development or Planned Affordable Residential Development.
 - (d) The arrangement of the various dwelling types and open space shall be such to provide an appropriate transition from one dwelling unit type to another.
- (2) Neighborhood commercial and institutional uses may also be permitted under the following conditions:
 - (a) One (1) acre of land, with a maximum lot coverage of thirty-five percent (35%), may be devoted to retail sales and service operations for each three hundred (300) dwelling units within the development. Such requirement shall not apply to a hotel, a clubhouse facility, or any dining room or snack bar associated with a golf course or country club in a Planned Unit Development. Where a development qualifies for only one (1) such acre, it shall be a contiguous parcel. Where a development qualifies for two (2) or more such acres, they may be spread throughout the development in tracts of not less than twenty-five thousand (25,000) square feet in area, each. The commercial uses shall be limited to the extent that no individual store or shop may exceed three thousand (3,000) square feet of gross floor area. Additionally, no retail facility may be constructed until at least fifty percent (50%) of the total permitted dwelling units have received occupancy permits.
 - (b) For each five hundred (500) dwelling units within the development, the following may be included on a minimum lot of one (1) acre, with minimum yards of twenty-five (25) feet, and a maximum lot coverage of thirty-five percent (35%):

Health Care Facility
 Houses of Worship
 Private Club or Lodge
 Nursing, Rest or Convalescent Home
 Residential Treatment Facilities

- (c) A golf course/country club, at least nine (9) holes in length, along with a clubhouse, proshop, dining room, and/or snack bar shall be permitted within a Planned Unit Development, provided that a residential community shall also be developed, with the minimum number of homes to be built equal to ten (10) dwelling units per golf hole. The proportions of dwelling unit types established in Subsection d. (1), (a), (b) and (c) of this Section for Planned Unit Developments shall be the same for developments that include a golf course/country club.
 - (d) A resort hotel shall be permitted within a Planned Unit Development, provided that no more than twenty-five (25) hotel rooms per acre of land devoted to this use be built, that all off-street parking and loading requirements of this Code are met, and further provided that the number of hotel rooms shall not exceed the total number of dwelling units proposed in the Planned Unit Development.
- e. Dimensional and Density Requirements for Single-Family Detached Dwellings in Planned Unit Developments.

Table 3
Dimensional and Density Requirements for
Single Family Detached Dwellings
in Planned Unit Developments

	<i>Zoning District 2 or 2M</i>	<i>Zoning District 3</i>
Minimum Lot Area	7,500 sq. ft.	4,000 sq. ft.
Minimum Lot Width	60 ft.	40 ft.
Minimum Lot Depth	80 ft.	60 ft.
Minimum Front Yard Setback	15 ft.	10 ft.
Minimum Side Yard Setbacks - Each	10 ft.	5 ft.
Minimum Rear Yard Setback	20 ft.	10 ft.
Maximum Building Height	30 ft.	30 ft.
Maximum Lot Coverage	40%	55%

- f. Dimensional and Density Requirements for Single-Family Attached Dwellings (Townhouses/Duplexes/Zero-Lot Line/Patio Homes) in Planned Unit Developments.

Table 4
Dimensional and Density Requirements for Single Family Attached Dwellings in Planned Unit Developments

	<i>Zoning District 2 or 2M</i>	<i>Zoning District 3</i>
Minimum Lot Area	4,000 sq. ft.	3,000 sq. ft.
Minimum Private Open Space Area	600 sq. ft.	400 sq. ft.
Minimum Dwelling Unit Width	20 ft.	15 ft.
Maximum Individual Lot Coverage/Unit	60 %	80 %

- g. Dimensional and Density Requirements for Single-Family Detached Dwellings in Planned Affordable Residential Developments.

Table 5
Dimensional and Density Requirements for Single Family Detached Dwellings in Planned Affordable Residential Developments

	<i>Zoning District 2 or 2M</i>	<i>Zoning District 3</i>
Minimum Lot Area	6,000 sq. ft.	4,000 sq. ft.
Minimum Lot Width	50 ft.	40 ft.
Minimum Lot Depth	75 ft.	55 ft.
Minimum Front Yard Setback	10 ft.	10 ft.
Minimum Side Yard Setbacks - Each	10 ft.	5 ft.
Minimum Rear Yard Setback	10 ft.	10 ft.
Maximum Building Height	30 ft.	30 ft.
Maximum Lot Coverage	50%	60%

- h. Dimensional and Density Requirements for Single-Family Attached Dwellings (Townhouses/Duplexes/Zero-Lot Line/Patio Homes) in Planned Affordable Residential Developments.

Table 6
Dimensional and Density Requirements for
Single Family Attached Dwellings
in Planned Affordable Residential Developments

	<i>Zoning District 2 or 2M</i>	<i>Zoning District 3</i>
Minimum Lot Area	3,500 sq. ft.	2,500 sq. ft.
Minimum Private Open Space Area	500 sq. ft.	300 sq. ft.
Minimum Dwelling Unit Width	20 ft.	15 ft.
Maximum Individual Lot Coverage/Unit	70 %	85 %

The density devoted to multiple-family residential areas shall not exceed twenty (20) dwelling units per acre, including required open space in Planned Unit Developments or twenty-five (25) dwelling units per acre, including required open space in Planned Affordable Residential Developments.

- i. Open Space

(1) At least fifteen percent (15%) of the gross land area of a Planned Unit Development or Planned Affordable Residential Development shall be dedicated for public use other than required public improvements or private streets, by deeding to the appropriate agency of the Territorial Government; or shall be reserved by a covenant in favor of the Government; or by a grant of an easement, provided that it shall be set aside in perpetuity for the use of residents of the development, or shall be deeded to a homeowners' association, any of the foregoing to be implemented by written instrument. If a conveyance to a homeowners' association is the instrument selected, the landowners shall so organize said conveyance that it may not be dissolved, nor dispose of the open space by sale or other means (except to an organization conceived and established to own and maintain it), without first offering to dedicate it to the Territory.

(a) All floodplain areas, lands with slopes of twenty-five percent (25%) or more, and lands not included within lots to be developed and sold or utilized for required public improvements shall be reserved as open space. Such land may be counted toward meeting the fifteen

- percent (15%) open space requirement stipulated in Subsection i.(1) above, provided that this land can accommodate recreational facilities and areas, and that the plans have been reviewed and approved by the Department of Parks and Recreation. At least twenty-five percent (25%) of the required gross reserved area must be open space other than floodplain, land with slope of twenty-five percent (25%) or more, or common parking areas; and at least seventy-five percent (75%) of the gross required open space area shall be open space free of structures or other improvements, whether public or private.
- (b) Any area to be dedicated for public use shall be so located and of such a shape to be acceptable to the Department of Parks and Recreation. In determining the acceptability of proposed open space, the Zoning Official shall consider future Territorial needs and may require a portion of the open space to be designated as the site of a potential future public use, provided, however, that not more than twenty-five percent (25%) of the gross area shall be taken for public buildings. In the event that it is deemed necessary to set aside any portion of the site for public buildings, an agreement shall be entered into between the applicant and the Government of Guam. No occupancy permit shall be granted until the negotiations for the land have been completed to the satisfaction of the applicant and the Government of Guam.
 - (c) All open space area shall be graded and seeded by the developer during the course of construction, unless the Department of Parks and Recreation approves or directs the maintaining of all or a portion of such open space in its natural state or with minor, specified improvements, in which case it will be disturbed only as necessary to make the specified improvements.
 - (d) Streets or Off-Street Parking Areas: The Department of Public Works may require any streets within the tract which (i) are contradictory to the objectives of the Land Use Plan or Transportation Master Plan, and (ii) do not provide a direct connection between existing streets outside the tract, to be transferred to the ownership of the homeowners' association for maintenance and repairs. All off-street parking areas shall be transferred to the ownership of a homeowners' association for maintenance and repairs. Wherever median grass strips or other landscaped areas are proposed that will be visible to the general public within the development, covenants and/or agreements shall provide for the maintenance of such areas by the homeowners' association.
 - (e) No single area of less than one (1) acre in size shall be dedicated for public use, unless, due to special conditions that are peculiar to the particular parcel of land or to the public purpose for which the land

is to be used, dedication of a smaller area is authorized by the Department of Parks and Recreation.

- (f) Open space areas may be used as park, playground, or recreation areas, including swimming pools, equestrian trails and centers, tennis courts, shuffleboard courts, basketball courts, and similar facilities; woodland conservation areas; pedestrian walkways; drainage control areas; Day Care Center; or any similar use of benefit to the residents of the development if in the ownership of a homeowners' association or the Territory, or if dedicated to and accepted by the appropriate department of the Territory, and deemed appropriate by the Department of Parks and Recreation.

- j. Application Procedure: A site plan and subdivision map of the proposed Planned Unit Development or Planned Affordable Residential Development shall be submitted to the Zoning Official in accordance with the procedures for a major or super-major permit application, depending on the proposed number of dwelling units, and whether or not a golf course is proposed as part of the development, as stated in Chapter VIII. B. of the Zoning Code. Such documents shall include all information required in said major or super-major permit application, an indication of the areas to be used for dwelling units, specifying type and showing the proposed arrangement of buildings, parking, fencing, landscaping, and other improvements on each lot and all open space. Typical elevations of proposed buildings shall be submitted. The anticipated schedule of development shall also be indicated and a written statement from the landowner, setting forth the reasons why, in his/her opinion, the development would be in the public interest and would be consistent with the goals and objectives of the Land Use Plan of Guam. A sketch plan of sufficient detail to show the proposed intent may be submitted informally for discussion prior to formal application for approval, at the discretion of the developer. The application shall be accompanied by a copy of proposed articles of incorporation of any homeowners' association, a copy of a study indicating the feasibility of proposals for the provision of public water and public sewer, and copies of any grants of easements or other restrictions proposed to be imposed on the use of the land.

Following the submission of said application to the Zoning Official, the review, public hearings, and disposition process as set forth in Chapter VIII, Section C. of the Zoning Code for major and super-major permits shall be followed.

7. Cluster Residential Development

- a. Purpose and Intent: The purpose and intent of this Section is to permit, subject to the approval of the Zoning Official or, where necessary, the Territorial Land Use Commission, the creation of single-family detached

dwelling on smaller lots than would otherwise be permitted within certain districts for the purpose of creating open space in usable dimensions and quantities, preserving desirable natural feature and tree cover, and encouraging a high quality of lot layout, planning, and land design that will stabilize and enhance the character of the district of which they are a part, and to preserve the health, welfare, and safety of the residents of the Territory. Furthermore, area and dimensional specifications are reduced under this Section only as a means of allowing residential developers to improve the feasibility of providing public water and sewer, creating attractive and usable open space, conserving natural features, and increasing the amenities of development.

b. Tract Requirements

- (1) A tract under single ownership of an area and of dimension not less than ten (10) acres in Zoning District 2 or 2M, and five (5) acres in Zoning District 3 shall be required for a cluster development. The tract may be divided by an existing public street which may be retained as a part of the plan for the development.
- (2) There shall be no access from the tract to existing public roads other than by interior streets at minimum intervals of two hundred (200) feet, and no dwelling unit shall front upon an arterial street incorporated into or created within a cluster residential development.
- (3) Every dwelling unit shall be connected to and properly served by public water and public sanitary sewer or Guam Environmental Protection Agency approved private water and/or sanitary sewer system and by a storm drainage system.
- (4) All improvements within a cluster development shall be installed in accordance with an approved site plan and with the specifications of the Subdivision Regulations of Guam.

c. Only single-family detached and attached dwellings shall be permitted within a cluster development.

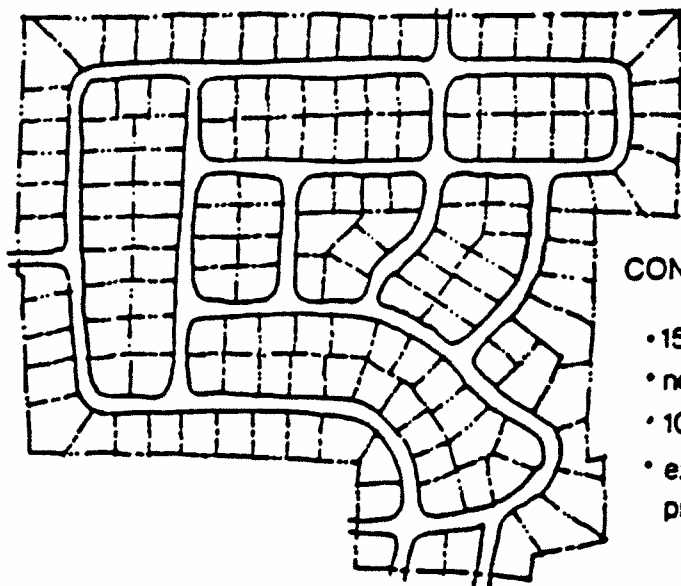
d. Dimensional and Density Requirements for Detached Single Family Units or Duplexes in Cluster Developments

Table 7
Dimensional and Density Requirements
for Detached Single Family Units or Duplexes
in Cluster Developments

	<i>Zoning District 2 or 2M</i>	<i>Zoning District 3</i>
Minimum Lot Area	7,000 sq.ft.	4,000 sq.ft.
Minimum Lot Width	50 ft.	40 ft.
Minimum Lot Depth	70 ft.	55 ft.
Minimum Front Yard Setback	15 ft.	10 ft.
Minimum Side Yard Setbacks - Each	10 ft.	5 ft.
Minimum Rear Yard Setback	20 ft.	10 ft.
Maximum Building Height	30 ft.	30 ft.
Maximum Lot Coverage	40%	60%

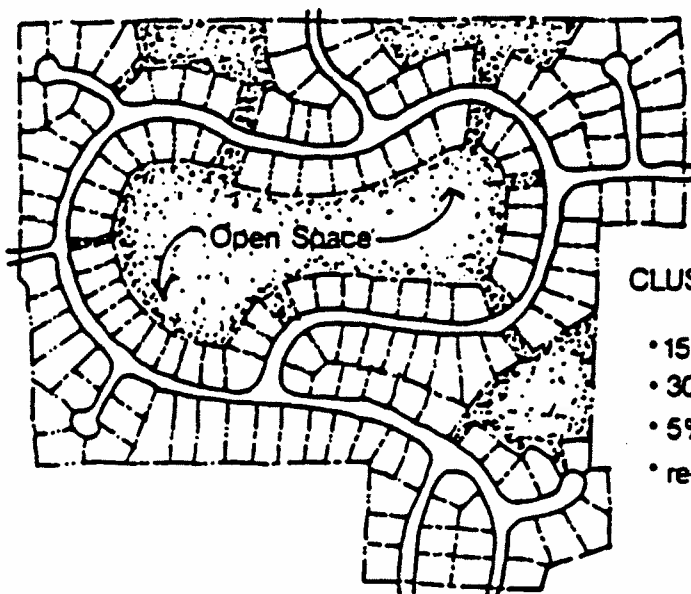
- e. Dimensional and Density Requirements for Attached Single-Family Units (Townhouses/Zero-Lot Line/Patio Homes) in Cluster Developments: The dimensional and density requirements for attached housing units within cluster developments shall be the same as shown on the Table of Dimensional and Density Requirements for these dwelling unit types in Planned Unit Developments (Chapter XVI., Section A.6.f. of the Zoning Code).
- f. Open Space: All land not included within lots to be developed and sold or utilized for required improvements shall be deeded to the Territory; or shall be reserved by a covenant in favor of the appropriate department of the Government; or by grant of an easement, providing that it shall be set aside in perpetuity for the use of residents of the development; or it shall be deeded to a homeowners' association by written instrument. If the conveyance is to be to a homeowners' association, the landowner shall so organize it that it may not be dissolved, nor dispose of the open space by sale or otherwise (except to an organization conceived and established to own and maintain it) without first offering to dedicate it to the Territory. Such organization shall be subject to the approval of the Department of Parks and Recreation.
- (1) The area to be dedicated for public use shall be so located and of such a shape to be acceptable to the Department of Parks and Recreation. In determining the acceptability of proposed open space, the Zoning Official shall consider future Territorial needs and may require a portion of the open space to be designated as the site of a potential future public use, provided that not more than twenty-five percent (25%) of all available open space shall be taken and, if taken for the construction of public buildings, compensation

Conventional Subdivision vs. Cluster Subdivision: A Comparison



CONVENTIONAL SUBDIVISION

- 153 lots
- no defined open space
- 10% devoted to streets
- extensive infrastructure provision required



CLUSTER SUBDIVISION

- 153 lots
- 30% defined open space
- 5% devoted to streets
- reduced infrastructure needs

-
- shall be made. In the event that if it is deemed necessary to set aside any portion of the site for public buildings, an agreement shall be entered into between the applicant and the Government of Guam. No occupancy permit shall be granted until the negotiations for the land have been completed to the satisfaction of the applicant and the Government of Guam.
- (2) All open space areas shall be graded and seeded by the developer during the course of construction, unless the Department of Parks and Recreation approves or directs the maintaining of all or a portion of such open space in its natural state or with minor, specified improvements, in which case it will be disturbed only as necessary to make the specified improvements.
 - (3) The Department of Public Works may require all streets within the tract which (i) are contradictory to the objectives of the Land Use Plan, or Transportation Master Plan, and (ii) do not provide a direct connection between existing streets outside the tract, to be transferred to the ownership of the homeowners' association for maintenance and repairs. All off-street parking areas shall be transferred to the ownership of a homeowners' association for maintenance and repairs. Wherever median grass strips or other landscaped areas are proposed that will be visible to the general public within the development, covenants and/or agreements shall provide for the maintenance of such areas by the homeowners' association even though they may be upon land subdivided into lots.
 - (4) No single area of less than one (1) acre in size shall be dedicated for public use unless, due to special conditions that are peculiar to the particular parcel of land or to the public purpose for which the land is to be used, dedication of a smaller area is authorized by the Department of Parks and Recreation.
 - (5) Open space areas may be used as park, playground or recreation areas, including swimming pools, equestrian trails and centers, tennis courts, shuffleboard courts, basketball courts, and similar facilities; woodland conservation areas; pedestrian walkways, drainage control areas; children's nursery; or any similar use of benefit to the residents of the development if in the ownership of a homeowners' association or the Territorial Government, and deemed appropriate by the Department of Parks and Recreation.
- g. Application procedures for cluster residential developments shall be the same as those set forth for Planned Unit Developments.

B. Nonresidential Performance Standards

This Section contains Performance Standards that apply to nonresidential uses. Nonresidential land uses regulated in this Section include commercial, tourism, office, light and heavy industry, and certain public/semi-public uses. Agriculture and aquaculture uses shall be excluded from this Section. These standards regulate floor area ratio and building standards and are applied over and above those standards imposed by other sections of the Zoning Code. These supplemental standards are necessary for those land uses having characteristics that may have negative impacts without the additional regulations.

1. Categories of Use

a. Categories of Land Use - The following categories of land use shall be subject to the standards contained in this Section.

- (1) Public/Semi-Public: Institutional Uses and Public Services Uses only. The Special Residential Uses Category is excluded from this section. (See General Residential Standards)
- (2) Office Uses.
- (3) Commercial Uses: General Commercial, Commercial Recreational, Automobile-Oriented Commercial (Gas Stations, Auto Repair Shops, Tire Shops, etc.), Plant Nurseries, and Shopping Centers.
- (4) Industrial Uses: Industrial, Wholesaling, Warehousing, and Distribution Activities.
- (5) Tourist Facilities: Hotels, Bed and Breakfast Inns, Tourist Attractions, and Entertainment Activities.

2. Performance Standards: The development of a nonresidential use shall be allowed only in full compliance with the standards of this and other relevant Sections of the Zoning Code.

a. Floor Area Ratio: Floor area ratio is calculated by dividing the total number of square feet of gross floor area of a building by the gross site area (in square feet). For example, if a three (3) story building, with each story containing two thousand (2,000) square feet is built on a twenty thousand (20,000) square foot lot, the floor area ratio is calculated as follows:

$$\begin{aligned} 3 \text{ stories} \times 2,000 \text{ square feet} &= 6,000 \text{ square feet of floor area} \\ 6,000 \text{ square feet} / 20,000 \text{ square feet} &= 0.30 \text{ (floor area ratio)} \end{aligned}$$

The maximum floor area ratio allowed for nonresidential uses shall be according to the "Table of Maximum Floor Area Ratios" contained herein.

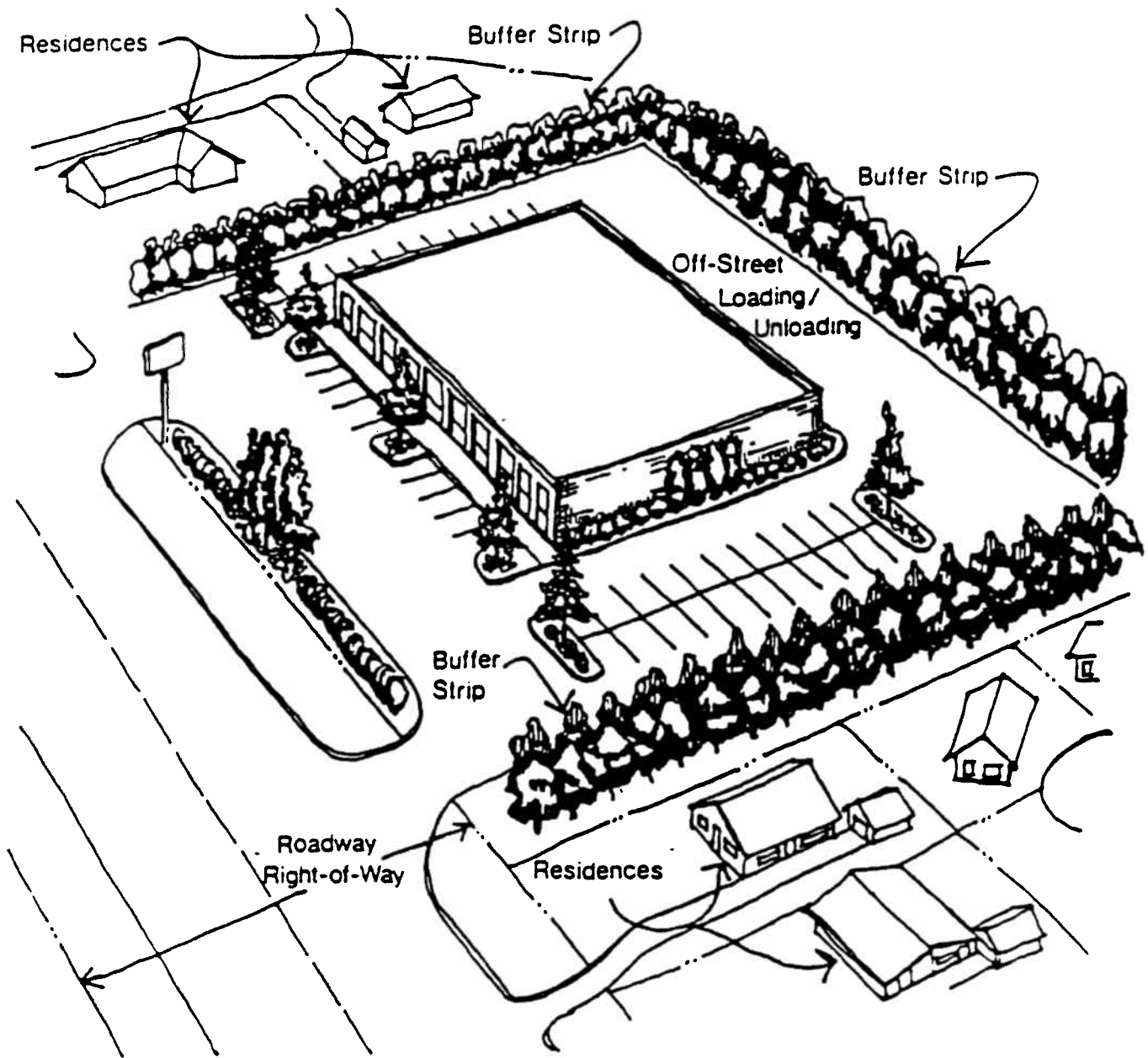
b. Building Placement:

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- (1) There is no minimum required distance between adjacent buildings on the same lot, provided that when a building exceeds two (2) stories in height, the minimum distance from an adjacent building or property line shall be increased by two (2) feet for each story above two (2).
 - (2) Certain nonresidential development in Zoning Districts 5, 5H and 6 may build up to the right-of-way line of the abutting roadway. These are enumerated in the Tables of Dimensional and Density Requirements for Zoning Districts 5, 5H and 6 contained within the Zoning Code. However, buildings, signs, or other structures shall not be placed in the sight triangle specified in the Landscape Performance Standards.
 - (3) Where any lot in Zoning Districts 2, 2M, 3 or 3S is proposed for nonresidential development, a landscaped buffer shall be required along the property line boundary. If, however, a non-residential development is proposed to be built in Zoning Districts 2, 2M, 3 or 3S immediately adjacent to an existing non-residential use, no landscaped buffer will be required along the common property line of the existing and proposed non-residential development. The buffer shall be no less than fifteen (15) feet wide and consist of a least three (3) rows of plantings that shall be installed in a staggered manner ten (10) feet on center. The plant species selected shall attain a height of at least six (6) feet at maturity.
 - (4) Access driveways to any commercial development on an individual parcel in Zoning Districts 2, 2M, 3, 3S, 4, and 7 shall be at least seventy-five (75) feet apart from each other, measured from centerline to centerline. However, where driveways are each one-way and each being no more than twelve (12) feet wide, the two driveways shall be counted as a single unit of access for the purposes of the Zoning Code.
- c. In no case shall any commercial development be permitted on local streets in Zoning Districts 2, 2M, 3 or 3S. In these Zoning Districts, commercial development shall only be allowed on collector or arterial roadways, as defined by the Guam Department of Public Works, Highway Division.
 - d. If Guam's Concurrency Management System is not in effect, the owner must provide a letter from Public Utility Agency of Guam's Director to the Zoning Official that impacts of this project and the cumulative impacts of projects in the vicinity must match the available public water line and sewer line capacities or the owner must provide water and sewer facilities to ensure that the projected capacities can be accommodated.

**TABLE 8
TABLE OF MAXIMUM FLOOR AREA RATIOS**

GENERAL LAND USE CATEGORIES	ZONING DISTRICT 1	ZONING DISTRICT 2	ZONING DISTRICT 2M	ZONING DISTRICT 3	ZONING DISTRICT 3S	ZONING DISTRICT 4	ZONING DISTRICT 5	ZONING DISTRICT 5H	ZONING DISTRICT 6	ZONING DISTRICT 7	ZONING DISTRICT 8
Multiple-Family Residential	-	-	-	0.25	0.25	0.50	0.60	0.60	6.00	3.00	-
Institutional	-	0.25	0.25	0.50	0.50	0.50	0.50	0.50	3.00	0.40	-
Public Services	-	0.25	0.25	0.40	0.40	0.50	0.60	0.60	1.00	0.50	0.50
Office	-	-	-	0.25	0.25	0.60	0.60	0.60	6.00	-	-
Retail Trade/Business & Personal Service Est.	-	0.15	0.15	0.25	0.25	0.60	0.60	0.60	0.75	0.60	-
Parking Garages or Structures	-	-	-	-	-	-	-	-	3.00	2.75	-
Auto-Oriented Commercial/Home Building Supply Outlets	-	-	-	-	0.25	0.25	-	-	-	0.25	0.25
Shopping Centers	-	-	-	0.25	0.25	0.35	-	-	-	0.35	-
Industry	-	-	-	-	-	0.60	-	-	-	-	0.50
Wholesale/Warehousing/Distribution	-	-	-	-	-	0.50	-	-	-	-	0.50
Hotels	-	-	-	0.35	0.35	0.50	-	-	6.00	3.00	-
Bed & Breakfast Inns	-	-	-	0.25	0.25	0.50	1.00	1.00	1.00	0.35	-
Tourist Attractions	-	-	0.35	-	-	0.35	0.50	0.50	-	0.35	-
Entertainment Activities	-	-	-	-	-	0.35	-	-	0.75	0.35	-

Example of how Commercial Development is to be accommodated in Residential Areas (Zoning Districts 2 & 3)



3. Supplemental Standards for Drive-Through Facilities

- a. Purpose: Supplemental standards are provided for uses with drive-through facilities to ensure protection from potential traffic hazards. These standards are to be applied in addition to all other applicable standards of the Zoning Code.
- b. Standards
 - (1) Driveways proposed to service commercial development shall be separated seventy-five (75) feet or more between properties. Where driveways are each one-way and each no more than twelve (12) feet wide, the two driveways shall be counted as a single unit. When, because of existing development, it is mathematically impossible to achieve this requirement for a proposed commercial project, the applicant shall attempt to secure an access easement from an adjoining commercial development. If this is impossible to secure (as evidenced by a written denial by both adjoining property owners of the request), the Zoning Official may permit a waiver of this requirement. However, in doing so, any new access driveway shall be located as far as possible from all existing access drives.
 - (2) Approach lanes for the drive-through facilities shall have the following minimum widths: one (1) lane - twelve (12) feet; two (2) or more lanes - ten (10) feet per lane.
 - (3) Minimum distance for stacking of automobiles in the drive-through window lanes (measured from the commercial window at the building location):
 - (a) One drive - through window = 110 feet
 - (b) Two drive - through windows = 110 feet
 - (c) Three drive - through windows = 95 feet
 - (d) Four drive - through windows = 80 feet
 - (e) Five drive - through windows = 65 feet
 - (4) The minimum distance from the proposed drive-through facility to the right-of-way shall be sixty-five (65) feet, where no turns are required. This distance shall be measured from the drive-through station farthest from the main building. Where turns are required in the exit lane, the minimum distance from any drive-through window to the beginning point of the turn shall be thirty-four (34) feet. The minimum turning radius shall be seventeen (17) feet.
 - (5) The minimum distance from a drive-through facility to any residential building shall be twenty-five (25) feet. This distance shall be measured at the narrowest point between the main building, an off-street parking area, or vehicle lanes, whichever is closer.
 - (6) Alleys or driveways in residential areas adjacent to drive-through facilities shall not be used for circulation of customer traffic.

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- (7) Entrances and stacking lanes for drive-through stations shall not cross or be crossed by pedestrian accessways.

4. Supplemental Standards for Mixed Use or Split Use Development

- a. When a parcel of land is proposed to accommodate a building that contains two (2) or more uses in Zoning Districts 3, 3S, 4, 5, 5H or 6, it shall not be necessary that the minimum land area requirements for each use be met.
- b. However, where a building containing two (2) or more uses is proposed to be built, the following conditions must be met:
- (1) Every use or activity proposed to be included is allowed in the Zoning District where the building is proposed to be built;
 - (2) The minimum lot area, dimensional and density requirements (setbacks, lot coverage, etc.) for the most restrictive use proposed in the building must be met;
 - (3) To complete the number of off-street parking spaces required for such a development, it will be necessary to calculate the requirements for each use and total them (unless it is demonstrated that certain proposed future uses cannot utilize the parking area at the same times - i.e., schools and churches); and
 - (4) If off-street loading and unloading space(s) is required for any use, it must be provided.

C. Off - Street Parking and Loading Standards

1. Purpose and Intent: Off-street parking areas are required for all new uses of land so that all uses will have adequate parking for the occupants, employees, visitors, customers, and/or patrons and they will not have to rely on the public rights-of-way for this function.

Off-street loading areas are required for all uses (except residential) to provide adequate space off of the Territory's rights-of-way for the temporary parking of motor vehicles (primarily trucks) while loading or unloading.

2. General Requirements: No building or structure in any district shall be erected or enlarged, nor shall any building, structure or land be used, designed or arranged for any purpose without provisions for such off-street parking and/or loading facilities as required by the Zoning Code, nor shall any off-street parking or loading area, whether required by the Zoning Code or voluntarily provided, be developed other than in the manner set forth in the Zoning Code.

For the purpose of these standards, one hundred fifty-three (153) square feet of area, shall be deemed a parking space for one (1) vehicle. The minimum dimensions for each parking space shall be eight and one-half (8.5) feet wide by eighteen (18) feet long. The maximum permitted dimensions for each parking space (except for designated handicapped spaces) shall be ten (10) feet wide by twenty (20) feet long. On corner or through lots, (1) parking space may not be included within the area of any of required yards lying adjacent to either street, and (2) in no case shall any required off-street parking space be allowed to back out directly onto any right-of-way, public or private (a residential garage or carport space shall be considered an off-street parking space).

The access aisles within any off-street parking area shall be a minimum of twenty-two (22) and a maximum of twenty-four (24) feet wide. The primary internal circulation system of an off-street parking lot, where no parking spaces are provided directly off this internal roadway, shall have a maximum width of thirty (30) feet.

All parking spaces and access driveways shall be paved or otherwise surfaced with an all-weather surface, and shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area. An all-weather surface shall include paving blocks with grass planted between the blocks. No surface water from any parking area shall be permitted to drain onto adjoining property.

Required loading spaces shall not be construed as supplying off-street parking space. In case of a use not specifically mentioned, the requirements for off-street parking facilities for a use that is mentioned, and to which said

unmentioned use is similar, shall apply, the determination to be made by the Zoning Official.

3. **Timing of the Provision of Required Off-Street Parking and Off-Street Loading Spaces:** Off-street parking and loading spaces shall be provided at the time any use of land is established; or at the time that an Occupancy Permit is requested at the completion of construction of any building or structure; or at the time any building, structure, or land is altered or enlarged in any manner to increase the amount off-street parking or loading spaces as required by the Zoning Code. However, when the use of any building or land existing at the time of adoption of the Zoning Code is changed to a use in which the parking requirements are calculated differently from the method of calculation for the former use, only such additional parking as may result by reason of the different calculation need be provided for the changed use.
4. **Requirement to Retain Off-Street Parking and Loading Space:** The requirements for off-street parking and loading shall be a continuing obligation of the owner or his assignee of the real estate on which any use is located as long as the use continues, and is a use that requires off-street parking or loading. It shall be unlawful for an owner of any building or land use activity affected by the off-street parking and loading requirements to discontinue, change, reduce or dispense with, or cause the discontinuance, change, or reduction of the required off-street parking or loading space. It shall be unlawful for any individual, firm, or corporation to use such building or land without acquiring such area as is required and permitted to fulfill the off-street parking and loading requirements. Whenever off-street parking is required and cannot be provided on the same lot as the principal building, and is located on another parcel or property provided for and utilized for off-street parking, said parcel of property shall be owned by the owner of the principal building or, in the alternative, shall be restricted by a recorded agreement to off-street parking purposes during, or as long as off-street parking is required for such principal building, in accordance with the terms of the Zoning Code.
5. **Permitted Reductions in Off-Street Parking Requirements:** Off-street parking space required under these standards may be reduced at the time the capacity or use of a building is changed in such a manner that the new use or capacity would require less space than before the change. Such reduction may not be below the requirements set forth in these standards.
6. **Location of Off-Street Parking and Loading Areas:** The required off-street parking and loading areas shall be located on the same lot or parcel of land they are intended to serve. However, if the required off-street parking spaces cannot be provided, in whole or in part, on the same lot on which the principal building is located, such required off-street parking may be located on another lot or parcel of land within one thousand (1,000) feet of the premises to be served, provided:

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- a. The owner of such parking area enters into a written agreement with the Department of Land Management providing that the land comprising the parking area shall never be disposed of, nor the use changed, except in conjunction with the sale of the building that the parking area serves, so long as the facility is required; and
 - b. The owner agrees to bear the expense of recording the agreement and agrees that said agreement shall bind his heirs, successors, and assigns.
7. **Limitations on Vehicular Storage:** Except as otherwise provided in this Section, off-street parking spaces required herein may be occupied by the occupants, employees, or patrons of the property or by visitors, or by delivery vehicles incidental to the principal use, but not by vehicles being repaired, stored or displayed for sale or hire.
 8. **Determination of Seating Capacity at Places of Assembly:** In stadiums, sport arenas, houses of worship and other places of assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each twenty (20) inches of such seating facilities shall be counted as one (1) seat for the purpose of determining requirements for off-street parking facilities.
 9. **Collective Off-Street Parking Provisions:** Nothing in these standards shall be construed to prevent the collective provision of off-street parking facilities for two (2) or more structures or uses, provided that the total of such off-street parking spaces supplied collectively shall not be less than the sum of the requirements for the various uses computed separately; provided also that the requirements set forth hereinbefore as to maximum distances between parking facilities and principal structures or uses served shall apply to each structure or use participating in the collective provisions for parking.
 10. **Joint-Use Parking Requirements**
 - a. **Places of Public Assembly:** Parking spaces already provided to meet off-street parking requirements of stores, office buildings, schools, and industrial establishments, situated on the same site as places of public assembly, and that are not normally in use between the hours of 6:00 P.M. and midnight and are made available for other parking, may be used to meet not more than fifty (50) percent of the total requirements of parking spaces. Written agreement is required for such joint-use parking arrangements between the officials of the place of public assembly and the owner or manager of the other development and parking area on the site.

b. **Mixed Use Developments:** In the case of mixed uses (such as shopping centers), the total requirements for off-street parking facilities shall be the sum of the requirements for the various uses computed separately. Off-street parking facilities for one use shall not be considered as providing required parking facilities for any other use, except as specified above for joint use.

11. **Off-Street Parking Requirements for Retail Trade, Personal Service, and Business Service Establishments and Offices, Hotels, Night Clubs, and Health Clubs in Zoning Districts 5, 5H and 6.**

To promote more compact urban settlements in Guam, especially in Agana and the villages in the southern portion of the island, the Territorial Government is encouraging the development of activity nodes that require less of a reliance on the private automobile. To that end, as can be seen in the Tables of Dimensional and Density Requirements for Zoning Districts 5, 5H and 6, front and side yard setbacks are not required for retail trade, personal service, and business service establishments and offices, night clubs, and health clubs. In furtherance of this goal, the off-street parking requirements for these categories of uses, as well as hotels, as contained in Table 9 of this Section are reduced by fifty (50) percent when they are proposed to be located in Zoning Districts 5, 5H and 6.

12. **Development and Maintenance of Off-Street Parking Areas:** For every parcel of land hereafter used, off-street parking shall be developed and maintained by the owner in accordance with the following requirements:

- a. **Minimum Distances and Setbacks:** No part of any parking area, for five (5) or more vehicles, shall be closer than ten (10) feet to any dwelling, school, hospital, or other institution for human care. If on the same lot with a principal structure, the parking area shall not be located within the front yard or side street yard setback area required for such structure.
- b. **Bumper Guard and/or Bollard Requirements:** There shall be provided a bumper guard and/or bollard of either wood, metal or concrete not more than two (2) feet in height and securely anchored into the ground on all sides of the parking area where there is required a protective fence or wall. Any required bumper guard and/or bollard shall be located at such distance so that automobiles will not strike the protective fence or wall. As an alternative, a concrete beam serving the same purpose may be provided.
- c. **Off-Street Parking Area Surfacing Requirements:** Any off-street parking area for more than five (5) vehicles shall be surfaced with an asphaltic, bituminous, cement, or other properly bound pavement, or a combination of stone or brick pavers and grass planted between the pavers, so as to provide a durable and dustless surface, and shall be graded and drained so as to dispose of all surface water accumulation within the off-street parking area.