

Note: This is an unofficial copy of the law that that set up the framework for zoning in the CNMI. This information is provided to assist the public but this is not an official copy of the law. For the official copy, see the Title 2 of the CNMI code.

CHAPTER 2. Zoning Code. § 7201

§ 7201. Short Title. This law may be cited as the Zoning Code of the Commonwealth of the Northern Mariana Islands.

Source: PL 6-32, § 1 (§ 7201), modified.

Commission Comment: PL 6-32 took effect June 27, 1989. PL 6-32 § 1 (§ 7261) provides that the “Zoning Board and Office of the Zoning Administrator shall be funded annually as appropriate.” The Zoning Code of Rota is codified at 10 CMC § 1701 et seq.; the Saipan Zoning Law is codified at 10 CMC § 3511 et seq.

Article 1. General. § 7211

§ 7211. Purpose and Objectives.

§ 7212. Policy and Jurisdiction.

§ 7213. Definitions.

§ 7211. Purpose and Objectives.

(a) The Sixth Northern Marianas Legislature finds that there is a developing awareness of the need to promote a rational pattern of growth, to provide for competing land uses, to abate nuisances, and to manage all environmental resources of the Commonwealth as wisely as possible.

(b) Satisfaction of this need requires a legal system of land use guidance that is consistent with the aspirations and values of the people, helps them maintain a desirable lifestyle, produces appropriate types and levels of development for the Commonwealth, and preserves the environment for future generations. Land use controls must also be practical and responsive to changing circumstances.

(c) The scarcity and increasing value of land, concentration of ownership, and the problem of land alienation makes it difficult to obtain suitable home sites. The Commonwealth land use policy must, therefore, designate suitable and adequate lands for housing.

(d) The purposes of this chapter are to meet the needs identified in subsections (a) through (c) of this section, and to that end to establish and provide for a Commonwealth Zoning Board and professional staff to prepare for review and adoption by the legislature, and to administer, subsequent to enactment, a land use and zoning system that protects the interests of both present and future land owners and the general public.

Source: PL 6-32, § 1 (§ 7211).

Commission Comment: Executive Order 94-3, the “Second Reorganization Plan of 1994” (effective August 23, 1994), reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3, §§ 306(c), 401 and 402:

§ 7212. Policy and Jurisdiction.

- (a) It shall be the policy of the Commonwealth, implemented by the Zoning Board to:
- (1) Protect the health, safety, and general welfare of the residents of and visitors

to the Commonwealth;

(2) Promote and encourage basic public services which meet the needs of the people;

(3) Promote and provide for the wise use of natural resources, including land, water, and biological resources;

(4) Respect the indigenous cultures by preserving archaeological, historical, and architectural resources;

(5) Promote the conservation of nonrenewable resources;

(6) Actively encourage conversion to renewable energy sources; and

(7) Adopt a flexible system of zoning that allows for a mixture of uses and that avoids nuisances by measuring the compatibility of proximate uses against quantifiable performance standards.

(b) (1) This chapter shall apply to the use of lands in the Commonwealth by any person who has use or dispositional rights accorded them by virtue of land ownership, leasehold, homestead, use permit, statutory authority, or other instruments; provided, that this chapter shall not apply to the islands of the First and Second Senatorial Districts except by enactment of an appropriate local law so applying this chapter to a particular senatorial district.

(2) Following such enactment, a Zoning Board member for the senatorial district to which this chapter newly applies shall be appointed and seated pursuant to 2 CMC § 7221(k). The Zoning Board shall then create a zoning plan for such senatorial district, using the same procedures, educational efforts, and time frames provided in this chapter for creation and adoption of a zoning plan for the Third Senatorial District, except that the Zoning Advisory Council for the senatorial district to which this chapter newly applies by local law shall be created by the same local law. The Zoning Board shall submit such zoning plan to the legislature for approval by the legislative delegation of the affected district pursuant to 2 CMC § 7221(c)(4).

(c) All use of land must be consistent with the provisions of this chapter. Uses which are not consistent shall be in violation of this chapter.

Source: PL 6-32, § 1 (§ 7212).

Commission Comment: The Zoning Code of Rota is codified at 10 CMC § 1701 et seq.; the Saipan Zoning Law is codified at 10 CMC § 3511 et seq. With respect to the references to the “Zoning Board,” see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the commission comment to 1 CMC § 2001; see also the comment to 2 CMC § 7211.

§ 7213. Definitions.

As used in this chapter:

(a) “Act” or “chapter” means this legislation and the regulations issued under its authority.

(b) “Consistency” means zoning shall further enhance the goals and policies of the plan, further the aims and intent of the zoning districts by implementing the land use districts and map of the comprehensive plan with zoning districts of similar intensity and location.

(c) “District” means an area of land established as a land use district; except, “district” means a senatorial district when used in 2 CMC § 7212(b) and 2 CMC § 7221(e), (f) and (k), or when modified by the word “senatorial.”

(d) “Land” includes areas above the ordinary high water mark and public lands.

(e) “Land use plan map” means an element of the comprehensive plan that sets forth the desired future land use in the form of a map.

(f) “Nonconforming use” means a structure or use that is not permitted by laws and regulations currently in effect.

(g) “Owner” includes lessees and homesteaders of real property.

(h) “Person” means any individual, estate, firm, corporation, company, joint venture, association, partnership, trust, receiver, club, syndicate, cooperative association or other entity, including agencies and offices of the government of the Commonwealth.

(i) “Saipan comprehensive land plan” means the comprehensive plan is a policy document that sets forth the goals, objectives and policies of Saipan for its future. The goals would cover topics such as land use, community character, public facilities, economic growth, housing or other social issues. The comprehensive plan describes the desired future of Saipan and explains the reasons that shaped that vision of Saipan.

(j) “Structure” means any construction, or any production or piece of work artificially built up or composed of parts joined together in some definite manner.

(k) “Zoning district” means the zoning regulations will have a number of zoning districts each of which has a different set of rules for permitted land use, lot area or density, setbacks, landscaping, and open space. Parking standards would not vary within a district. A suburban zoning district, for example, might allow houses to be at a density of seven homes per hectare while in an urban district they could be built at 18 homes per hectare.

(l) “Zoning law” means the legal document that regulates the use of land. It is supposed to implement the comprehensive plan. Zoning provides actual laws that land owners must follow in developing the land. These rules include permitted land use, lot area or density, setbacks, landscaping, open space, and parking.

(m) “Zoning map” means a map of Saipan that shows the various zoning districts and the boundaries between them. The entire island would be divided into districts. The first step in the development process is for the land owner to refer to this map to find the zoning district that applies to the property. The zoning map is a portion of the zoning regulations and as such has the same legal force as the zoning regulations.

(n) “Zoning plan” means the proposal of the Zoning Board submitted to the legislature in accordance with the provisions of this chapter which shall include, but is not limited to, these components of a plan of zoning:

(1) A system of land use districts setting out the purposes and land uses characteristic of each such district, the uses prohibited within each, the uses permissible within each, and any special requirements governing such uses;

(2) Those quantifiable performance standards which shall be employed in determining whether a particular use or structure is permissible within a particular district;

(3) Maps showing the boundaries of each district proposed; and

(4) If appropriate to the system of zoning proposed, standards and procedures for issuance of variances and conditional use permits.

The zoning plan shall be constructed in statutory form as appropriate.

Source: PL 6-32, § 1 (§ 7213); amended by PL 8-10, §§ 7, 8, modified.

Commission Comment: To enhance clarity, in subsection (m), the commission deleted “of” after “legal force” and inserted “as” in its place.

With respect to the reference to the “Zoning Board,” see Executive Order 94-3 (effective August 23,

1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the commission comment to 1 CMC § 2001; see also the comment to 2 CMC § 7211.

Article 2. Administration. § 7221

§ 7221. Zoning Board: Creation, Responsibilities, Composition, Term, Compensation, Meetings, Appeals.

§ 7222. Zoning Administrator: Creation, Responsibilities, Staffing.

§ 7223. Zoning Advisory Council.

§ 7221. Zoning Board: Creation, Responsibilities, Composition, Term, Compensation, Meetings, Appeals.

(a) *Creation.* There is established in the Commonwealth government a Zoning Board.

(b) *General Responsibilities.* The Zoning Board shall be responsible for the following:

(1) To educate the public about this chapter and the requirement for compliance. Such educational program shall be mandatory and shall be undertaken prior to submission of the zoning plan of the Zoning Board to the legislature.

(2) To administer and enforce this chapter.

(3) To hear and grant or deny applications for changes in land use district boundaries, uses or requirements, imposing such conditions as are deemed necessary to fulfill the purposes and policies of this chapter.

(4) To establish fees for processing of applications and for other procedures required or authorized by this chapter.

(5) To report annually on its activities to the legislature.

(6) To hire and supervise the activities of the zoning administrator.

(c) *Specific Responsibilities: Zoning Plan.* The Zoning Board shall be responsible for preparing the zoning plan for the Third Senatorial District in accordance with the guidelines provided in 2 CMC § 7231 and consistent with the policies and purposes of this chapter.

(1) *Public Participation.* In coordination with the Zoning Advisory Council, the Zoning Board shall hold open public hearings on the island of Saipan, in at least all major villages, to solicit public opinion on proposed land use districts, boundaries and regulations.

(2) *Zoning Advisory Council.* The Zoning Board shall give due consideration to the recommendations of the Zoning Advisory Council in the preparation of the zoning plan.

(3) *Coordination With MPLC.* To the greatest extent feasible, the Zoning Board shall coordinate its responsibility for obtaining public comment on proposed land uses, as per subsection (c)(1) of this section, with the public comment activities of the Marianas Public Land Corporation (MPLC), or its successor agency, as MPLC fulfills its responsibility to adopt a comprehensive land use plan for the public lands of the Commonwealth.

To the greatest extent feasible, the Zoning Board shall coordinate the zoning plan with the comprehensive land use plan for public lands adopted by MPLC.

(4) *Report to Legislature; Adoption of Zoning Plan.* Within eight months of the date all its members are confirmed by the appropriate legislative delegation, the Zoning Board shall submit its completed zoning plan to the legislature.

The legislative delegation of the affected senatorial district shall have 90 days

from submission within which to approve or amend and approve the zoning plan, by a separate local law duly enacted. Failure of the legislative delegation to act within this time shall be deemed as approval by the same legislative delegation.

(d) *Regulations.* The Zoning Board shall promulgate regulations to carry out the intent and purposes of this chapter and, at the same time, shall identify existing Commonwealth laws and regulations which conflict with the Saipan Zoning Law [10 CMC § 3511 et seq.]. Those conflicting laws and regulations shall be superseded by the Saipan Zoning Law in whole or parts as indicated in the repealer section of the Saipan Zoning Law. The Zoning Board shall adopt such regulations within 60 days of adoption of the zoning plan into law.

(e) *Composition; Qualifications.*

(1) The Zoning Board shall consist of seven persons appointed by the Governor, subject to the confirmation of the legislative delegation of the Third Senatorial District.

(2) The Governor shall make all such appointments within 30 days of June 27, 1989, or of a vacancy occurring on the Zoning Board. Upon failure of the Governor to make such appointments, the chairman of the appropriate legislative delegation shall appoint the remaining members of the Zoning Board. Appointments by the chairman shall be subject to confirmation by a majority vote of the delegation.

(3) The legislative delegation shall have 30 days from the date of being informed of an appointment by either the Governor or the chairman of the delegation to confirm or reject such appointment. Failure to act within this time shall be deemed an acceptance of the appointment.

(4) Each member of the Zoning Board shall be either of Northern Marianas descent, as defined in N.M.I. Const. art. XII, § 4, or shall be a United States citizen or national who has been domiciled in the Commonwealth for a minimum of five consecutive years prior to selection. Each member shall be qualified to vote in the Commonwealth and be at least 21 years of age. No more than two members of the Zoning Board may be employees or officers of the Commonwealth government.

(f) *Term; Limitation.* The terms of Zoning Board members shall commence upon confirmation of the appointment by the appropriate legislative delegation and shall run for two years. A Zoning Board member may serve a maximum of three two-year terms for a total of six years, subject, however, to reappointment by the Governor and reconfirmation by the appropriate legislative delegation at the expiration of each two-year term; provided, however, that the six-year limit on the term of service for Zoning Board members who were appointed and confirmed prior to October 31, 1991, shall commence on October 31, 1991.

(g) *Compensation.* The members of the Zoning Board shall be compensated at the rate established for board members of government corporations and councils by 1 CMC § 8247.

(h) *Vacancy.* Upon a vacancy on the Zoning Board caused by death, resignation, removal, or expiration of the term of office, the Governor shall appoint a replacement with the qualifications and in the manner prescribed in subsection (e) of this section.

(i) *Removal of a Member.* A Zoning Board member shall be removed by the Governor for conviction of a felony by a trial court, or for absence, in any 12-month period, from more than 50 percent of, or from three consecutive, duly noticed, regular meetings of the Zoning Board, unless such absence is the result of a documented health problem. In addition, in matters pertaining to the Zoning Board, a member shall be removed for breach

of fiduciary trust or for an intentional violation of conflict of interest prohibitions upon the vote of a majority of the other Zoning Board members.

(j) (1) *Quorum*. If a quorum does not exist due to a conflict of interest involving one or more of the Zoning Board members, then three members shall constitute a quorum.

(2) *Meetings*. The Zoning Board shall meet at least once a month or as necessary to discharge its responsibilities without undue delay. Either the chairman or any three members may call a meeting. Advance public notice in at least one newspaper of local circulation shall be provided for at least two weeks prior to a meeting. Meetings of the Zoning Board, except for those meetings dealing with termination, hiring, or discipline of the zoning administrator, shall be open to the public. The opportunity for public participation at meetings shall be provided. No decisions of the Zoning Board shall be made other than in a duly noticed public meeting. The Zoning Board shall adopt rules of procedure necessary for the conduct of its operations and meetings. A majority of the Zoning Board members is required to transact official business consistent with other applicable Commonwealth law.

(3) A written record of all meetings shall be kept and be available for public inspection. Such records shall include clear statements of how and why decisions were made. Copies of such records shall be available to the public upon payment of a reasonable copying cost.

(k) In the event that either the First or Second Senatorial District elects, pursuant to 2 CMC § 7212(b), to apply this zoning code to their respective senatorial district, an additional member for such district shall be added to the Zoning Board by appointment of the Governor, subject to confirmation by the appropriate senatorial district delegation as provided in subsection (e) of this section. All other provisions of this chapter regarding Zoning Board members shall apply to Zoning Board members of the First or Second Senatorial Districts.

(l) *Appeals*. An applicant may appeal a determination of the Zoning Board pursuant to the provisions of 1 CMC § 9112, except that the court shall act upon such appeals within 60 days of the written record of the relevant Zoning Board meeting being made available to the court.

Source: PL 6-32, § 1 (§ 7221); amended by PL 7-41, § 2, modified; PL 8-10, §§ 3, 4, 5.

Commission Comment: With respect to the references to the “Zoning Board,” see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the commission comment to 1 CMC § 2001; see also the comment to 2 CMC § 7211.

§ 7222. Zoning Administrator: Creation, Responsibilities, Staffing.

(a) *Creation of Position*. There is established in the Commonwealth government the position of zoning administrator. The administrator shall serve at the pleasure of the Zoning Board. The administrator shall have at least a baccalaureate degree, but preferably a graduate degree, in planning or a related field, and five years of progressive experience in land use planning, comprehensive planning, or land use administration. All other qualifications of applicants being equal, preference in hiring will be given the applicant with the most advanced degree in planning or a related field.

(b) *Responsibilities*. The zoning administrator shall have the following duties:

(1) To act as staff to the Zoning Board;

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

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

(4) To carry out the directives of the Zoning Board.

(c) *Staffing.* The zoning administrator may, subject to legislative appropriation, staff an office in order to execute the purposes of this chapter. Hiring and firing of staff shall be the sole responsibility of the zoning administrator.

(d) *Annual Report.* The zoning administrator shall secure from the Commonwealth Superior Court, office of the Recorder, on an annual basis, a detailed inventory of all land transactions, involving one or more parties of non-Northern Mariana Islands descent, and report this information to the Zoning Board and to the legislature. The report shall indicate the name of each individual involved in the land transaction, amount and location of acreage involved, period of lease, and intended use, if known. The Commonwealth Superior Court shall cooperate in assisting the zoning administrator in securing the information for this annual report.

Source: PL 6-32, § 1 (§ 7222), modified.

Commission Comment: With respect to the references to the “Zoning Board,” see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the commission comment to 1 CMC § 2001; see also the comment to 2 CMC § 7211.

§ 7223. Zoning Advisory Council.

(a) There is established in the Commonwealth a Zoning Advisory Council.

(b) *Purpose.* The Zoning Advisory Council is established to:

(1) Advise the Zoning Board on the appropriate components of the zoning plan.

(2) Advise the Zoning Board on any proposed initial regulations to implement this chapter.

(c) *Composition.* The Zoning Advisory Council shall consist of the mayors of Saipan and the Northern Islands; the special assistant for Carolinian Affairs; the special assistant for Indigenous Affairs; the chairman or designee of the board of the Marianas Public Land Corporation; the president or designee of the Saipan Chamber of Commerce; the Governor’s special assistant for socioeconomic planning; the Chief of the Division of Environmental Quality of the Department of Public Health and Environmental Quality; the administrator of the office of Coastal Resources Management; the Historic Preservation Officer of the Department of Community and Cultural Affairs; the chairman or designee of the Board of Directors of the Commonwealth Development Authority; the chairman or designee of the board of the Commonwealth Utilities Corporation; the president or designee of the Northern Marianas Technical/Professional Council; a representative of the Soil Conservation Service of the United States Department of Agriculture; the director or designee of the Department of Natural Resources; the director or designee of the Department of Commerce and Labor; the director or designee of the Department of Public Works; the president or designee of the Northern Marianas Hotel Association; the president or designee of the Commonwealth of the Northern Mariana Islands Contractors Association; the chairman or designee of the board of the Saipan Farmers Cooperative; the managing director or designee of the Marianas Visitors Authority; and the chairman or designee of the board of the Public School System. In addition, the Governor shall appoint one member of the public representing fisheries and designate one member of the Zoning

Advisory Council as chair of the Zoning Advisory Council, until such time as the Zoning Advisory Council elects its own chair. One staff member each from the Commonwealth House Natural Resources and Senate Resources and Development Committees shall be appointed by the respective committee chairmen to the Zoning Advisory Council.

(d) *Term.* All members shall serve until the Zoning Board submits its zoning plan. The Zoning Advisory Council shall then be disbanded.

(e) *Compensation.* The members of the Zoning Advisory Council shall receive no compensation, but shall be reimbursed for reasonable and necessary expenses at established Commonwealth government rates for meetings actually attended.

(f) *Meetings.* All meetings of the Zoning Advisory Council shall be open to the public and the opportunity for public participation shall be provided.

(g) *Records.* A written record of all meetings shall be kept and made available for public inspection. Such records shall include clear statements of how and why decisions were made.

Source: PL 6-32, § 1 (§ 7223); amended by PL 8-10, § 6; subsection (c) amended by PL 11-15, § 24.

Commission Comment: With respect to the references to the “Zoning Advisory Council” and the “Zoning Board,” see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the commission comment to 1 CMC § 2001; see also the comment to 2 CMC § 7211.

PL 11-15, § 24 changed “Marianas Visitors Bureau” in subsection (c) of this section to “Marianas Visitors Authority”. PL 11-15 took effect on June 17, 1998.

Article 3. Zoning Districts. § 7231

§ 7231. Land Use Districts.

(a) *Creation.* Land use districts shall be established to preserve, protect and encourage the development of lands in the Commonwealth for those uses to which the lands are best suited in accordance with sound planning principles and in the interest of the health and welfare of the people of the Commonwealth. In preparing its zoning plan the Zoning Board shall, in addition to carrying out the stated general purposes and policies of this chapter, specifically establish and employ:

- (1) Standards for subdivision development;
- (2) A system of flood control and flood plain, wetlands, and watershed management;
- (3) Provisions which encourage fresh water conservation;
- (4) Provisions which encourage energy conservation and conversion to renewable energy sources, particularly protecting lands which would be suitable for use in association with an ocean thermal energy conversion system;
- (5) Restrictions on the placement and size of commercial advertising signage;
- (6) Protections for lands having special, exceptional, critical, or unique biological productivity, the loss of which would jeopardize the continued existence of any species of wildlife on any island or its surrounding waters;
- (7) Protections for lands having special, exceptional, critical, or unique scenic, historic, archaeological, architectural, topographic, geologic, ethnologic, scientific, cultural, or recreational significance;
- (8) In commercial areas and within lands which are a primary focus of the tourism industry, restrictions and requirements which protect the aesthetic and utilitarian values of these areas, including, but not limited to, minimum lot size,

density, setback, landscaping, parking, site coverage, and building height; and

(9) Protections for lands in intensive agricultural use or with a high capacity for growing crops, including, but not limited to flowers, foliage, fruits, forage and timber, or for raising of livestock or the propagation of fish or game.

To the extent compatible with Commonwealth laws and constitutional provisions on the management of public lands, the zoning plan shall promote or create a system of public parks, beach access, recreation areas and wild and natural areas.

The Zoning Board shall also endeavor to structure the zoning plan so that its effect upon the present economic values of land is relatively neutral. Lastly, the Zoning Board shall avoid zoning that precludes the building of a residence on a homestead property because of minimum lot size requirements.

(b) *Maps*. Once adopted by law, the maps showing the boundaries of districts shall be kept permanently on file in the zoning administrator's office.

Source: PL 6-32, § 1 (§ 7231).

Commission Comment: With respect to the references to the "Zoning Board," see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the commission comment to 1 CMC § 2001; see also the comment to 2 CMC § 7223.

Article 4. Nonconforming Uses and Changes in Boundaries. § 7241

§ 7241. Nonconforming Uses or Structures.

§ 7242. Changes in Boundaries, Uses, and Requirements.

§ 7241. Nonconforming Uses or Structures.

(a) *Continuance of Nonconforming Uses and Structures*. Within the districts designated by the Zoning Board in its proposed zoning plan and which become law by enactment of the legislature or by popular initiative, as provided in 2 CMC § 7221, or within the boundaries of such districts later established, there may be lots, structures, or uses of land and structures that were lawful prior to the enactment of the zoning plan but which would be prohibited or restricted under the zoning plan, as enacted, or under future amendments. The provisions of this section are intended to reasonably expedite the eventual elimination of existing uses or structures that are not in conformity with the enacted zoning plan. However, in applying these provisions, no elimination of nonconforming uses or structures shall be effected so as to cause unreasonable interference with established property rights or unreasonable hardship upon the property owner or user.

(b) *Nonconforming Uses or Structures*. Any lawful structures or use of land or structures existing at the effective date of the statutory enactment of the zoning plan by the legislature, including structures under construction and 25 percent complete, may be continued for the length of time permitted by the Zoning Board which is consistent with the amortized schedules of elimination of nonconforming uses established by the regulations of the Zoning Board even though such uses or structures do not conform to the provisions of said zoning plan. The provisions shall apply to every nonconforming use or structure with any district.

(c) *Nonconforming Areas and Parcels*. A lot of record may be occupied by any use permitted by this chapter within the district in which the lot is situated.

(d) *Casual or Illegal Use of Land*. A casual, intermittent, temporary, or illegal use of lands or structures shall not be sufficient to establish the existence of a nonconforming use.

(e) *Existence of Nonconforming Use is a Question of Fact.* Whether a nonconforming use exists shall be a question of fact and shall be decided by the Zoning Board. The burden of proof lies with the applicant.

(f) *Illegal Nonconforming Uses.* An illegal, nonconforming structure or use of land or structure shall not be validated by the adoption of regulations.

(g) *Annual Reports.* The Zoning Board shall annually report to the legislature on the number and type of nonconforming structures and uses and make recommendations for acquisition of such sites by purchase or land exchange.

Source: PL 6-32, § 1 (§ 7241); amended by PL 8-10, § 9.

Commission Comment: With respect to the references to the “Zoning Board,” see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the commission comment to 1 CMC § 2001; see also the comment to 2 CMC § 7223.

§ 7242. Changes in Boundaries, Uses, and Requirements.

District Changes. Changes in land use district boundaries, uses, and requirements shall be consistent with the purposes of this chapter, the Coastal Resources Management Act [2 CMC § 1501 et seq.], and the provisions of this section.

(a) *Initiation.* Changes may be initiated by the Zoning Board, the zoning administrator, or by application of a person to the Zoning Board.

(b) *Administrative Findings.* The zoning administrator shall review proposed changes and shall issue a finding and recommendation to the Zoning Board within 30 days of the initiation.

(c) *Determination.* The Zoning Board shall make its determination within 60 days of the date of the public hearing. The Zoning Board shall immediately forward notice of any change to the applicant, the Governor, and the presiding officers of the legislature and shall publish notice of the change in a newspaper of general circulation in the Commonwealth. The zoning administrator shall record any boundary change on the official land use district maps.

(d) *Legislative Review.* Any change in district boundaries, uses, or requirements may be amended or changed by law enacted by the legislative delegation of the affected senatorial district.

(e) *Protection of Uniquely Valuable Lands.* Lands in intensive agricultural use or with a high capacity for soil-based agricultural or other method of food production shall not be taken out of the district designated for such uses if to do so will significantly impair the agricultural or food productivity of the Commonwealth. Similar consideration shall be given to lands suitable for aquaculture and ocean thermal energy conversion.

Source: PL 6-32, § 1 (§ 7242), modified.

Commission Comment: With respect to the references to the “Zoning Board,” see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the commission comment to 1 CMC § 2001; see also the comment to 2 CMC § 7223.

Article 5. Procedures, Fees and Penalties. § 7251

§ 7251. Public Participation: Notice; Hearing; Rules of Procedure.

§ 7252. Filing Fees: Authority; Fees; Payment.

§ 7253. Simplification of Process.

§ 7254. Penalties: Fines; Conflict of Interest.

§ 7255. Accounting of Fines and Fees.

§ 7251. Public Participation: Notice; Hearing; Rules of Procedure.

(a) *Public Hearings.* The Zoning Board shall hold at least one public hearing, providing ample, advance public notice of at least 30 calendar days, in the senatorial district to be affected by any proposed change of district boundary, uses, or requirements.

(b) *Rules of Procedure.* The Zoning Board shall prescribe rules of procedure to govern the publishing of public notices and the conduct of public hearings. The applications, filings, determinations, and records kept pursuant to this chapter shall be open to the public for review and inspection.

Source: PL 6-32, § 1 (§ 7251).

Commission Comment: With respect to the references to the “Zoning Board,” see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the commission comment to 1 CMC § 2001; see also the comment to 2 CMC § 7223.

§ 7252. Filing Fees: Authority; Fees; Payment.

(a) *Authority to Establish Fees.* The Zoning Board shall establish fees for procedures required or authorized by this chapter. Such fees must bear a reasonable relationship to the costs incurred by the Commonwealth, including costs of investigation, inspection, administration, supervision, and enforcement. Except, the Zoning Board shall provide for a system of fee credits for uses or structures, residential or commercial, designed to produce energy from renewable sources, conserve energy, or collect or store rainwater.

(b) *Payment in Full Required.* The zoning administrator shall not initiate any action authorized by this chapter which requires a filing fee prior to receipt of full payment of such filing fee.

Source: PL 6-32, § 1 (§ 7252).

Commission Comment: With respect to the references to the “Zoning Board,” see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the commission comment to 1 CMC § 2001; see also the comment to 2 CMC § 7223.

§ 7253. Simplification of Process.

To the maximum extent possible, in preparing the zoning plan the Zoning Board shall integrate the functions of zoning, land use planning, and environmental protection in the Commonwealth into a consolidated, simplified process whereby landowners and applicants may most directly meet lawful land use requirement.

Source: PL 6-32, § 1 (§ 7253).

Commission Comment: With respect to the reference to the “Zoning Board,” see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the commission comment to 1 CMC § 2001; see also the comment to 2 CMC § 7223.

§ 7254. Penalties: Fines; Conflict of Interest.

(a) *Administrative Orders.* The Zoning Board shall investigate violations and order violators to conform with this chapter or to cease and desist from any unlawful acts. The Zoning Board may order demolition or removal of nonconforming structures which are built in willful violation of this chapter. The Zoning Board shall have the authority to recoup the cost of demolition from the structure’s owner. The zoning administrator or his agent may,

with permission of the owner or order of the Commonwealth Superior Court, enter any premises at reasonable times for inspection and verification of any nonconforming uses.

(b) *Penalties.*

(1) *Criminal Penalty.* No person shall knowingly or willingly use any real property or structures thereon, or construct any structure thereon, for purposes not in compliance with this chapter. Any person who violates any provision of this chapter shall be punished by a fine not to exceed \$1,000, or one year imprisonment, or both.

Any person who knowingly or willfully makes a false statement, representation, or certification in any documentation pertaining to this chapter or regulation or order issued thereunder shall be subject to a fine of \$1,000, or one year imprisonment, or both.

(2) *Civil Penalty.* The office of the Attorney General shall bring a civil action to enjoin the use or contemplated use of any real property in violation of this chapter. Upon a showing of a violation of this chapter the court shall issue an injunction prohibiting such use. The Attorney General need not show irreparable harm, as it is presumed; it is not necessary for the Attorney General to show there is an inadequate remedy at law to obtain an injunction.

Any person who materially violates any provision of this chapter or any regulation or any order issued hereunder, is subject to a civil fine not to exceed \$1,000 per day for each day the violation occurs.

(c) *Conflict of Interest.* Any person, including Zoning Board members themselves, having a personal or financial interest in any official proceeding of the Zoning Board, or a familial relationship to the fourth degree of consanguinity with any party to such proceeding, shall disqualify himself or herself from officially hearing or ruling in such proceeding. A knowing or willful failure to do so is a misdemeanor, punishable by not more than one year in prison and a fine not to exceed \$1,000 for each violation.

(d) *Private Action.*

(1) Notwithstanding any other remedies available, any person damaged or aggrieved as a result of a violation of this chapter has a cause of action against the landowner or lessee who committed the violation. An award shall include damages and the costs of litigation including reasonable attorney's fees.

(2) Any person who is aware of a violation of this chapter may bring an action in an appropriate court of the Commonwealth to secure compliance with this chapter. However, such action shall not be brought until the complaining person has first given written notice of the violation to the Zoning Board, and the Zoning Board has refused to take action on the written notice of violation. The failure of the Zoning Board to act on the written notice within 90 days of the Zoning Board's receipt of such notice shall be deemed a refusal by the Zoning Board to take action. A person who substantially prevails on the merits of his cause of action shall receive his costs of litigation including attorney's fees.

(e) *Public Nuisance.* Any use of land in violation of this chapter is a per se public nuisance.

Source: PL 6-32, § 1 (§ 7254).

Commission Comment: With respect to the references to the "Zoning Board," see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the commission comment to 1 CMC § 2001; see also the comment to 2 CMC § 7223.

§ 7255. Accounting of Fines and Fees.

(a) Upon recordation of a fine with the Commonwealth Recorder, an unpaid fee or fine is a lien on the nonconforming property. The Zoning Board may enforce payment of the lien by foreclosure in accordance with the law governing foreclosure of mortgages.

(b) All fines and fees collected pursuant to this chapter shall be expended for the operations of the Zoning Board, the administrative staff, and the several operations of the zoning program, including the purchase of nonconforming structures. All fines and fees collected pursuant to this chapter shall be deposited by the Director of the Department of Finance into a zoning board account, which shall be established separate and unique from the Commonwealth General Fund. The Zoning Board shall have expenditure authority over all funds deposited in said account. Funds deposited into said account shall be available for expenditure without fiscal year limitation; provided, however, prior to the obligation of any such funds the Director of the Department of Finance shall certify their availability for expenditure from said account. The Zoning Board shall report annually to the legislature on the amount of fines and fees collected and the cost of the zoning program.

Source: PL 6-32, § 1 (§ 7255); amended by PL 8-10, § 10.

Commission Comment: With respect to the references to the “Zoning Board” and the “Director of the Department of Finance,” see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the commission comment to 1 CMC § 2001; see also the comment to 2 CMC § 7223.