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- d. Lighting: Any lighting used to illuminate any off-street parking area shall be so arranged as to reflect the light away from adjoining premises used for residential purposes in any district.
  - e. Entrance, Exit, and Maneuvering Space: Vehicular drives providing entrance and exit to the street system from the off-street parking area shall have a minimum pavement width of twenty-two (22) feet. This requirement shall not apply to single family detached residences. The left turn radius on the side of the driveway exposed to entry or exit by left-turning vehicles shall be a minimum of seventeen (17) feet. Maneuvering areas shall be sufficient to permit vehicles to enter and leave the parking lot in a forward motion except for single family detached dwelling units.
  - f. Other Design Requirements
    - (1) Off-street parking areas for all developments shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing up unreasonable distances, or making other dangerous or hazardous turning movements.
    - (2) Circulation areas for off-street parking lots shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles, and without adversely interfering with the normal functioning of the parking lot.
    - (3) The parking spaces shall be appropriately demarcated with painted lines or other markings.
    - (4) Off-street parking areas shall be properly maintained in all respects. They shall be kept in good condition (free from pot holes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.
    - (5) Handicapped parking spaces shall be provided in all required off-street parking areas, at a rate of 2% of the total required parking spaces, but in no case less than one space, and adequately posted to be in conformance with all appropriate federal and Territorial laws.
    - (6) No speed-bumps shall be installed within one hundred (100) feet of the point of access from the off-street parking lot to the street.
13. Plan Requirement: A plan shall be submitted to the Zoning Official with every development permit application for any building or use that is required to provide off-street parking and loading. The plan shall accurately depict the required number and location of parking spaces, other spaces in excess of the requirements, access aisles, driveways, vehicle turn-around or backup areas, areas designated for trash collection, off-street loading spaces (if required), the distance of the off-street parking facilities to the structure or uses they are intended to serve, as well as the relationship of the parking lot to the street system into which the motor vehicles utilizing the parking areas will discharge.

14. Minimum Required Off-Street Parking Spaces: The minimum number of required off-street parking spaces shall be determined from the following Table, except for the provisions enumerated in Paragraph 11. of this Section. Requirements for any use not specifically mentioned shall be the same as the use most similar to the one sought. When units of measurement determining the required off-street parking spaces result in a fractional space, then such fraction equal to or greater than one-half (1/2) shall be interpreted as one (1) off-street parking space.

15. Off-Street Loading Space Requirements

- a. On the same premises with every building, structure or part thereof erected and occupied for manufacturing, storage, warehousing, goods display, department store, wholesale store, retail sales outlet, hotel, hospital, mortuary, laundry, dry cleaning, or other uses similarly involving the receipt and distribution of vehicles, materials, or merchandise, there shall be provided and maintained on the lot adequate space for standing, turning, loading and unloading services to avoid interference with the public use of the streets and alleys.

Each such loading and unloading space shall be an area at least twelve (12) by fifty (50) feet with a fifteen (15) foot height clearance, and shall be provided as specified below for gross non-residential (hotel rooms shall be defined as residential floor area for the purposes of this requirement) floor area, except that:

- (1) No spaces are required for structures with less than ten thousand (10,000) square feet of gross floor area;
  - (2) One (1) space is required for structures with more than ten thousand (10,000) but less than twenty thousand (20,000) square feet of gross floor area.
  - (3) Additional off-street loading spaces shall be provided at a rate of one (1) space for each additional twenty thousand (20,000) square feet or increment thereof.
  - (4) No more than seven (7) loading spaces shall be required, except for warehouse and industrial buildings.
- b. Loading and unloading areas shall be so located and designed that the vehicles intended to use them can maneuver safely and conveniently to and from the roadway serving the property, and the loading/unloading operations can be completed without obstructing or interfering with any roadway traffic or any off-street parking space or parking lot aisle.

- c. No area allocated to loading/unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for off-street loading/unloading facilities.

**Table 9  
TABLE OF OFF-STREET PARKING REQUIREMENTS**

Use	Parking Requirement
<b>RESIDENTIAL DEVELOPMENT</b>	
Single Family Dwelling Units	2 spaces per dwelling unit
Two-Family Dwelling Units	2 spaces per dwelling unit, except that one bedroom units shall require 1 space per unit
Attached Housing	2 spaces per dwelling unit, except that one bedroom units shall require 1 space per unit
Multiple-Family Dwelling Units	1 space per one bedroom unit, or 2 spaces for each two to four bedroom unit
	3 spaces for each five bedroom or larger unit
Residential Treatment Facilities	3 spaces for each 5 beds, except for uses exclusively serving children under 16 years of age, in which case 1 space for every 3 beds shall be required
Boarding/Rooming Houses	1 space per bedroom
Barracks	1 space for each 5 beds
Dormitories	1 space for each 4 beds
Hotels and Similar Uses Providing Overnight Accommodation (more than 100 rooms)	1 space for each 3 rooms available for rent, plus 1 space for each two employees, plus space to accommodate 40% of the rated capacity of all banquet/meeting rooms (1 space for every 100 square feet of floor area of banquet/meeting rooms), plus 50% of the required parking for restaurants (if any are provided), as determined by the measurement criteria for restaurants in this Table, plus space to accommodate 75% of the rated capacity of discos (15 square feet per occupant), plus 1 designated taxi parking space for every 50 rooms, plus designated rental car storage space, as per written agreements with rental car agencies (in the event that there is not written agreement between a proposed hotel with at least 100 rooms and a car rental agency at the time an application is submitted for approval, the applicant shall indicate on the plans 5 car rental spaces for each 100 rooms).

Hotels and Similar Uses Providing Overnight Accommodation (100 rooms or less)	1 space for each room available for rent, plus 1 space for each two employees working at any one time.
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**RETAIL COMMERCIAL ESTABLISHMENTS**

Convenience Stores	1 space per 200 square feet of Gross Floor Area
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Grocery Stores/Super Market Drug Store/General Merchandise	1 space per 150 square feet of Gross Floor Area.
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Other Retail Sales Establishments	1 space per 400 square feet of Gross Floor Area.
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Eating and Drinking Places (no Drive-In or Fast Food)	1 space per 200 square feet of Gross Floor Area
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Drive In or Fast Food Restaurant	1 space per 400 square feet of Gross Floor Area
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Auto Service Station	1 space per 200 square feet of Gross Floor Area, plus sufficient space to accommodate vehicles at pumps without interfering with other parking spaces.
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Auto Repair/Maintenance/Tire Replacement	1 space per 200 square feet of Gross Floor Area
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Auto Sales (Display/Showroom Area Only)	1 space per 1,000 square feet of Gross Floor Area
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<b>BUSINESS/PROFESSIONAL OFFICES/BANKS</b>	1 space per 200 square feet of Gross Floor Area
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**EDUCATIONAL FACILITIES**

Pre-Schools/Day Care	1 space per Classroom, plus 1 space for each 10 students (based on the rated capacity of the facility)
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Primary and Middle Schools	1.75 spaces per Classroom, plus 1 space for each 8 students (based on the rated capacity of the facility)
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Secondary Schools	5 spaces per Classroom, plus 1 space for each 5 students (based on the rated capacity of the facility)
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Colleges/Universities	1 space per 150 sq.ft. of schools gross floor area
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Business/Trade/Vocational	1 space per 200 square feet of Schools Gross Floor Area
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**PUBLIC AND INSTITUTIONAL FACILITIES**

Hospitals	1 space per Bed, or 1 Space per 250 square feet of Gross Floor Area, whichever is greater
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Nursing, Resting, Convalescent Homes	1 space for every 1 Bed
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**TABLE OF OFF-STREET PARKING REQUIREMENTS (continued)**

<b>Use</b>	<b>Parking Requirement</b>
Penal/Correctional Facilities	1 space for every 4 inmates, based on the rated capacity of the facility
Post Offices	1 space per 50 square feet of Gross Floor Area
Government Offices/Court	1 space per 250 square feet of Gross Floor Area
Public Safety Facilities	1 space per 200 square feet of Gross Floor Area
Houses of Worship/Places of Assembly	1 space for every 4 seats (Fixed) 1 space for each 100 sq.ft. Gross Floor Area (Non-Fixed)
Libraries	1 space per 500 square feet of Gross Floor Area
<b>RECREATIONAL FACILITIES</b>	
Territorial Parks and Recreational Areas	1 space per 5,000 square feet of Land Area, plus 1 bus parking space for any facility over 2 acres that contains active recreation elements including public swimming pools, ball fields, basketball courts and play equipment
Golf Courses	4 spaces per hole, plus 1 space for each 200 sq.ft. for office/lobby/pro-shop/health club/clubhouse/lounge/snack bar/dining/meeting room areas, and 50% of normal requirements for exterior recreation uses including swimming pools, golf driving ranges, and tennis courts.
Docks for Day-Tour Boats	1 space for every 4-boat passenger spaces, plus 2 tour bus parking spaces
Marina	2 space per boat berth
Boat Ramps	20 spaces per boat ramp lane*
Cockfighting Arenas	1 space for every 2 seats
Sports Stadiums	1 space for every 3 seats, plus 10 bus parking spaces

\*Each off-street parking space at a Boat Ramp shall be a minimum of eight and one-half (8.5) feet wide by forty (40) feet long to accommodate a motor vehicle and its boat trailer.

**TABLE OF OFF-STREET PARKING REQUIREMENTS (continued)**

Use	Parking Requirement
<b>OTHER FACILITIES/DEVELOPMENT</b>	
Veterinarians/Kennels/Animal Hospitals	1 space per 300 square feet of Gross Floor Area
Health Care Facilities	1 spaces for each 200 sq.ft. of gross floor area
Museums/Art Galleries	1 space for each 300 sq.ft. of floor area open to the general public
Sanitary Landfill	1 space for each 5 acres of land area
Dry Cleaners/Laundromat	1 space per 200 square feet of Gross Floor Area
Manufacturing/Assembling/ Fabrication Operation	1 space for every 2 employees on maximum shift, or 1 Space per 400 square feet of Gross Floor Area, whichever is greater
Agricultural Operations	1 space for each acre of land area
Greenhouse/Nursery Operations	1 space per 1,000 square feet of lot area used for storage, display, or sales, plus 1 Space per 400 square feet of Gross Floor Area
Airports	1 space per 3,000 annual enplaned passengers.
Warehousing/Storage/Wholesale	1 space for every 2 employees on maximum shift, but not less than 1 space per 2,000 square feet of Gross Floor Area
Zoological Parks	3 spaces for each animal display area (for large animals), plus 1 space for each 100 square feet of building space, wherein the building is devoted to displaying animals and/or fish species in a collective manner, such as an aquarium, bird house, etc.

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**D. Sign Standards**

1. Purpose: The purpose of these Standards is to control all exterior signs to protect the safety and welfare of the residents of Guam and to promote the aesthetic character of the Territory through a system of consistent and non-discriminatory sign standards and requirements. These Standards are intended to:
  - a. Enable the identification of places of residence, business, and industry;
  - b. Encourage signs that are appropriate to the zoning district in which they are located and consistent with the category of use to which they pertain;
  - c. Reduce the size and number of signs to the minimum number necessary to identify a business or industrial location;
  - d. Establish appropriate sign sizes that relate to the scale of the lot and building on which the sign is to be placed or to which it pertains;
  - e. Regulate signs in such a manner so as to not interfere with, obstruct the vision of, or distract motorists or pedestrians;
  - f. Preclude signs from conflicting with the principal permitted use of the site or adjoining sites;
  - g. Require signs to be constructed, installed, and maintained in a safe and satisfactory manner; and
  - h. Preserve the aesthetic beauty of the Territory of Guam.
2. Scope: These Standards shall apply to the construction, erection, alteration, installation, placement, reconstruction, use, location, size, number, and maintenance of all signs, including free-standing, wall, portable, attached, ground and political signs that will be installed subsequent to the enactment of these Standards.
  - a. Exceptions: Signs not visible beyond the boundaries of the lot or parcel on which they are located or from any public right of way, shall be exempt from the provisions of these Standards, except for the construction, illumination, and safety requirements.
  - b. Permits Not Required: All provisions of these Standards shall apply to the following signs:

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- (1) Temporary, non-illuminated real estate signs that are no more than three (3) square feet in area, and whose purpose is to advertise the sale or rental of premises upon which the sign is located;
  - (2) Temporary non-illuminated signs erected in connection with new construction activity, when such signs do not exceed sixteen (16) square feet in area, are displayed only during the period that actual construction is being done, and are located only at the actual construction site. The sign may identify the architect, engineers, contractors, and other firms involved in the construction project, but not any advertisement of any product used in the construction activity;
  - (3) Private or commercial name plate identification signs, or combination name plate and street identification signs, or trespass signs when such signs do not exceed two (2) square feet.
  - (4) Signs for events of an island-wide nature. Such signs shall be removed within forty-eight (48) hours after the conclusion of the event.
  - (5) Temporary, non-illuminated signs announcing family events such as funerals or rosaries that are no more than three (3) feet in area.
3. Enforcement: It shall be unlawful to erect, place, construct, reconstruct, alter, maintain, or move any sign except as provided herein.
- a. Maintenance: Every sign including, but not limited to, those signs for which permits or for those for which no permits are required, shall be maintained in a safe, presentable, and good structural condition at all times. This shall require the replacement of defective parts, painting, repainting, cleaning, and other necessary actions to maintain these signs in a satisfactory condition. The owner of any property on which a sign is located and those responsible for the maintenance of the sign shall be equally responsible for the keeping of the sign and its immediate environs in a clean, safe, and sanitary condition, free from noxious or offensive substances, rubbish, and flammable materials. If the owner or his authorized agent does not comply with the above standards and requirements with regard to any existing sign, said sign shall be removed immediately by the owner in accordance with these Standards.
  - b. Abandoned Signs: Except as otherwise provided in these Standards, any sign that is located on property or on a building or structure which becomes vacant and is unoccupied for a period of three (3) months or more shall be deemed to have become abandoned. Permanent signs applicable to a business temporarily suspended because of a change of ownership or management shall not be deemed to be abandoned unless and until the property, building, or structure has been vacant for a period of one hundred eighty (180) calendar days or more. An abandoned sign is prohibited under these regulations and shall be removed by the owner or his authorized agent upon notification by the Zoning Official's Office within thirty (30) working days of such notification.



- c. **Dangerous or Defective Signs:** No person shall maintain or permit to be maintained on any premises owned by him any sign that is deemed to be in a dangerous or defective condition. Any such sign shall be removed or repaired by the owner of the premises or the owner of the sign, or their authorized agent, upon notification by the Zoning Official's Office within thirty (30) working days of such notification.
- d. **Removal of Signs by the Zoning Official's Office**
- (1) The Zoning Official's Office shall cause to be removed any sign that endangers the public safety, such as an abandoned, dangerous, electrically or structurally defective sign, or a sign for which a permit is required and none has been issued. The Zoning Official's Office shall prepare a notice that describes the sign, specifies the violation, and states that, if the sign is not removed or the violation is not corrected within thirty (30) working days, said sign shall be removed by the Zoning Official's office at the owner's expense.
  - (2) All notices issued in conformance with this Section by the Zoning Official's Office shall be hand delivered or sent by certified mail. The time periods specified in this Section shall be deemed to have commenced on the date of receipt of the notice of the certified mail. Notices shall be mailed or delivered to the owner of the property on which the sign is located, as shown on the most recent tax rolls. The notice shall also be sent via certified mail to the owner of the sign (if different than the owner of the property), if the sign owner's name and address are available on the sign permit. If the Zoning Official's Office is unable to reach the owner of the property or the sign via certified mail or by delivery of the notice, they shall post the premises with a notice of violation. The thirty (30) working day time period for removal or correction stipulated in this Section shall be deemed to have begun on the day of the posting of the notice.
  - (3) Any person having an interest in any such affected sign may appeal the determination of the Zoning Official's Office ordering removal or correction by filing a written notice of appeal with the Territorial Land Use Commission within ten (10) working days of receipt of the notice.
  - (4) Notwithstanding the above, in cases of emergency, the Zoning Official may cause the immediate removal of a dangerous or defective sign without notice.
- e. **Liability:** The provisions of these Standards shall not be construed as relieving or limiting in any way, the responsibility or liability of any person owning or erecting a sign for personal injury or property damage resulting from the placement of a sign or from the negligence or willful acts of such persons, their agents, employees, or workmen in the construction, maintenance, repair, or removal of any sign in accordance with a permit

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issued pursuant to these Standards. Nor shall they be construed as imposing upon the Territorial Government or its offices or employees any responsibility or liability by reason of the approval of any signs, materials, or devices under the provisions of these Standards.

4. Permits, Plans, Fees, and Inspections: It shall be unlawful to display, erect, relocate, or alter any sign except for those provided in these Standards without first filing with the Zoning Official's Office an application in writing and obtaining a sign permit. When such a permit has been issued, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms and conditions of said permit without prior written approval from the Zoning Official. A written record of such approval shall be entered upon the original permit application and a copy shall be retained by the Zoning Official.
  - a. Application for Permit: An application for a sign permit shall be made by the owner of the property or his authorized agent, except for political signs. The permit application shall contain a legal description of the property where the sign is proposed to be located; the name, address, and telephone number of the owner or his/her authorized agent; the name, address, and telephone number of the sign installer/erector; the type of sign surface area, and value of the sign proposed; the signature of the applicant; a drawing to scale showing the design and location of the sign, and an indication as to the material to be used to construct the sign, its color, and how it is proposed to be affixed to the property; its translation, if not in English or Chamoru, and any other pertinent information deemed necessary by the Zoning Official's Office to ensure compliance with these Standards.
    - (1) Statement of Authorization: Any application for a sign permit that is signed by an individual other than the property owner shall be accompanied by a notarized statement of authorization consenting to the sign placement by the owner of record or, if the property or building upon which the sign to be located is leased, a copy of the executed lease shall accompany the application form. In the event that the building or property is leased and the application form is signed by an individual other than the lessor of record, the application shall be accompanied by a notarized statement of authorization signed by the lessor consenting to the sign placement and a copy of the executed lease.
    - (2) Plans and Specifications: Plans and specifications for any proposed sign shall be prepared and submitted in triplicate to accompany the application. Such plans and specifications shall be drawn to scale and, at a minimum, include the following:
      - (a) Sign dimensions;
      - (b) Lot frontage on all public rights of ways;

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- (c) Maximum and minimum height of the sign, as measured from the finished ground floor grade;
  - (d) The location of the sign in relation to property lines, public rights of way, easements, buildings, and any other existing signs on the property;
  - (e) Dimensions of the sign's supporting members;
  - (f) For illuminated signs, the type, placement, intensity, and proposed hours of operation; and
  - (g) All construction and electrical specifications, if any, of the proposed sign.
- (3) Existing Signs: The number, type, location, and surface area of all existing signs on the same property and/or building upon which the proposed sign is to be located shall be indicated.
- (4) Revocation of Permit: If the work involving the erection of any sign is found, upon inspection, to not be proceeding in accordance with the drawings and specifications contained in the sign permit application, and/or is proceeding in violation of these Standards, or any other codes and laws of the Territory, the owner or his/her authorized agent shall be notified of the violation in writing by the Zoning Official's Office. If the owner or his authorized agent fails or refuses to make corrections within thirty (30) working days of being notified, it shall be the duty of the Zoning Official's Office to revoke such permit and serve notice upon such owner. It shall be unlawful for any person to continue with any work associated with sign erection/installation after such notice is issued.
- (5) Revocation of Permit for Non-Use: If work has not commenced within ninety (90) working days from the date of the issuance of the sign permit, the permit shall become null and void. If construction of a sign has commenced under a sign permit, but is then suspended for a period of at least sixty (60) working days, such permit shall become null and void. If any sign permit has been declared null and void and the owner, developer, or tenant decides to reinstate action on the construction/installation of the sign, it shall be necessary for him/her to reapply in writing for a new permit. All requests for extensions of the time limit and all approvals (or denials) for these requests shall be in writing.
5. Inspection: The Zoning Official's Office may make or require any inspections of any sign construction or installation to ensure compliance with these Standards and other pertinent laws.

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6. Structural Requirements and Sign Design

a. Compliance with Other Codes: All signs hereafter erected shall comply with all applicable provisions of all other codes as related to structural design.

b. Other Specifications

- (1) Any sign erected, displayed or maintained pursuant to these Performance Standards that contains a message in a language other than Chamoru or English shall include an accurate translation in the Chamoru or English language that shall be printed on the sign in Roman alphabet characters. The Chamoru Language Commission shall assist in the translating and shall provide a written approval to the Zoning Official's Office for existing and new signs. The Chamoru or English translation must predominate the sign.
- (2) No sign shall be erected or installed so as to obstruct any fire escape, required exits, or window or door opening intended as a means of egress from a building.
- (3) No sign shall be erected or installed that interferes with any opening required for ventilation.
- (4) No sign shall be erected or installed that creates a potentially unsafe situation because of its proximity to electrical conductors.
- (5) Signs and their supporting structures shall maintain clearance and non-interference with all surface and underground facilities and conduits for potable water, wastewater, gas, fuel, electricity, or communications equipment or lines. The placement of any sign shall not interfere with any stormwater drainage facility or channel.
- (6) No visible angle or other supporting frame structure for the support of projecting, roof, and/or canopy signs are prohibited except for structures designed to be an integral part of the sign.

7. Animation: No sign shall have any moving parts, including signs set in motion by the atmosphere.

8. Banners and Pennants: Banners and pennants shall not be permitted in any Zoning District, except for non-profit or Government of Guam sponsored activities with no commercial messages or for the announcement of village fiestas where specifically allowed under the terms of these Standards.

9. Churches, Public and Quasi-Public Institutions: Identification signs for churches and public and quasi-public institutions shall not exceed a surface area of sixteen (16) square feet. Such signs may only be non-illuminated, internally illuminated, or indirectly illuminated.

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10. **Combination Signs:** The thickness between the principal facades of any combination (or double-faced) sign shall not exceed twenty-two (22) inches when such sign is of solid construction. Combination signs shall be prohibited for all residential uses.
  11. **Directional Signs:** Directional signs may be located in any Zoning District; however, they shall be located entirely on the property for which they are providing directional information. Such signs shall not exceed three (3) square feet in area, and shall be installed so that the top of the sign is not more than three (3) feet above the ground. A maximum of fifteen (15) square feet of directional sign area shall be permitted per business. Directional signs shall include only directional information (i.e., one-way routes, location of parking, location of delivery areas, etc.), and not provide any commercial information or the advertising of any product or business.
  12. **Electrical Signs:**
    - a. All electrical signs shall be constructed of incombustible material.
    - b. All electrical wiring, connections, and apparatus pertaining to the installation and/or maintenance of any electrical sign must be installed and maintained by an electrician licensed by the Government of Guam.
  13. **Ground Signs:** Ground signs shall have a minimum ten (10) foot setback from any property line adjacent to a public right of way, unless the bottom of said ground sign is at least ten (10) feet above grade. No portion of any such sign shall project into a public right of way.
  14. **Identification of Signs:** All signs requiring a permit shall have a permanent weatherproof identification plate affixed to the exterior of the sign structure such that it may be readily seen when the sign is installed, and shall indicate:
    - a. The name of the fabricator of the sign.
    - b. The name of the erector of the sign.
    - c. The sign permit number.
    - d. The date of erection or installation of the sign.

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15. Illumination

- a. The types of illuminated signs that are allowed under the terms of these regulations include, but are not limited to:
  - (1) Reflective signs, where the sign itself is neither lighted internally nor has an external source of light specifically directed at it. This type of sign depends on the general lighting of the area for its illumination.
  - (2) Internally illuminated signs, where the sign message areas is constructed of any translucent material and has internal lighting.
  - (3) Signs which are illuminated by spotlights, with the lighting specifically directed to the wording on the sign.
- b. The light from any illuminated sign shall be so shaded and shielded that the light intensity or brightness will not be objectionable to surrounding properties.
- c. All external illumination shall be directed downward and shielded so that only the sign for which the lighting is intended to be highlighted shall be accomplished.
- d. Neither the direct nor reflective light shall create a traffic hazard to operators of motor vehicles.
- e. No sign shall have blinking, flashing, or fluttering lights or other illumination devices which has a changing light intensity, brightness, color, or direction. Strobe lights are not permitted.
- f. No searchlights may be used for advertising purposes.
- g. Property sale, lease, rental, and construction project signs shall not be illuminated.
- h. No colored lights shall be permitted at any location or in any manner that could create confusion with or be construed to be traffic control devices.

16. Landscaping: The purpose of this Subsection is to establish aesthetic standards that will lead to an attractive appearance along public rights of way through the use of landscaping.

- a. A landscaped area shall be provided and maintained in a neat and orderly manner at the base of every ground sign, in addition to any other required landscape standards.

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- b. Said landscaped area shall contain a minimum of one (1) square foot for each square foot of sign surface area.
  - c. Real estate, permitted banners and pennants, village fiesta, all permitted temporary signs, and political signs are exempt from this requirement.

#### 17. Sign Locations

- a. No sign shall be attached to a gutter, drainpipe, or fire escape, nor shall any sign be installed that impedes access to a roof.
- b. No sign shall be installed in any location where, by reason of its position, it will obstruct the view of any authorized traffic signal, sign, or other traffic control device.
- c. No sign, except for political signs, shall be attached to any tree or utility pole.
- d. All signs, except for political signs and temporary non-commercial social event signs, shall pertain to a permitted use on the property upon which they are installed.
- e. No business, office, or industrial use shall have more than two (2) signs per public right of way frontage.

#### 18. Sign Dimensions

- a. Construction or Development Signs: One (1) sign shall be permitted on any construction or development site. The maximum sign size shall not exceed sixty-four (64) square feet. Development or construction signs shall be approved for installation on any site by the Zoning Official's Office only after a site plan for the development of that site has been approved by the Zoning Official.

- b. Ground Signs and/or Pole Signs: The maximum surface area for a ground sign shall not exceed sixty-four (64) square feet per side, for a total of one hundred and twenty-eight (128) square feet maximum, and shall have a maximum height of twenty (20) feet as measured from the ground to the highest point of the sign. In addition to the general dimensional requirements stated above for pole and/or ground signs, the following standards shall apply:

**Table 10**  
**Maximum Ground or Pole Sign Area Permitted**  
**as Related to the Width of a Structure**

<i>Structure Width</i>	<i>Maximum Sign Area</i>
Twenty-Five (25) feet or less	Thirty-two (32) square feet per side.
More than twenty-five (25) feet but less than fifty (50) feet per side.	Forty-eight (48) square feet
Fifty (50) feet or more	Sixty-four (64) square feet per side.

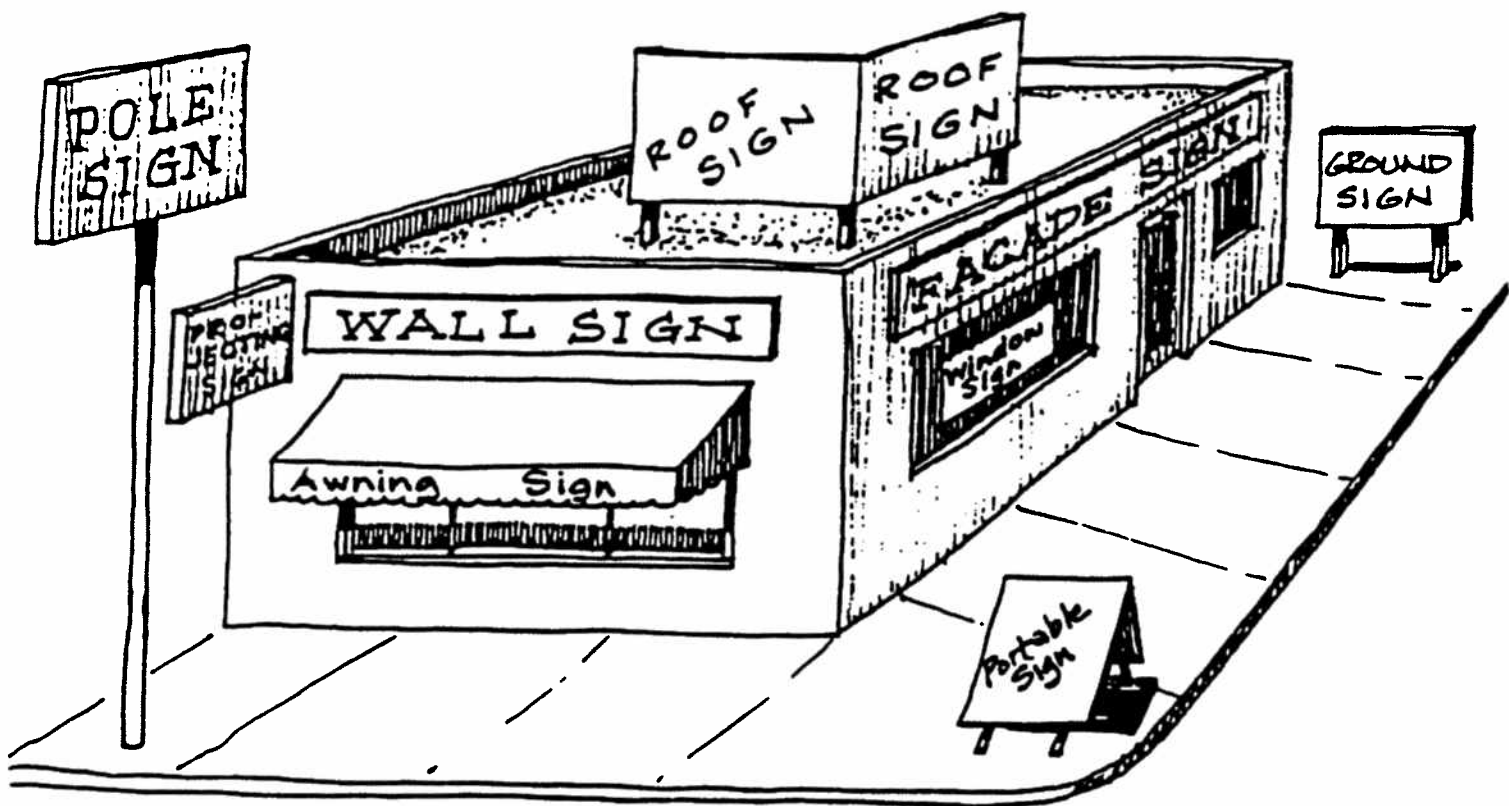
- c. Projecting Signs: A projecting sign may be erected or installed subject to the following:
- (1) The sign shall not extend more than four (4) feet beyond the surface of the building to which it is attached.
  - (2) Surface Area Limitations: See Table 11.
  - (3) There shall be a clearance of at least nine (9) feet between the ground and the bottom of the sign and no sign shall overhang into a vertical projection of a public right of way.



**Table 11**  
**Maximum Projecting Sign Area Permitted**  
**as Related to the Height of a Structure**

<i>Building Height (stories)</i>	<i>Surface Area Limits</i>
1	12 Square Feet
2	24 Square Feet
3	36 Square Feet
4	48 Square Feet
5	60 Square Feet
6 and over	100 Square Feet

19. Shopping Center Signs: One (1) ground sign shall be permitted with a maximum surface area limited to one hundred (100) square feet per side, for a total of two hundred (200) square feet. Maximum height limitations shall be thirty (30) feet, measured from the ground to the highest point of the sign. There shall be a clearance of at least nine (9) feet between the ground and the sign surface area.
20. Wall Signs: The permitted area of signs, unless otherwise specified herein, is dependent on the dimensions of the structure's frontage. Wall signs shall be permitted on the side of a building designated as its front facade, when such a building is on a corner lot. The total combined wall sign area permitted for all such signs shall not exceed one (1) square foot of sign area for each lineal foot of the smallest lot frontage. For the purpose of determining a sign's area, the total area is that within the smallest parallelogram, triangle, circle or semi-circle, or combinations thereof which will completely enclose the perimeter of the overall sign, including the border, if any, but excluding the structural supports.
21. Political Signs: It is the intention of the Legislature that information concerning elections and candidates be readily available to the general public through road signs on Government property. Therefore, notwithstanding any other provision of law:
  - a. Candidates for public office or other persons having an interest in an election may place political signs, including posters and banners, advocating voting for or against candidates, or other matters to be considered by the electorate, on Government property upon payment of a single one thousand dollar (\$1,000.00) deposit to the Zoning Official's Office to insure that the signs are removed within ten (10) working days after the election, subject to the following restrictions only:



## Sign Types

- (1) Wooden or metal freestanding signs may not be posted within eight (8) feet of the paved traveled portion of the roadway or in such a manner that they impede drivers' visibility of other traffic.
- (2) Signs shall not be nailed to trees on Government property.
- (3) Signs may not block any sidewalk, road, or driveway.
- (4) No sign permit shall be required for temporary political campaign signs, other than the one thousand dollar (\$1,000.00) deposit stipulated in Subsection a. of this Section.
- (5) Nothing in this Section shall be construed as authorizing the posting of campaign material of any kind on or in any Government building.
- (6) No wooden or metal freestanding sign may be posted at any intersection if it will in any way impede visibility of drivers and traffic.
- (7) No sign may be posted in any traffic median strip.
- (8) If signs are not removed ten (10) working days after the day of any general or special election, the single one thousand dollar (\$1,000.00) deposit shall be forfeited as liquidated damages for removal of the signs.
- (9) The Zoning Official's Office may require each candidate or person or group posting freestanding signs on Government property to provide a list of the approximate location of all signs.
- (10) Agencies and departments of the Government of Guam may adopt further guidelines or rules and regulations relative to political signs on lands within their respective jurisdictions.

b. Candidates for public office or other persons having an interest in an election may place political signs that are limited to paper or cloth posters advocating voting for or against candidates, or other matters to be considered by the electorate, on Guam Power Authority power poles or on Guam Telephone Authority poles, subject to the following restrictions and conditions:

- (1) No campaign material of any kind may be posted on or in any buildings belonging to the Guam Power Authority or the Guam Telephone Authority.
- (2) No banner or advertisement may be strung on any of the Authorities' poles.
- (3) No sign or other advertising element may be attached to any pole of the Authorities that will create a hindrance to that pole's accessibility for line repair maintenance work.

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- (4) Small-sized paper, plastic or cloth signs or posters, not to exceed eighteen inches (18") by twenty-four inches (24"), may be stapled, taped or glued to the Authorities' poles, provided that the person placing the sign shall remove the same no later than two (2) weeks following the election. Under no circumstances, however, may roofing tacks or nails of any size be used in attaching the signs or posters to the Authorities' poles.
- c. No sign permit shall be required for political signs on private property; provided, that the person erecting the sign has the permission of the private property owner first; and further provided, that all such signs shall be removed within ten (10) working days after the election.
  - d. It shall be a misdemeanor for any person to remove, knock down, or take down a political sign, except by:
    - (1) A private property owner upon whose land the sign is posted.
    - (2) The person who put up the sign.
    - (3) In the case of a sign advocating the election of a candidate, that candidate or his designee.
    - (4) Any Government employee or any other person, commencing ten (10) working days after the general election or special election.
    - (5) A public official or employee may remove a sign, after fifteen (15) working days prior notice to the person concerned, because it violates the provisions of this Section.
    - (6) A public official may move a sign to a nearby location if the sign constitutes an immediate and substantial hazard and threat to the public health and safety; or if it significantly blocks drivers' visibility of other vehicles and constitutes a safety hazard to safe locations nearby. In such a case, the owner of the sign shall be notified.
    - (7) In the case of utility poles, by a utility employee because the sign or poster constitutes a hinderance to the maintenance of the poles or utility system.
    - (8) A public official shall remove wooden or metal freestanding signs anytime Guam is in Typhoon Condition 1 or 2. Said sign shall be held and returned to the persons who put them up as soon as Guam returns to Typhoon Condition 4.
    - (9) If for any reason a Government official or employee needs to temporarily take down a sign, they shall put it back up within two (2) working days.
  - e. Political signs may not be erected pursuant to this Section earlier than one hundred eighty (180) calendar days before any special, general, or primary election.

- f. Any confiscated sign may be picked up by the group, candidate, or person who put it up. The treasurer or candidate involved shall be promptly notified of the confiscation so that sign may be picked up.
- g. No other deposit or fee may be required from a candidate or person posting political signs, other than the single one thousand dollar (\$1,000.00) deposit required to be posted with the Zoning Official's Office. No additional deposit or fees may be charged by the Government of Guam, the Guam Power Authority, the Guam Telephone Authority, or any other department or agency.

22. **Portable Signs:** Portable signs are hereinafter prohibited, except when used as a temporary sign as specifically permitted in Subsection 26. of this Section.

23. **Projecting Signs**

- a. No projecting sign shall be installed, attached, or erected on any building or wall in such a manner as to allow the bottom of such sign to be closer than nine (9) feet to the ground level.
- b. Any business located on a corner lot may have one (1) projecting sign on the corner of the building, or one (1) projecting sign on each wall forming the corner of the building.
- c. No business shall have a projecting sign and a wall sign on the same street frontage.
- d. No business shall have more than one (1) projecting sign on each street that it faces.

24. **Real Estate and Project Development Signs**

- a. Real estate signs may be erected or installed without a permit as temporary signs and all such signs shall be removed within two (2) weeks after a sale on said property has been consummated. No more than one (1) real estate sign may be displayed per street frontage on a property and each of these signs shall contain no more than three (3) square feet. The maximum surface area for any real estate sign shall be as enumerated below. For each of the following signs, a permit shall be required prior to their installation or erection.
  - (1) Residential development containing more than two (2) and fewer than eight (8) dwelling units: sixteen (16) square feet.
  - (2) Residential development containing more than eight (8) dwelling units: thirty-two (32) square feet.

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- (3) Non-residential development less than one (1) acre in size: sixteen (16) square feet.
  - (4) Non-residential development more than one (1) acre in size: thirty-two (32) square feet.
- b. Construction project signs shall not exceed a total surface area of thirty-two (32) square feet per side if two sided, or thirty-two (32) square feet in total if one sided, and shall be installed so that the top of the sign is no more than ten (10) feet above ground level, and shall require a sign permit to be issued prior to installation or erection.
  - c. Subdivision sale signs shall be located within the subdivision or development for which they are intended to serve. The total surface area of any such sign shall not exceed thirty-two (32) square feet per side if two sided, or thirty-two square feet in total if one sided. Subdivision sale signs shall be maintained in a good state of repair and removed from the premises when one (1) year has expired from the date of issuance of the latest sign permit.
25. Temporary Signs: Only those temporary signs specifically enumerated below are permitted and are subject to the provisions of this Section.
- a. Special signs advertising public entertainment and/or special events (fairs, carnivals, fiestas, etc.) shall be permitted for up to fifteen (15) working days prior to the date that the entertainment or special event commences and shall be removed within three (3) working days of the event's conclusion.
  - b. No more than three (3) permits for a temporary sign shall be allowed per building or structure during any one hundred and twenty (120) calendar day period, no matter how many businesses exist within the building or structure.
  - c. No temporary sign shall be installed within the public right of way or any required landscaped area.
  - d. The total sign surface area shall not exceed sixty (60) square feet.
26. Traffic Hazard: No sign shall hereinafter be erected, installed, operated, used, or maintained that:
- a. Due to its position, shape, color, format, or illumination, obstructs the view of or may be confused with an official traffic sign, signal, or device.
  - b. Contains display lights resembling the flashing lights customarily associated with emergency situations, such as those used by police, fire, ambulance, or any other emergency vehicle.

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- c. Uses in a manner which may confuse motor vehicle operators, the words "stop," "warning," "turn," or similar words implying the existence of danger or the need to stop or maneuver.
  - d. Obstructs the view of motor vehicle operators entering a public roadway from any parking area, service drive, or other thoroughfare.
  - e. Obstructs visibility at street intersections for motorists.
27. Public Law 19-05, the Ocean Shore Public Access Act of 1987, mandates that Department of Parks & Recreation is charged the responsibility for insuring development conditions of beach access. Sufficient signs shall be placed to notify the public about the right-of-way, parking and handicapped parking. The Department of Parks and Recreation's Ocean Shore Access Sign Specifications shall be utilized.

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## E. Hillside Development Performance Standards

1. **Purpose and Intent:** It is the purpose of these Performance Standards to provide development criteria to the underlying Zoning Districts to assure that growth occurs in such a manner as to protect the natural and topographic character and identity of these areas, environmental resources, the aesthetic qualities and restorative value of lands, and the public health, safety, and general welfare by insuring that development does not create soil erosion, silting of lower slopes or coastal waters, slide damage, flooding problems, and severe cutting or scarring. It is the intent of these Standards to encourage a sensitive form of development and to allow for a reasonable use that complements the natural and visual character of the Territory.
2. **Application of the Hillside Development Performance Standards:** The Hillside Development Performance Standards shall be applied to property having slopes with a natural gradient in excess of twenty-five (25) percent (twenty-five (25) feet of vertical distance for each one-hundred (100) feet of horizontal distance). If it is determined that land located adjacent to the slope, either above or below, must be included in the review of the plans for development to promote the purpose and intent of these standards, such rim or bottom land may be included in the review, provided that such area is within three-hundred (300) feet of the nearest point of the slope to which these Performance Standards are to be applied. The overall average slope will be used for property with varying slope gradients when determining the application of these Standards.
3. **Development Regulations:** Within areas or properties that have slopes that exceed twenty-five (25) percent, no building, improvement or portion thereof shall be erected, constructed, converted, established, altered, enlarged, used, or demolished, nor shall any lot or premises be excavated or graded until a permit is obtained in accordance with the procedure set forth in this Section; provided, however, that a permit will not be required in those cases where said building, improvement, or portion thereof does not in any way alter the ground coverage of an existing building or structure. The granting of a permit does not relieve the applicant for such permit of the responsibility for obtaining other applicable permits from the Territory.
4. **Permit Procedures**
  - a. The application shall be accompanied by appropriate site plans, grading plans, sections and elevations. The Zoning Official shall either: (1) approve the application; or, (2) deny the application.
  - b. The Zoning Official shall examine the document, plans, sections and elevations submitted with the application for a permit and determine whether or not a permit should be issued. The Zoning Official shall not approve an



application unless the available information supports the findings of fact set forth in Paragraph 4.d. of this Section. In approving an application, the Zoning Official may impose such conditions, including modification of the property development, parking and other regulations of the underlying Zoning District, as deemed necessary and desirable to protect the public health, safety and general welfare in respect to the facts listed in Paragraph 4.d. of this Section.

Prior to approving or denying an application, the Zoning Official shall solicit the recommendations and comments of the Department of Public Works and the Guam Environmental Protection Agency.

- c. Any decision of the Zoning Official regarding an application may be appealed to the Territorial Land Use Commission within forty-five (45) working days of that action.
- d. In reviewing an application for a permit, the Zoning Official shall make the following findings of fact in the review process:
  - (1) The site is physically suitable for the design and siting of the proposed development. The proposed development will result in minimum disturbance of sensitive areas.
  - (2) The grading and excavation proposed in connection with the development will not result in soil erosion, silting of lower slopes or coastal waters, slide damage, flooding, severe scarring or any other geological instability or fire hazard that would affect health, safety and general welfare. Disturbed slopes are to be planted with native and self sufficient vegetation.
  - (3) The proposed development retains the visual quality of the site, the aesthetic qualities of the area and the neighborhood characteristics.
  - (4) The proposed development is in conformance with the Land Use Plan and the Zoning District in which it is located.
- e. In approving an application, the Zoning Official may impose such conditions as may be deemed necessary and desirable to protect the public health, safety and general welfare in respect to the facts listed in Paragraph 4.d. of this Section.
- f. If the Zoning Official, after considering the available information, is unable to reach the findings of fact set forth in Paragraph 4.d. of this Section, the application shall be denied.
- g. The decision of approving or denying the application shall include the findings of fact relied upon by the Zoning Official.

5. Guidelines for Development in Zoning District 2 and 2M.

**FINDING: THE SITE IS PHYSICALLY SUITABLE FOR THE DESIGN AND SITING OF THE PROPOSED DEVELOPMENT. THE PROPOSED DEVELOPMENT WILL RESULT IN MINIMUM DISTURBANCE OF SENSITIVE AREAS.**

a. Guideline 1: Design structures to fit into the hillside rather than altering the hillside to fit the structure.

- (1) Use retaining structures as an alternative to banks of cut and fill, and design and site such structures to avoid adverse visual impact.
- (2) Consider "unconventional structures" that fit into the hillside, including:
  - (a) stilt houses;
  - (b) reduced footprint design;
  - (c) multiple "step-up" or "step-down" structures; or
  - (d) structures with open foundations, if landscaping screens the underside area of the building.
- (3) Use foundation types that are compatible with existing hillside conditions.
- (4) Discourage standard prepared pads resulting in grading outside of the building footprint and driveway area.

b. Guideline 2: Development shall be sited on the least sensitive portion of the site to preserve the natural land forms, geological features, and vegetation.

- (1) Design and locate structures so they fit into the contour of the hillside and relate to the form of the terrain.
- (2) Locate development to minimize disturbance of the sensitive area.
- (3) Minimize coverage by using multi-level structures.
- (4) Cluster development away from natural drainageways as much as possible.
- (5) Avoid disturbance of major rock outcroppings, major trees, ridge lines, natural plant formations, and known archaeological sites.
- (6) Development should not overwhelm hillside vegetation to the extent that the natural character of the hillside is destroyed.
- (7) When appropriate, place structure as close to the street as possible to preserve the natural terrain. In some cases, this would require development on the steep portions to preserve the drainageways, or development on the flat portions to preserve the hillsides.
- (8) Avoid, whenever possible, development encroachment into slope areas of twenty-five (25) percent or more.

**FINDING: THE GRADING AND EXCAVATION PROPOSED IN CONNECTION WITH THE DEVELOPMENT WILL NOT RESULT IN SOIL EROSION, SILTING OF LOWER**

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SLOPES, SLIDE DAMAGE, FLOODING, SEVERE SCARRING OR ANY OTHER GEOLOGICAL INSTABILITY THAT WOULD AFFECT HEALTH, SAFETY AND GENERAL WELFARE. DISTURBED SLOPES ARE PLANTED WITH NATIVE OR SELF-SUFFICIENT VEGETATION.

- c. Guideline 3: Limit the amount of impervious surfaces. Design and site such surfaces to support the natural system of drainage.
  - (1) Design drainage systems away from neighboring properties and into the existing water flow pattern.
  - (2) Reduce width of street improvements, reduce sidewalk requirements, use common driveways and cluster units, if open space will thereby be preserved.
  
- d. Guideline 4: The site should be replanted with self-sufficient trees, shrubs and groundcover that are compatible with existing surrounding vegetation.
  - (1) All manufactured slopes shall be planted with erosion control, fire resistant, and self-sufficient plantings.
  - (2) Transitional slopes shall be planted to enhance the blending between manufactured and natural slopes.
  - (3) Landscaping plans should not require excessive irrigation.
  
- e. Guideline 5: In cases where cut and fill grading are required, the slopes shall avoid straight and unnatural slope faces.
  - (1) All manufactured slopes shall be planted with erosion control, fire resistant, and self-sufficient plantings.
  - (2) Transitional slopes should be planted to enhance the blending between manufactured and natural slopes.

FINDING: THE PROPOSED DEVELOPMENT RETAINS THE VISUAL QUALITY OF THE SITE, AESTHETIC QUALITIES OF THE AREA, AND THE NEIGHBORHOOD CHARACTERISTICS BY UTILIZING PROPER STRUCTURAL SCALE AND CHARACTER, VARIED ARCHITECTURAL TREATMENTS, AND APPROPRIATE PLANT MATERIAL.

- f. Guideline 6: Employ a variation in architectural design.
  - (1) Design all required off-street parking space to be either under or over the structure, depending on whether the lot is uphill or downhill from the street.
  - (2) Use deck areas, either on the roof of the parking area or the house, or extending from the house to reduce the amount of grading.

- (3) Employ zero-lot line developments where permitted if visual or open space qualities can be gained.
  - (4) Vary the treatment of rooftops to avoid the monotony of materials, forms and colors. Rooftop utilities shall be avoided, except for solar-type improvements. Such improvements, however, should be an integral part of roof design.
- g. Guideline 7: Consider existing vegetation when landscaping the site.
- (1) Protect existing resources from being trampled or destroyed.
  - (2) Keep new landscaping compatible with existing vegetation and the scenic character of the area.
  - (3) Preserve the natural landscaped vegetation on slopes adjacent to natural drainageways.
- h. Guideline 8: Match scale and character of buildings with scale and character of terrain.
- (1) Keep the scale (height and bulk) of the structure compatible with the site and the neighborhood.
  - (2) Irregular architectural edges shall be used to interlock structures with hillside contours and vegetation.
  - (3) Discourage development patterns that form visually protruding horizontal bands or vertical bulk. A mixture of shapes subordinate and compatible with the site and area should be achieved.
  - (4) Avoid visible construction cuts and permanent scarring.
- i. Guideline 9: Provide pedestrian walkways to visual overlook areas.
- (1) Pathways shall provide public access to natural and recreational open spaces and vistas.

6. Guidelines for Development in Zoning Districts 3 through 8.

**FINDING: THE SITE IS PHYSICALLY SUITABLE FOR THE DESIGN AND SITING OF THE PROPOSED DEVELOPMENT. THE PROPOSED DEVELOPMENT WILL RESULT IN MINIMUM DISTURBANCE OF SENSITIVE AREAS.**

- a. Guideline 1: Roadways shall not be parallel to one another to avoid a "shelving" effect. Roadways shall follow the natural contours to avoid excessive cut and fill and emphasize the existing hillside topography, existing significant trees, major rock outcroppings, and other significant physical constraints.
  - (1) Roadways shall follow the natural contours.

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- (2) Reduce roadway width to minimize cut and fill.
  - (3) When feasible, sidewalks should be on one side of the street only.
  - (4) Encourage culs-de-sac, loop streets and common driveways.
  - (5) Route streets around trees and major rock outcroppings.
- b. Guideline 2: Parking should be unobtrusive and not cause additional grading.
  - c. Guideline 3: Place all utilities underground.
  - d. Guideline 4: Design the development to adapt to the natural hillside topography, terrain, and vistas.
    - (1) Keep development close to the street to minimize the need for long driveways.
    - (2) When feasible, orient lots toward views and vistas, at right angles to contour lines.
    - (3) Allow for different lot shapes and sizes, with the prime determinant being the natural terrain. Encourage split pads in large development projects.
    - (4) Allow for flag lots in areas where the available building area is limited by topography. Flag lots should be used if the end result is the preservation of topography by minimizing grading. Fifteen (15) percent grade driveways or greater shall be discouraged.
  - e. Guideline 5: Significant hillsides in Zoning Districts 3 through 8 are defined as those areas unique to the particular site that deserve special attention and design consideration. These significant areas that shall be given priority for preservation include: 1) native tree stands or man-made groves that have matured into unique visual environments, 2) rock outcroppings of unique character, 3) ridgelines, where they are highly visible from adjacent public areas or neighborhoods, and 4) areas that are a part of or adjacent to an open space system. While these areas may vary from site to site, project designs shall give priority to their preservation. The intent is not to stop development, but to direct it toward the least sensitive areas of the site.
    - (1) The project design shall strive to preserve significant hillsides. Isolated pockets of twenty-five (25) percent slopes or greater would not be necessarily classified as significant.
    - (2) Encourage development on areas of the site and lot with less than a twenty-five (25) percent natural grade.
  - f. Guideline 6: Cluster development to emphasize and preserve the existing topography and conserve existing resources.
    - (1) Minimize coverage by using multi-story structures.
    - (2) Identify all designated open space areas for preservation.

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FINDING: THE GRADING AND EXCAVATION PROPOSED IN CONNECTION WITH THE DEVELOPMENT WILL NOT RESULT IN SOIL EROSION, SILTING OF LOWER SLOPES, SLIDE DAMAGE, FLOODING, SEVERE SCARRING OR ANY OTHER GEOLOGICAL INSTABILITY THAT WOULD AFFECT HEALTH, SAFETY AND THE GENERAL WELFARE. DISTURBED SLOPES ARE PLANTED WITH NATIVE OR SELF-SUFFICIENT VEGETATION.

- g. Guideline 7: Identify on grading plan which slopes shall be landform graded and which shall be conventionally graded. "Landform Grading" shall mean a contour grading method that creates artificial slopes with curves and varying slope ratios on the horizontal plane designed to simulate the appearance of surrounding natural terrain. The concept of landform grading incorporates creating ravine and ridge shapes with protective drainage control systems and integrated landscaping design.
  - (1) Slopes shall be landform graded including slopes adjacent to scenic corridors, slopes subject to public view, slopes adjacent to open space areas, and slopes internal to the project that may be significant to public view.
  - (2) Slopes internal to the project may be conventionally graded, if deemed compatible with (1) above.
- h. Guideline 8: On slopes where landform grading has been deemed appropriate, the required grading plans shall be designed to accomplish the following:
  - (1) Curved Slopes. Linear slopes are to be avoided. Instead, cut and fill slopes shall have curved configurations that reflect as closely as possible the forms and shapes of surrounding topography. The toe and the top of the slope shall be curved in a concave and convex manner, respectively.
  - (2) Transition with Natural Slopes. At the intersections of manufactured and natural slopes, abrupt angular intersections shall be avoided and contours shall be curved to blend with the natural slope.
- i. Guideline 9: "Step" development on existing slopes to maximize views. Utilize rooftops for private outdoor spaces.
- j. Guideline 10: Use retaining structures when they significantly reduce grading or can eliminate long sliver cuts or fills.
- k. Guideline 11: Design project to maximize public access to overlooks or open space areas.
  - (1) Provide an easement between lots or near the end of streets or culs-de-sac.
  - (2) Designate public pathways to scenic vistas.

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## F. Supplemental Regulations

### 1. Accessory Uses

#### a. General Limitations Upon Accessory Uses

- (1) An accessory use shall be located upon the same lot with a principal use, unless otherwise set forth in this Subsection.
- (2) An accessory use shall be subordinate to the principal use and shall be a use or activity which is customarily incidental to the principal use.
- (3) An accessory use shall not materially or substantially change or alter the character of activity of the principal use it serves.

#### b. Accessory Uses in Hotels and Multiple-Family Residences: In any hotel or apartment house, limited commercial activities are permitted, subject to the following conditions:

- (1) The commercial activities will be those customarily found in hotels including, but not limited to, perfume, liquor, clothes, novelty, jewelry, watches, etc., shops; and
- (2) They shall be intended primarily for the convenience of the residences of the hotel or apartment house.

#### c. Accessory Uses in Agricultural Development

- (1) In addition to the principal structure, buildings for the housing of tenants or employees are permitted. These housing accommodations shall not exceed a ratio of one (1) employee for each acre under cultivation.
- (2) One (1) agricultural or produce concession stand for the sale of agricultural products produced on the premises shall be permitted. Such concession stand shall not exceed two hundred (200) square feet in total building area.

### 2. Nonconforming Situations

- a. When a nonconforming lot can be used in conformity with all of the requirements applicable to the intended use, except that the lot is smaller than the required minimums set forth in the dimensional and density requirements for each Zoning District, then the lot may be used as proposed just as if it were conforming.

b. If, on the date the Zoning Code becomes effective, an undeveloped nonconforming lot adjoins and has continuous frontage with one (1) or more other undeveloped lots under the same ownership, then neither the owner of the nonconforming lot nor his successors in interest may take advantage of the provisions of this Subsection. This requirement shall not apply to a nonconforming lot if a majority of the developed lots located on either side of the street where such lot is located and within five-hundred (500) feet of such lot are also nonconforming. The intent of this Subsection is to require nonconforming lots to be combined with other undeveloped lots to create conforming lots under the circumstances specified herein, but not to require such combination when that would be out of character with the way the neighborhood has previously been developed.

c. Extension or Enlargement of Nonconforming Situations

- (1) Except as specifically provided in this Section, no person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation. In particular, physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:
  - (a) an increase in the total amount of space devoted to a nonconforming use; or
  - (b) greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations, density requirements, or other requirements such as parking requirements.
- (2) Subject to Subsection (4) below, a nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by the Zoning Code, was manifestly designed or arranged to accommodate such use. However, a nonconforming use may not be extended to additional buildings or to land outside the original building.
- (3) A nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that a use which involves the removal of natural materials from the lot may be expanded to the boundaries of the lot where the use was established at the time it became nonconforming, if ten (10) percent or more of the earth products had already been removed on the effective date of the Zoning Code.
- (4) The volume, intensity, or frequency of use of property where a nonconforming situation exists may be increased, and the equipment or processes used at a location where a nonconforming situation exists may be changed, if these or similar changes amount only to changes in the



degree of activity rather than changes in kind and no violations of other requirements of this Section occur.

- (5) Notwithstanding Subsection c.(1) above, any structure used for single-family detached residential purposes and maintained as a nonconforming use may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new non-conformities or increase the extent of existing non-conformities with respect to such matters as setback and parking requirements.
- (6) Notwithstanding Subsection c.(1) above, whenever: (i) there exists a lot with one or more structures on it, and (ii) a change in use that does not involve any enlargement of a structure is proposed for such lot, and (iii) the off-street parking or loading requirements of the Zoning Code that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can practicably be used for off-street parking or loading, then the proposed use shall not be regarded as resulting in an impermissible extension or enlargement of a nonconforming situation. However, the applicant shall be required to comply with all applicable off-street parking and loading requirements that can be satisfied without acquiring additional land, and shall also be required to obtain satellite off-street parking if: (i) parking requirements cannot be satisfied on the lot with respect to which the permit is required; and (ii) such off-street satellite parking is available within five hundred (500) feet of the site said satellite parking area is intended to serve, measured from property line to property line. If such off-street satellite parking is not reasonably available at the time the permit is granted, then the permit recipient shall be required to obtain it if and when it does become reasonably available. This requirement shall be a continuing condition of the permit.

d. Repair, Maintenance, and Construction

- (1) Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. Major renovation, i.e., work estimated to cost more than twenty five (25) percent of the appraised valuation of the structure to be renovated, may be done only in accordance with a permit issued pursuant to the Zoning Code.
- (2) If a structure located on a lot where a nonconforming situation exists is damaged to an extent that the costs of repair or replacement would exceed twenty five (25) percent of the appraised valuation of the damaged structure, then the damaged structure may be repaired or replaced only in accordance with a permit issued pursuant to the Zoning Code. This Subsection does not apply to structures used for single-family detached residential purposes, which structures may be

reconstructed pursuant to a permit just as they may be enlarged or replaced.

(3) For purposes of Subsections d.(1) and d.(2) above:

- (a) The "cost" of renovation or repair or replacement shall mean the fair market value of the materials and services necessary to accomplish such renovation, repair, or replacement.
- (b) The "cost" of renovation or repair or replacement shall mean the total cost of all such intended work, and no person may seek to avoid the intent of Subsections d.(1) or d.(2) by doing such work incrementally.
- (c) The "appraised valuation" shall mean either the appraised valuation for property tax purposes, updated as necessary by the increase in the consumer price index since the date of the last valuation, or the valuation determined by a professionally recognized property appraiser.

(4) The Zoning Official, with the written concurrence of the Building Official, shall issue a permit authorized by this Section if it finds that, in completing the renovation, repair or replacement work:

- (a) No violation of Subsection d.(2) above will occur;
- (b) The permittee will comply to the extent reasonably possible with all provisions of the Zoning Code applicable to the existing use (except that the permittee shall not lose his right to continue a nonconforming use); and
- (c) Compliance with a requirement of the Zoning Code is not reasonably possible if it cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible.

e. Change in Use of Property Where a Nonconforming Situation Exists

- (1) A change in use of property (where a nonconforming situation exists) that is sufficiently substantial to require an amendment in accordance with Chapter IX. of the Zoning Code may not be made, except in accordance with Subsections e.(2) through e.(4) below.
- (2) If the intended change in use is to a principal use that is permissible in the Zoning District where the property is located, and all of the other requirements of the Zoning Code applicable to that use can be complied with, permission to make the change must be obtained in the same manner as permission to make the initial use of a vacant lot. Once

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conformity with the Zoning Code is achieved, the property may not revert to its nonconforming status.

(3) If the intended change in use is to a principal use that is permissible in the Zoning District where the property is located, but all of the requirements of the Zoning Code applicable to that use cannot reasonably be complied with, then the change is permissible if the Zoning Official approves an application authorizing the change. A permit may be issued if the Zoning Official finds, in addition to any other findings that may be required by the Zoning Code, that:

(a) The intended change will not result in a violation of Subsection 2.d. of this Section; and

(b) All of the applicable requirements of the Zoning Code will be reasonably complied with. Compliance with a requirement of the Zoning Code is not reasonably possible if it cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible. And, in no case may an applicant be given permission pursuant to this Subsection to construct a building or add to an existing building if additional non-conformities would thereby be created.

(4) If the intended change in use is to another use that is also nonconforming, then the change is permissible if the Zoning Official approves an application authorizing the change. The Zoning Official may issue the permit if it finds, in addition to other findings that may be required by the Zoning Code, that:

(a) The use requested is one that is permissible in some other Zoning District;

(b) All of the conditions applicable to the permit authorized in Subsection e.(3) of this Section are satisfied; and

(c) The proposed development will have less of an adverse impact on those most affected by it and will be more compatible with the surrounding neighborhood than the use in operation at the time the permit is applied for.

f. Abandonment and Discontinuance of Nonconforming Situations

(1) If the principal activity on property where a nonconforming situation other than a nonconforming use exists is (i) discontinued for a consecutive period of one-hundred and eighty (180) calendar days, or (ii) discontinued for any period of time without a present intention of

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resuming that activity, then that property may thereafter be used only in conformity with all of the regulations applicable to the preexisting use, unless the Zoning Official issues a permit to allow the property to be used for this purpose without correcting the nonconforming situations. This permit may be issued if the Zoning Official finds that eliminating a particular nonconformity is not reasonably possible (i.e., cannot be accomplished without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation). The permit shall specify which nonconformities need not be corrected.

- (2) For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this Section, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a nonconforming apartment building for one-hundred and eighty (180) calendar days shall not result in a loss of the right to rent that apartment or space thereafter, so long as the apartment building as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter.
- (3) When a structure or operation made nonconforming by the Zoning Code is vacant or discontinued at the effective date of the Zoning Code, the one-hundred eighty (180) calendar day period for purposes of this Section begins to run on the effective date of the Zoning Code.

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**G. Recreational and Open-Space Standards**

1. Residential developments, including single family or duplex subdivisions, attached housing developments, multiple-family apartment developments (either rentals or condominiums) and barracks housing for construction workers shall provide recreational areas in an amount equal to seventy-five (75) square feet per person expected to reside in that development (as determined in accordance with Subsection 2. of this Section).
2. For purposes of these Standards, one-bedroom dwelling units shall be deemed to house an average of 2.5 persons, two-bedrooms units 4.0 persons, three-bedroom units 5.0 persons, and units with four and more bedrooms 6.0 persons. In residential subdivisions that are not approved as architecturally integrated developments (i.e, attached housing or multiple-family apartment developments), each lot that is large enough for only a single-or two-family dwelling unit shall be deemed to house an average of 6.0 persons.
3. It is recognized that recreation areas must be of a certain minimum size to be usable and that such areas will not serve the intended purpose unless properly maintained. Therefore, subdivided residential developments of ten (10) dwelling units or less in single ownership at the time of application for approval shall be exempt from the provisions of these Standards.
4. The purpose of the recreation areas is to provide adequate recreational facilities to serve the residents of the development. Each new development shall provide, at a minimum, facilities from the following list. The number of facilities that must be provided from this list shall be based on the number of dwelling units that are to be built in the development. The scale that follows this facilities list indicates the minimum number of facilities which must be provided.
  - a. Baseball field to Senior League requirements.
  - b. Softball field to Amateur Softball Association of America requirements.
  - c. Multiple-purpose court to Department of Parks and Recreation requirements.
  - d. Playground area, consisting of four (4) pieces of playground equipment including swings, slide, and climber.
  - e. Picnic area, consisting of at least five (5) picnic tables with benches, five (5) barbecues, and five (5) secured in-place trash containers. This picnic area shall have shade trees.
  - f. A minimum of two (2) lighted, tennis courts to United States Lawn Tennis Association requirements.

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- g. A swimming pool area with a minimum of an eight-hundred (800) square foot pool, a three thousand, two-hundred (3,200) square foot deck, and a minimum, a four (4) foot high perimeter fence.
  - h. A natural area at least three (3) acres in size untouched by grading, clearing, or has not had the vegetation removed in any manner.
  - i. A one-quarter (1/4) mile running track to National Collegiate Athletic Associate requirements.
  - j. Two (2) lighted volleyball courts to United States Volleyball Association requirements.
  - k. A beach of at least one-hundred and fifty (150) lineal feet.
  - l. A fishing pier at least fifty (50) feet in length to Department of Agriculture requirements.
  - m. A lighted soccer field to National Collegiate Athletic Association requirements.
  - n. Two (2) lighted handball courts to United States Handball Association requirements.
  - o. Hiking, jogging, and/or biking trails, at least one (1) mile in length to Department of Parks and Recreation requirements.
  - p. Exercise course to Department of Parks and Recreation requirements.
  - q. A campground of at least five (5) tent pads, five (5) barbecues, five (5) bench and table combinations, and five (5) trash cans. The area shall have shade trees.
  - r. Historical site.
  - s. The number of required recreational facilities, as enumerated above, shall be dependent on the total number of dwelling units approved for the residential project. Approval of the selection of facilities must be obtained from the Department of Parks and Recreation. The following table indicates the number of required recreational facilities relative to the size of the residential project.

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**Minimum Recreational Provision Requirements in Residential Developments**

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<i>Number of Approved Dwelling Units in Project</i>	<i>Minimum Number of Required Recreational Facilities</i>
10 - 50	1
51 - 100	2
101 - 150	3
151 - 200	4
201 - 250	5
251 - 300	6
301 - 350	7
351 - 400	8
401 -450	9
more than 450	10

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- t. Notwithstanding the above table, certain facilities shall be mandatory when the number of dwelling units reaches specified levels in residential developments. In these developments, the mandatory facilities may be counted toward the required recreational provisions enumerated in Paragraphs a. through r. above.

The following table indicates those facilities that are mandatory for the various types of residential developments and at what dwelling unit provision level they must be included.

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## Mandatory Recreational Facility Requirements in Residential Developments

<i>Recreational Facility</i>	<i>Minimum Dwelling Unit Provision Level at which Facility Becomes Mandatory</i>
Baseball or Softball Field	250 (Single-Family, Duplex or combination of Single-Family and Duplex Projects only)
Tennis or Basketball Courts (2)	300 (All Residential Developments)
Multi-Purpose Court	50 (All Residential Developments)
Swimming Pool	400 (All Residential Developments)

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5. Each development shall satisfy its recreation area requirement by installing the types of recreational facilities that are most likely to be suited to and used by the age bracket of persons likely to reside in that development. However, unless it appears that less than five (5) percent of the residents of any development are likely to be children under 12, and can be demonstrated through a study prepared by an authorized representative of the developer to show that the proposed project will be marketed to age groups unlikely to generate many children, then at least fifteen (15) percent of the recreation area must be satisfied by the construction of "tot lots" (i.e., areas equipped with imaginative play apparatus oriented to younger children as well as seating accommodations for adult supervision).
- a. The total acreage of required recreation facilities shall be divided into areas of not less than two thousand (2,000) square feet nor more than five-hundred thousand (500,000) square feet.
  - b. Recreation areas shall be landscaped and shall be provided with sufficient natural or man-made screening or buffer areas to minimize any negative impacts upon adjacent residences. At a minimum, all recreation areas except those designated by the Department of Parks and Recreation not to be necessary, shall have continuous landscaped buffers around their perimeters at least ten (10) feet wide. The plant material selected to be planted within these buffer areas shall be such that they will provide a continuous vegetative screen and shall reach a minimum height of six (6) feet at maturity. All new vegetative material shall be guaranteed for a period of at least six (6) months after installation and approved by the Department of Agriculture, Office of the Chief of Forestry.



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- c. Each recreation area shall be centrally located and easily accessible so that it can be conveniently and safely reached and used by those persons in the surrounding neighborhoods it is designed to serve. Therefore, no recreation area shall be located more than two-thousand (2,000) feet from the dwelling unit it is intended to serve. This distance shall be measured along the walkways and streets within the development, using the shortest route possible.
  - d. Each recreation area shall be constructed on land that is relatively flat, dry, and capable of serving the purpose intended by these Standards. However, this is not to say that steeply sloped areas and/or floodplains may not be used in the development of these recreation areas. Steeply sloped lands (in excess of twenty-five (25) percent) may be appropriate for natural recreation areas, if they are properly treated and developed. Floodplains are entirely appropriate to be used for baseball, softball, or football fields. However, permanent structures should be kept to a minimum in floodplains.
6. Except as provided in Paragraph 3. above, every residential development shall be developed so that at least five (5) percent of the total area of the development is retained permanently as usable open space.
  7. For purposes of these Standards, usable open space means an area that:
    - a. Is not encumbered with any substantial structure;
    - b. Is not devoted to use as a roadway, parking area, or sidewalk;
    - c. Is left (as of the date development began) in its natural or undisturbed state if wooded, except for the cutting of trails for walking or jogging, or, if not wooded at the time of development, is landscaped for ball fields, picnic areas, or similar facilities;
    - d. Does not include any golf course;
    - e. Is capable of being used and enjoyed for purposes of informal and unstructured recreation and relaxation; and
    - f. Is practicably accessible to the residents of the development out of which the required open space is taken, or to the public.
  8. Subdivided residential developments of less than ten (10) dwelling units are exempt from the requirements of these Standards, unless the Zoning Official agrees that it will accept an offer of dedication of such open space, and in that case the offer of dedication shall be made.

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9. Recreation facilities and usable open space required to be provided by the developer in accordance with these Standards shall not necessarily be dedicated to the public, but if they do not, shall remain under the control of a homeowners' association or similar organization.
  10. The person or entity identified in Subsection 9. above as having the right of ownership and control over such recreational facilities and open space shall be responsible for the continuing upkeep and proper maintenance of the same.
  11. Homeowners' associations or similar legal entities responsible for the maintenance and control of common areas, including recreational facilities and open space, shall be established in such a manner that:
    - a. Provision for the establishment of the association or similar entity is made before any lot in the development is sold or any building occupied;
    - b. The association or similar legal entity has clear legal authority to maintain and exercise control over such common areas and facilities; and
    - c. The association or similar legal entity has the power to compel contributions from residents of the development to cover their proportionate shares of the costs associated with the maintenance and upkeep of such common areas and facilities.
  12. If any park or usable open space area is dedicated to the public and, in this process, is transferred to the Department of Parks and Recreation, said Department shall have the right to impose further specifications, approvals, and/or inspections to the park or open space.

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## H. Environmental Protection Standards

1. **Purpose and Intent:** The purpose of this Section of the Zoning Code is to set forth standards for the protection of natural resources in the Territory. The intent is to ensure the health, safety, and general welfare of the residents and visitors of Guam. Additionally, it is the intent of this Section to meet the goals and objectives of the Land Use Plan of the Territory, as well as regulations of federal agencies, for the protection of environmentally sensitive areas.
2. **Guidelines for the Design of Development in Environmentally Sensitive Areas**
  - a. Areas that will not disturb any coral reefs or mangrove mudflats shall be the location of all new residential, commercial, industrial, and tourism-related development.
  - b. Normally isolated wetlands tend to fill and then overflow during floods. Flowage areas shall be protected from incompatible development. The construction of roads across such areas shall be limited to the minimum necessary to allow for the reasonable development of the site, and any roads that are built shall be constructed on pilings or with adequate culverts, approved by the Department of Public Works to allow the passage of floodwaters.
  - c. Runoff shall not be discharged directly into open waters. Instead, vegetated buffers, swales, vegetated watercourses, wetlands, underground drains, catch basins, ponds, porous pavements and similar systems for the detention, retention, treatment, and percolation of runoff shall be used as appropriate to increase time of concentration, decrease velocity, increase infiltration, allow suspended solids to settle, and remove pollutants.
  - d. Vegetated buffer strips shall be established, retained and/or maintained only in compliance with standards set forth in Chapter IV. of the Guam Erosion and Sedimentation Control Manual, administered by the Guam Environmental Protection Agency.
  - e. Runoff from parking lots shall be directed to ponding basins, sand filters or other similar facilities to remove oil and sediment before it enters receiving waters.
  - f. Detention and retention areas shall be designed so that their shorelines are sinuous rather than straight, and so that the length of shoreline is maximized, thus offering more space for the growth of littoral vegetation.

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- g. The banks of detention and retention areas shall slope at a gentle grade into the water as a safeguard against personal injury, to encourage the growth of littoral vegetation, and to allow the alternate flooding and exposure of areas along the shore.
  - h. Although the use of wetlands for storing and purifying water is encouraged, care shall be taken not to overload their capacity, thereby harming the wetland and transitional vegetation. Wetlands shall not be damaged or replaced by the construction of detention ponds unless equivalent wetlands are created as a replacement. Such equivalent wetlands development shall be subject to the approval of the Guam Environmental Protection Agency, the Division of Aquatic and Wildlife Resources and the Bureau of Planning.
  - i. Land that has been cleared for development and upon which construction has not commenced shall be protected from erosion by appropriate techniques designed to stabilize soil and revegetate the area.
  - j. Wetlands and other natural water bodies shall not be used as sediment traps during development.
  - k. The reduction of wetland acreage by filling or the dumping of material shall not be permitted unless equivalent wetlands are created as a replacement. Such equivalent wetlands development shall be subject to the approval of the Guam Environmental Protection Agency, the Division of Aquatic and Wildlife Resources and the Bureau of Planning.
  - l. Any proposed development which would increase in any manner the potential for flooding of property within or adjacent to any wetland area shall not be permitted.
3. Wetland Area of Particular Concern (APC) Jurisdictional Areas:
- a. All lands in or within twenty five (25) feet of a wetland located within the Territory of Guam and delineated on the 1983 National Wetlands Inventory of Guam are wetland APC's. The 1983 National Wetlands Inventory of Guam shall be initially used as the "Official Wetlands Map". Wetland APC's not shown on this map are presumed to exist in Guam and are hereby designated to be protected under all of the terms and provisions of these Rules.
  - b. The Official Wetlands Map shows only the general location of wetlands and should be consulted by persons contemplating activities in or near wetlands before engaging in a development. The Official Wetlands Map, together with all explanatory matter thereon and attached thereto, is hereby adopted by reference and declared to be part of the Zoning Code.

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4. The Rules for Interpretation of Wetland Boundaries:
    - a. The boundaries of a wetland APC shall ordinarily be determined by the applicant through the performance of a field survey applying the wetland definition.
    - b. Wetland APC delineations shall be performed in accordance with procedures specified in the 1989 federal Manual for Identifying and Delineating Jurisdictional Wetlands.
    - c. Evidence documenting the results of the boundary survey may be required by the Guam Environmental Protection Agency, the Division of Aquatic and Wildlife Resources, and the U.S. Army Corps of Engineers.
  5. The Zoning Official when requested by the applicant, after receiving the recommendations of the Guam Environmental Protection Agency, the Division of Aquatic and Wildlife Resources, and the U.S. Army Corps of Engineers, may waive the delineation and, in lieu of direct action by the applicant, may order the applicant to retain a consultant expert in wetlands protection to perform the delineation. The applicant's consultant may use remote sensing, hydrology, soils, plant species and other data, and/or consult with biologists, hydrologists, soil scientists or other experts as needed to perform the delineation.
  6. Where the applicant has provided a determination of the wetland boundary, the Guam Environmental Protection Agency, the Division of Aquatic and Wildlife Resources and the U.S. Army Corps of Engineers shall verify the accuracy of, and may render adjustments to, the boundary delineation. In the event the adjusted delineation is contested by the applicant, the above-mentioned agencies may attempt to set mutually agreeable boundaries; or when such an attempt is unsuccessful, shall, at the applicant's expense, obtain competent services to render a final delineation.
  7. The following uses shall be allowed as a right within a wetland area to the extent that they are not prohibited by any other act or acts and provided they do not require structures, grading, fill, draining or dredging except as provided herein:
    - a. Conservation or preservation of soil, water, vegetation, fish, shellfish and other wildlife;
    - b. Outdoor recreational activities, including hunting, fishing, birdwatching, hiking, boating and swimming;
    - c. The harvesting of crops, such as taro or seeds in such a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require alteration of the wetland by changing existing wetland water conditions or sources;

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- d. Forestry practices limited to the thinning and harvesting of native timber in accordance with a forest management plan that incorporates best management practices as approved by the Department of Agriculture, Division of Forestry and the Division of Aquatic and Wildlife Resources;
  - e. The continued cultivation of agricultural and aquacultural crops.
  - f. Any aquaculture facilities either existing at the time of passage of the Wetland Rules promulgated in October 1981 or new facilities that are in compliance with Department of Commerce rules and regulations for commercial aquacultural and in designated prime aquacultural areas.
  - g. The occasional pasturing of livestock;
  - h. Commercial fishing and shell fishing which are in compliance with the Department of Agriculture, Division of Aquatic and Wildlife Resources rules and regulations;
  - i. Education, scientific research and nature trails as approved by the Guam Environmental Protection Agency and the Division of Aquatic and Wildlife Resources; and
  - j. Uses by right that do not require a wetland permit and may involve filling, flooding, draining, dredging, ditching or excavating to the extent specifically provided below:
    - (1) Maintenance or repair of lawfully located roads, bridges or structures and of facilities used in the service of the public to provide transportation, power, water, sewer, telephone, telegraph, telecommunication or other services, provided that such roads, structures or facilities are not materially changed or enlarged and written notice prior to the commencement of work has been given to the Agency and provided that the work is conducted using best management practices to ensure that flow and circulation patterns, and chemical and biological characteristics of the wetland are not impaired, and that any adverse effect on the aquatic environment will be minimized;
    - (2) Temporary water-level stabilization measures associated with forestry operations, provided a complete reversion to previous hydrological conditions is accomplished subsequent to completed operations;
    - (3) Limited ditching, tiling, dredging, excavating or filling done solely for the purpose of maintaining or repairing existing drainage systems necessary for the cultivation of agricultural crops, provided that the maintenance or repair activity does not result in the impairment, alteration or loss of wetlands not previously subject to agricultural use;

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- (4) Limited excavating and filling necessary for the repair and maintenance of piers, walkways, observation decks, wildlife management shelters, boathouses and other similar water-related structures, provided, that they are built on pilings to allow unobstructed flow of water and preserve the natural contour of the wetland, except as authorized by a wetland permit.
8. Development other than those specified in Paragraph 7. of this Section shall not be conducted except upon an application to the Agency and the issuance of a wetland permit.
  9. In the event a buffer area is specified in a development permit, permitted uses for that buffer area are limited to those activities having minimal adverse impact on buffers and no impact on regulated wetlands.
  10. Any development which substantially increases the potential for damaging or flooding of properties within or adjacent to the wetland shall not be permitted within a wetland APC.
  11. Development of any structure subject to damage or posing a health or safety threat to the public or the wetland environment due to flooding of the wetland shall not be permitted within a wetland APC.
  12. Proposed ponding or storage facilities for agricultural, aquacultural, industrial, residential or commercial development may be permitted within wetlands only upon findings by the Agency that no feasible alternative sites exist and that such development is dependent on location within a wetland.
  13. Passive recreational and educational uses and structures such as unpaved foot trails, interpretive signs, elevated walkways, etc. within wetlands shall require wetland permits, and shall be subject to applicable Department of Parks and Recreation and the Department of Agriculture, Division of Aquatic and Wildlife Resources' rules and regulations.
  14. No development or person(s) shall introduce exotic flora or fauna into a wetland APC.
  15. The Zoning Official, after affording consideration to the comments of the general public, other affected landowners, Government of Guam and federal agencies with jurisdiction over the area in question, shall issue a wetland permit only if it is found that the development is determined to be in the public interest and that the applicant has demonstrated by a preponderance of the evidence that the development:

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- a. Is water-dependent or requires access to the wetland as a central element of its basic function, or is not water-dependent, but has no practicable alternative.
  - b. Will result in minimum feasible alternation or impairment to the wetland's functional characteristic and its existing contour, vegetation, fish and wildlife resources and hydrological conditions;
  - c. Will not jeopardize the continued existence of species that appear on federal or local endangered, threatened, rare, sensitive or monitored species lists; That the ecosystem upon which resident endangered or threatened species depend shall not be impaired or threatened pursuant to 5 GCA, Article 2 (Endangered Species Act of Guam) and the Department of Agriculture, Division of Aquatic and Wildlife Resources rules and regulations.
  - d. Will not cause significant degradation of groundwater or surface-water quality;
  - e. Complies will all applicable local and federal laws, including those related to sediment control, pollution control and on-site wastewater disposal;
  - f. Will provide a wetland buffer area of between twenty five (25) and two hundred (200) feet between the wetland and upland activities for those portions of a development that need not be located in the wetland;
  - g. Will not damage nearby public or private property and is no threat to the health or safety of people on or off the property;
  - h. That the inability to derive reasonable economic use of that property is not the result of actions by the applicant in segregating or dividing the property and creating the undevelopable condition after the effective date of this Section; and
  - i. Complies with other standards contained in the Zoning Code, including those pertaining to wetland creation and restoration as required.

16. Procedures for Development within Wetland Areas

- a. Before issuance of any permit for development within a wetland, a sketch plan for the proposed development shall be submitted to the Environmental Protection Agency, the Division of Aquatic and Wildlife Resources and the Zoning Official, including a thorough description of the proposed development and the following specific information:



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- (1) The name and address of the owner or owners of record, of the developer and of the person preparing the map.
  - (2) Date, north arrow and scale.
  - (3) A key map locating the development in relation to surrounding areas.
  - (4) The accurate placement and outline of structures existing on the site.
  - (5) The location, names, and existing widths of adjacent street rights-of-way.
  - (6) Topography with contour intervals of two (2) feet.
  - (7) The location and dimensions of all known existing easements and reservations.
  - (8) The location of existing utilities and drainage facilities located within or adjacent to the proposed development.
  - (9) The approximate layout and approximate dimensions of each structure, facility, or use proposed within the development.
  - (10) Areas intended to be reserved for public use.
- b. The sketch plan of the proposed development shall be prepared in sufficient detail so as to permit its complete analysis by the Environmental Protection Agency, the Division of Aquatic and Wildlife Resources and the Zoning Official. The sketch plan for any project other than a single-family dwelling unit shall include a schedule indicating the approximate dates when construction or development stages are planned to begin and be completed.
- c. Once the Environmental Protection Agency, the Division of Aquatic and Wildlife Resources and the Zoning Official have approved the sketch plan submitted by the applicant, a final plan may be prepared. All of the information called for in the sketch plan shall be included in the final plan; however, all of the comments that the Environmental Protection Agency, the Division of Aquatic and Wildlife Resources and the Zoning Official made in their review of the sketch plan shall be incorporated into the final plan. Additionally, all proposed building structures, and facility locations shall be definitive on the final plan.
- d. If a development project is not completed or operations totally cease within a prescribed time period, if any, indicated on the approved permit, the developer shall be required to restore the natural appearance and biological character of the wetland to its condition prior to institution of the development to the maximum extent practicable. The Guam Environmental Protection Agency shall review these restoration plans and monitor their progress to completion.

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- e. The comments submitted to the Zoning Official by Government of Guam agencies on requests for development within wetlands shall constitute the Government of Guam's position on such projects for the purpose of providing comment to the U.S. Army Corps of Engineers under their permit process for wetland development.
  - f. A performance bond or undertaking may be required by the Zoning Official for any development undertaken pursuant to an approved tentative plan within a wetland. The amount of the bond shall be one hundred and ten percent (110%) of the infrastructure costs of the development, and not less than two thousand dollars (\$2,000). The entire bond or any undertaking of any portion thereof shall be forfeited as determined by the Zoning Official for failure to comply with any applicable wetland, water quality or zoning regulation except as allowed for under a variance or other legal exception from such requirements. The entire bond or any portion thereof shall be forfeited as is required to complete the site preparation and infrastructure features or restoration of the development should these not be completed by the developer.
  - g. Upon certification by the Territorial Planner that such complete and accurate information as required and requested has been provided, such documents shall be submitted to the Zoning Official.
  - h. Infrastructure certification from the Public Utility Agency of Guam, the Guam Power Authority, the Guam Environmental Protection Agency and the Department of Public Works as defined herein and in accordance with these Rules shall be filed within forty five (45) days from receipt of the wetland application to the Zoning Official upon a form and accompanied by such data and information as the Zoning Official may prescribe.
17. All development within a wetland APC shall comply with all air and water quality, erosion and sedimentation control standards and other applicable pollution standards as promulgated by the Guam Environmental Protection Agency.
  18. No later than forty five (45) days after receipt of the permit application and after ten (10) days notice in a newspaper circulation, a public hearing in the municipality of wetland permit application shall be required with written notice to surrounding landowners within a one thousand (1,000) foot radius, not to exceed sixty (60) calendar days from acceptance of the application. Comments by surrounding landowners can be provided directly to the Department of Land Management, Planning Division or the appropriate Village Mayor.
  19. The Agency shall provide its recommendation to the Territorial Planner who shall then provide the Agency's recommendation through a Staff Report to the Zoning Official upon such data and information as the Zoning Official may prescribe.

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20. The Zoning Official shall either approve, conditionally approve or disapprove in whole or in part the proposed tentative development plan. Upon receipt of approval by the Zoning Official for development within the wetland, the applicant should apply for such other permits as may be required by the federal government.
  21. The Zoning Official may condition a wetland permit as deemed necessary to carry out the purpose of the Rules. Such conditions may include, but are not limited to:
    - a. Limitations on minimum lot size for any development;
    - b. Requirements that structures be elevated on piles and otherwise protected against natural hazards;
    - c. Modification of waste disposal and water supply facilities;
    - d. Imposition of operational control, sureties and deed restrictions concerning future use and subdivision of lands, such as flood warnings, preservation of undeveloped areas in open space use and limitation of vegetation removal;
    - e. Dedication of easements to protect wetlands;
    - f. Establishment of vegetated buffer zones separating and protecting the wetland from proposed activities with permitted uses for buffer area being outlined in provisions of this Section;
    - g. Erosion control and stormwater management measures;
    - h. Setbacks for structures and restrictions on fill, deposit of soil and other activities in the wetland;
    - i. Modification in development design to ensure continued water supply to the wetland and circulation of water;
    - j. Creation or restoration of an area of wetland;
    - k. Development of a plan to guide actions involving the creation of a new wetland or the restoration of a damaged or degraded wetland;
    - l. Quarterly report to the Zoning Official on the status and progress of the approved development; and
    - m. Time limitation for the commencement of construction and/or the completion of the approved development.

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22. If a field inspection by relevant local or federal agencies concludes that the development has not adhered to all applicable rules and regulations or conditions imposed by the Zoning Official, the Agency, with the assistance of the Attorney General and other law enforcement officials, shall take such action as necessary to ensure compliance with such requirements.
  23. Any expansion or alteration of an approved development, which exceeds fifty percent (50%) of the physical value of the original structure or development shall require an application for a new wetland permit from the Zoning Official.
  24. Upon the Zoning Official's approval of a tentative plan for a proposed commercial development within a wetland APC, the developer may be requested to demonstrate that sufficient funding is available for the development, prior to issuance of a wetland permit.
  25. During all phases of a proposed development and application for permit, the land area shall be open for inspection by all interested agencies or parties.
  26. If a development is not completed or operations totally cease within a prescribed time period indicated on the approved permit, the developer shall be required to restore the natural appearance and biological character of the wetland to its condition prior to institution of the development to the maximum extent practicable.
  27. The Staff Report submitted to the Zoning Official on requests for development within wetlands shall constitute the Government of Guam's official position on such developments for the purpose of providing comment to the U.S. federal agencies under their permit process for wetland development.
  28. Zone variances to such procedures and standards as outlined in these rules and regulations may be granted by the Territorial Land Use Commission only upon written findings that the applicant satisfies all of the criteria for granting of zoning variances under the Zoning Code.
  29. Practicable Alternative Test
    - a. For all permit applications, an alternative site for the proposed activity shall be considered practicable if it is available and the proposed activity can be carried out on that site after taking into consideration costs, existing technology, infrastructure and logistics, in light of overall development purposes.
    - b. There is no practicable alternative if the applicant demonstrates all of the following to the satisfaction of the Zoning Official.

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- (1) The basic purpose of the development cannot reasonably be accomplished using one or more other sites in the general region that would avoid or result in less adverse impact on a wetland;
  - (2) The basic purpose of the development cannot be accomplished by a reduction in the size, scope, configuration or density of the development as proposed or by changing the design of the development in a way that would avoid or result in fewer adverse effects on the wetland; and;
  - (3) In cases where the applicant has rejected alternatives to the development as proposed due to constraints such as inadequate zoning, infrastructure or parcel size, the applicant has made reasonable attempts to remove or accommodate such constraints.

### 30. Public Interest Test

In determining whether a proposed development in any wetland is in the public interest, the Zoning Official shall consider the following:

- a. The extent of the public need for the proposed activity;
- b. The extent and permanence of the beneficial or detrimental effects that the proposed development may have on the public and private uses for which the property is suited;
- c. The quality of the wetland that may be affected and the amount of wetland to be disturbed;
- d. The economic value of the proposed development to the general area; and
- e. The ecological value of the wetland and probable impact on public health, safety and general welfare, and wildlife.

### 31. Wetland Restoration and Creation.

- a. As a condition of a permit issued or as an enforcement action under the Zoning Code, the Agency may require that the applicant engage in the restoration or creation of wetlands in order to offset, in whole or in part, the losses resulting from an applicant or violator's actions, including cessation of a development within a prescribed time period, if any, indicated on the approved permit. In making a determination of whether such a requirement will be imposed, and, if so, the degree to which it would be required, the Agency will consider the following:
  - (1) The long- and short-term effects of the action upon the wetland and associated aquatic ecosystem and the reversible or irreversible nature of the impairment or loss;

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- (2) The type and benefit of the wetland functions and associated resources lost;
  - (3) The type, size and location of the wetland altered and the effect it may have upon the remaining system or watershed of which the wetland is a part;
  - (4) Observed or predicted trends with regard to the gains or losses of this type of wetland in the watershed, in light of natural and human processes;
  - (5) The cost and likely success of the possible compensation measures in relation to the magnitude of the proposed development or violation; and
  - (6) The degree to which the applicant has demonstrated a good-faith effort to incorporate measures to minimize and avoid wetland impacts within the proposed development.
- b. The applicant or violator may prepare or be required by the Zoning Official to develop a wetland restoration or creation plan for review and approval. The creation or restoration of wetlands shall not be an alternative to the standards set forth in Paragraph 16. of this Section, but shall be used only to compensate for unavoidable losses.
  - c. The plan should state the location, by metes and bounds description of the proposed site; ownership; size type and complete ecological assessment (flora, fauna, hydrology, wetland functions, etc.) of the wetland being restored or the area where a new wetland will be created; and the natural suitability of the proposed site for establishing the replacement wetland (i.e., water source and drainage patterns, topographic position, wildlife habitat opportunities, value of the existing area to be converted, etc.). In addition, plane view and cross-sectional, scaled drawings; topographic survey data, including slope percentage and final grade elevations; and other technical information are required in sufficient detail to explain, illustrate and provide for:
    - (1) Soil and substrate conditions; topographic elevations; grading and excavation; erosion and sediment control needed for wetland construction and long-term survival;
    - (2) Planting plans specifying plant species types, quantities, locations, size, spacing or density; source of plant materials, propagules, or seeds; timing, season, water and nutrient requirements for planting; and where appropriate, measures to protect plants from predation;
    - (3) Water quality parameters, water source, water depths, water control structures and water level maintenance practices needed to achieve the necessary ambient water conditions and hydro-cycle/hydro-period characteristics;

- (4) Mid-course corrections and a three-year monitoring and replacement plan establishing responsibility for removal of exotic and nuisance vegetation and permanent establishment of the wetland system and all its component parts; and
- (5) A demonstration of fiscal, administrative and technical competence of sufficient standing to successfully execute the overall development.

32. Wetland Restoration and Creation Alternatives.

- a. Ordinarily, the applicant or violator shall undertake restoration or creation effects on or adjacent to the site where permanent losses have been sustained or where restoration of a former wetland is possible. Replication "in-kind" of the impacted wetland will be the preferred alternative for creation or restoration efforts. Where the applicant has demonstrated to the satisfaction of the Zoning Official that this approach is infeasible due to technical constraints, such as parcel or wetland size or wetland type, or that a wetland of a different type or location is strongly justified based on regional needs or the functional value of the impacted wetland, the Zoning Official may accept or recommend an alternative proposal. Such proposal may involve monetary compensation as provided for in this section of the creation or restoration out-of-kind and off-site.
  - b. The Zoning Official shall set reasonable fees for compensation of wetland losses based upon the amount that would be required to perform on-site, in-kind restoration or creation. Where the Zoning Official determines that the public interest is better served, they may require a fee in lieu of direct action on behalf of the applicant or violator to initiate restoration or creation developments. Such fees shall be held in escrow for the express use of wetland creation and restoration developments and shall not be co-mingled with any other funds.
33. Suspension, Revocation: The Zoning Official may suspend or revoke a permit if it finds that the applicant has not complied with the conditions or limitations set forth in the permit or has exceeded the scope of work set forth in the permit. The Zoning Official shall cause notice of its denial, issuance, conditional issuance, revocation or suspension of a permit to be published in a newspaper of general circulation.
34. Final Approval: The Zoning Official shall take action within ninety (90) calendar days from the formal submission of an application for a wetland permit to take action or provide written justification to the applicant why action has not been taken. In the event more time is needed, the Agency may request for an extension from the Zoning Official and upon granting of the extension, the Agency may take up to an additional (90) calendar days. If a Zoning Official decision must be made within the initial ninety (90) calendar days and there is

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insufficient information or time to process the application, the Zoning Official shall issue a denial of a wetland permit.

The Zoning Official may either approve, approve with conditions or disapprove in whole or in part the proposed tentative development or activity. Upon receipt of approval by the Zoning Official for a wetland permit, the applicant should apply for other permits as may be required by both the local and federal government.

35. **Modification and Resubmittal:** The holder of a wetland permit for a regulated wetland area may request and the Zoning Official may approve modification of a previously issued wetland permit.

A wetland permit which has been denied may be modified and resubmitted no earlier than one hundred and eighty (180) calendar days following action on the original application.

36. A development that was lawful before the passage of the Zoning Code, but which is not now in conformity with the provisions of the Zoning Code, may be continued subject to the following:
- a. No such activity shall be expanded, changed, enlarged or altered in any way that increases its value at the time of its becoming a non-conforming structure, unless the structure is permanently changed to a conforming use;
  - b. No structural alteration or addition to any nonconforming structure over the life of the structure shall exceed fifty percent (50%) of all its value at the time of its becoming a nonconforming structure, unless the structure is permanently changed to a conforming use.
  - c. If a nonconforming use or activity is discontinued for twelve (12) consecutive months, any resumption of the activity shall conform to the Zoning Code;
  - d. If any nonconforming use or activity is destroyed by any development or through an act of nature, it shall not be resumed except in conformity with the provisions of the Zoning Code.



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## I. Vegetation Protection Standards

1. Purpose: It is the purpose of this Section of the Zoning Code to promote the health, safety, and welfare of existing and future residents and visitors by establishing minimum standards for the protection of natural plant communities, and the installation and continued maintenance of landscaping, for the following reasons:
  - a. Water Conservation: Promote the conservation of potable and non-potable water by encouraging the preservation of existing plant communities, encouraging the planting of natural or uncultivated areas, encouraging the use of native plant materials, and establishing techniques for the installation and maintenance of landscape materials and irrigation systems.
  - b. Aesthetics: Improve the aesthetic appearance of commercial, industrial, and residential areas through the incorporation of open space into development in ways that harmonize and enhance the natural and built environments.
  - c. Environmental Quality: Improve environmental quality by recognizing the numerous beneficial effects of landscaping upon the environment, including:
    - (1) Improving air and water quality through such natural processes as photosynthesis and mineral intake;
    - (2) Maintaining permeable land areas essential to surface water management and aquifer recharge;
    - (3) Reducing and reversing air, noise, heat, and chemical pollution through the biological filtering capabilities of trees and other vegetation;
    - (4) Promoting energy conservation through the creation of shade, thereby reducing heat gain in or on buildings or paved areas;
    - (5) Encouraging the conservation of limited fresh water resources through the use of native plants and various planting and maintenance techniques.
  - d. Land Values: Maintain and increase the value of land by requiring a minimum amount of landscaping to be incorporated into development.
  - e. Human Value: Provide direct and important physical and psychological benefits to the residents of Guam through the use of landscaping to reduce noise and glare, and to break up the monotony and soften the harsher aspects of urban development.
  - f. Preservation of Vegetation: Preserve existing natural vegetation and incorporate native plants, plant communities, and natural ecosystems into landscape design, wherever possible.