

1 **Article 7. Conditional Uses**

2 **Section 701 Purpose and Applicability**

- 3 (a) **Purpose.** The purpose of this Article is to establish general and specific requirements for
4 obtaining a conditional use permit as required by this Law.
- 5 (b) **Applicability**
- 6 (1) The provisions in this Article apply to a use indicated as a conditional use in
7 Section 404.
- 8 (2) The Board may identify other uses that require conditional use permits as they
9 arise.
- 10 (3) In addition to the conditions described in this Article, the Board may require
11 additional conditions as necessary to mitigate specific impacts or meet the
12 intent of this Law.

13 **Section 702 General Requirements for All Conditional Uses**

14 A conditional use shall meet all the following requirements:

- 15 (a) Be consistent with all applicable provisions of an adopted comprehensive land use plan;
- 16 (b) Be compatible with the existing or allowable uses of adjacent properties and surrounding
17 neighborhoods.
- 18 (c) Employ reasonable measures of fencing, buffering, traffic restraints, sign and light
19 controls, and other appropriate measures to protect the surrounding properties and
20 adjoining districts;
- 21 (d) Demonstrate that adequate public facilities, including roads, drainage, potable water,
22 sanitary sewer, and police and fire protection exist, or will exist, to serve the use at the time
23 when such facilities are needed;
- 24 (e) Not create undue traffic congestion;
- 25 (f) Not adversely affect the public health, safety or welfare;
- 26 (g) Meet specific requirements for the type of conditional use and all other applicable
27 provisions of this Law; and
- 28 (h) Adequately avoid or mitigate unacceptable significant adverse impacts to environmental
29 elements, including: stormwater runoff; erosion; noise; air, including odors; wildlife
30 habitat; public access; viewshed; and other factors identified by the Board.

31 **Section 703 Agriculture, Intensive**

- 32 (a) In addition to meeting the requirements of Section 702 and all other requirements of this
33 Law, intensive agriculture shall meet the requirements of this Section.
- 34 (b) Confined animal facilities shall meet DEQ requirements.
- 35 (c) Confined animal facilities shall not be located closer than 100 ft to a residential structure or
36 the boundary of a VR zoning district.
- 37 (d) Runoff shall not be allowed to enter surface waters.

38 **Section 704 Energy Facility, Renewable**

39 In addition to meeting the requirements of Section 702, entitled "General Requirements for All
40 Conditional Uses", and all other requirements of this Law, a commercial renewable energy facility
41 shall meet the requirements of this Section.

- 42 (a) A large wind energy system shall meet the following requirements:
- 43 (1) **Height.** A wind facility shall be no higher than 400 feet above the current grade
44 of the land, provided that a wind facility may exceed 400 feet if:
- 45 A. The applicant demonstrates by substantial evidence that such height reflects

1 industry standards for a similarly sited wind facility; and

2 B. Such excess height is necessary to prevent financial hardship to the applicant.

3 **(2) Setbacks**

4 A. A wind turbine shall be set back a distance equal to 1.5 times the tower height
5 of the wind turbine from the nearest existing residential or commercial
6 structure and 100 feet from the nearest property line and private or public way.

7 B. The Board may reduce the minimum setback distance as appropriate based on
8 site specific considerations, if the project satisfies all other criteria for the
9 granting of a conditional use permit.

10 **(3) Color and Finish.** The Board shall have discretion over the turbine color,
11 although a neutral, non-reflective exterior color designed to blend with the
12 surrounding environment is encouraged.

13 **(4) Lighting.** A wind turbine shall be lighted only if required by the Federal Aviation
14 Administration. Lighting of other parts of the wind facility, such as
15 appurtenant structures, shall be limited to that required for safety and
16 operational purposes, and shall be reasonably shielded from abutting
17 properties.

18 **(5) Signage.** Signs on the wind facility shall comply with the requirements of the
19 Saipan Zoning Law, and shall be limited to:

20 A. Those necessary to identify the owner, provide a 24-hour emergency contact
21 phone number, and warn of any danger.

22 B. Educational signs providing information about the facility and the benefits of
23 renewable energy.

24 **(6) Advertising.** A wind turbine shall not be used for displaying any advertising
25 except for reasonable identification of the manufacturer or operator of the
26 wind energy facility.

27 **(7) Appurtenant Structures.**

28 A. All appurtenant structures, including but not limited to, equipment shelters,
29 storage facilities, transformers, and substations, shall be architecturally
30 compatible with each other and shall be contained within the turbine tower
31 whenever technically and economically feasible.

32 B. Structures shall only be used for housing of equipment for the particular site.

33 C. Whenever reasonable, structures should be shaded from view by vegetation
34 and/or located in an underground vault and joined or clustered to avoid
35 adverse visual impacts.

36 **(8) Support Towers.** Monopole towers are the preferred type of support for wind
37 facilities.

38 **(9) Emergency Services.** The applicant shall provide a copy of the project summary
39 and site plan to the Department of Public Safety or Emergency Management
40 Office, as designated by the Board. Upon request the applicant shall cooperate
41 with these agencies in developing an emergency response plan.

42 **(10) Unauthorized Access.** Wind turbines or other structures part of a wind facility
43 shall be designed to prevent unauthorized access.

44 **(11) Shadow/Flicker.** A wind facility shall be sited in a manner that minimizes
45 shadowing or flicker impacts. The applicant has the burden of proving that
46 this effect does not have significant adverse impact on neighboring or adjacent
47 uses through either siting or mitigation.

48 **(12) Noise.** The wind facility and associated equipment shall not:

49 A. Increase the broadband sound level by more than 10 dB(A) above ambient, or

50 B. Produce a “pure tone” condition – when an octave band center frequency
51 sound pressure level exceeds the two adjacent center frequency sound pressure

1 levels by 3 decibels or more.

- 2 C. These criteria are measured both at the property line and at the nearest
3 inhabited residence. Ambient is defined as the background A-weighted sound
4 level that is exceeded 90% of the time measured during equipment hours. The
5 ambient may also be established by other means with consent from the Zoning
6 Administrator. An analysis prepared by a qualified engineer shall be presented
7 to demonstrate compliance with these noise standards.

8 **(13) Facility Condition.** The applicant shall maintain the wind facility in good
9 condition. Maintenance shall include, but not be limited to, painting,
10 structural repairs, and integrity of security measures. Site access shall be
11 maintained to a level acceptable to the Department of Public Safety. The
12 project owner shall be responsible for the cost of maintaining the wind facility
13 and any access road, unless accepted as a public way, and the cost of repairing
14 any damage occurring as a result of operation and construction.

15 **(14) Modification.** Any material modification to a wind facility made after issuance
16 of the conditional use permit shall require approval by the Board.

17 **(15) Removal.** Any wind facility that has reached the end of its useful life or has been
18 abandoned shall be removed. When the wind facility is scheduled to be
19 decommissioned, the applicant shall notify the Zoning Administrator by
20 certified mail of the proposed date of discontinued operations and plans for
21 removal. The owner/operator shall physically remove the wind facility no
22 more than 150 days after the date of discontinued operations. At the time of
23 removal, the wind facility site shall be restored to the state it was in before the
24 facility was constructed or any other legally authorized use. More specifically,
25 decommissioning shall consist of:

- 26 A. Physical removal of all wind turbines, structures, equipment, security barriers
27 and transmission lines from the site.
28 B. Disposal of all solid and hazardous waste in accordance with local and state
29 waste disposal regulations.
30 C. Stabilization or re-vegetation of the site as necessary to minimize erosion. The
31 Zoning Board may allow the owner to leave landscaping or designated below-
32 grade foundations in order to minimize erosion and disruption to vegetation.

33 **(16) Abandonment**

- 34 A. Absent notice of a proposed date of decommissioning, the facility shall be
35 considered abandoned when the facility fails to operate for more than 364
36 consecutive days (52 weeks) without the written consent of the Board.
37 B. The Board shall determine in its decision what proportion of the facility is
38 inoperable for the facility to be considered abandoned. If the applicant fails to
39 remove the wind facility in accordance with the requirement of this section
40 within 182 days (26 weeks) of abandonment or the proposed date of
41 decommissioning, the Board may declare the facility to be a public nuisance
42 and take appropriate action.

43 **Section 705 Mining**

- 44 (a) In addition to meeting the requirements of Section 702 and all other requirements of this
45 Law, mining uses shall meet the requirements of this Section and other applicable federal
46 or CNMI requirements.
47 (b) **Purpose.** It is the purpose and intent of this Section to:
48 (1) Ensure that mining does not adversely impact the environment or public
49 health;
50 (2) Encourage the use of economically feasible, and environmentally sound, land

- 1 development practices;
- 2 (3) Encourage the reuse of mining sites by promoting economical, effective, and
- 3 timely site reclamation; and
- 4 (4) Ensure future beneficial use of extracted and surrounding lands.
- 5 (c) **Procedures.** In addition to the general site plan application requirements, any application
- 6 for mining shall also include the following:
- 7 (1) A site plan showing all proposed excavation including boundaries,
- 8 intermediate and final profiles and depths, and area;
- 9 (2) A listing of the nature of the operation including expected amount and type of
- 10 materials to be extracted;
- 11 (3) A site plan showing fencing and buffering including a detailed landscaping
- 12 plan;
- 13 (4) A dust and erosion control plan; and
- 14 (5) A reuse plan.
- 15 (d) **Requirements.** Mining shall meet all the following requirements:
- 16 (1) Mining shall not be permitted within 400 ft of the boundary of a residential lot
- 17 or VR District.
- 18 (2) A landscaping screen shall be established along the entire perimeter of the site.
- 19 (3) If residential development or a VR District abuts the site, then a six-foot chain
- 20 link fence shall be erected around the entire perimeter of the site.
- 21 (4) A groundwater survey shall be conducted to indicate the groundwater level at
- 22 the site during the dry season (January-June) to determine groundwater levels
- 23 on the site. The types of aquifer and salinity shall be identified.
- 24 (5) An excavation plan shall be submitted that indicates that mining will stop 3 ft
- 25 above the dry season groundwater level.
- 26 (6) Certification shall be submitted from a registered geotechnical engineer or
- 27 geologist that the excavation will be safe and stable, and will not affect
- 28 groundwater quality or quantity.
- 29 (7) In reviewing the impact on groundwater, the highest priority for protection
- 30 shall be given to fresh water aquifers and then aquifers with low salinity. High
- 31 salinity aquifers have the lowest priority. Any dewatering that results in
- 32 increased salinity shall be treated as a significant adverse impact and result in
- 33 denial of the permit.
- 34 (8) Mining shall not be located within the cone of depression of any public water
- 35 supply well.
- 36 (9) The development shall only use access roads that are certified by DPW as
- 37 having structural capacity for the maximum weight limit of trucks serving the
- 38 mining facility. No access shall be permitted to the site through a residential
- 39 street.
- 40 (10) A reuse plan shall be provided that illustrates that the development will leave a
- 41 site suitable in slope, size, and access for uses permitted in the district. Such
- 42 plan shall require the restoration of the natural vegetation. The following
- 43 documents are required for all clearing operations before clearing begins:
- 44 (A) A plan that indicates the extent of activities qualifying as clearing to ensure
- 45 that the protection levels are met; and
- 46 (B) A plan for reforestation of the cleared areas, a survey, or other indication
- 47 of the areas to be cleared, and the types of vegetation to be cleared.

48 Section 706 Forestry

- 49 (a) In addition to meeting the requirements of Section 702 and all other requirements of this
- 50 Law, forestry in the RU zoning district shall meet the requirements of this Section:

- 1 (b) A forestry plan shall be submitted stating the purpose of the operation proposed, methods
- 2 to be used, and the reforestation plan.
- 3 (c) The reforestation plan shall:
- 4 (1) Minimize adverse impacts on any threatened or endangered species.
- 5 (2) Minimize the potential for causing erosion or sedimentation.

6 **Section 707 Heliports**

- 7 (a) In addition to meeting the requirements of Section 702 and all other requirements of this
- 8 Law, a heliport shall meet the requirements of this Section.
- 9 (b) The use shall be classified as to frequency of flights with more frequent flights requiring
- 10 greater separation from residential areas. The separation includes the actual helicopter pad
- 11 areas and approach corridors. The required separations are shown in Table 1.

12 *Table 1 Separation of Heliports from Residential Areas*

Flights/Year	Minimum Distance (ft)
Less Than 24	400
24-48	600
49-99	700
100-199	900
200 or more	1,300

- 13 (c) Except for a facility providing emergency service, a heliport shall limit its hours of
- 14 operation to between 9 a.m. and 7 p.m.
- 15 (d) The proposed approaches to a heliport shall be submitted as part of the application.
- 16 (e) Approaches shall avoid schools and places of public assembly, power transmission towers,
- 17 or poles over 30 ft. Approaches over natural areas or over water that shall remain open are
- 18 preferred.
- 19 (f) Providing safe approach corridors for helicopters and the land uses below the approaches is
- 20 a primary objective of the review.
- 21 (g) The reduction of noise impacts on residential uses or hotels is another major objective of
- 22 the review. On facilities with more than 100 flights a year, ground level noise baffles may
- 23 be required.

24 **Section 708 Hotel/Motel**

- 25 (a) In addition to meeting the requirements of Section 702 and all other requirements of this
- 26 Law, a hotel or motel that is a conditional use shall meet the requirements of this Section.
- 27 (b) Buildings shall be aligned so as to minimize obstruction of views of the ocean from uphill
- 28 or inland properties and from lots in a Public Resource zoning district.
- 29 (c) A traffic analysis and traffic management plan shall be provided. The developer shall
- 30 provide for road surface, lighting, signaling, sidewalks, or other such improvements as are
- 31 required to mitigate the impacts of the development on the transportation system.

32 **Section 709 Institutional Residential**

- 33 (a) In addition to meeting the requirements of Section 702 and all other requirements of this
- 34 Law, an institutional residential development in the RU zoning district shall meet the
- 35 requirements of this Section.
- 36 ~~(b) Housing that is rented or owned by a business owner and is used for housing his/her~~
- 37 ~~employee is prohibited.~~

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Section 710 Multifamily or Apartment

In addition to meeting the requirements of 702 and all other requirements of this Law, a multifamily or apartment development, when defined as conditional uses, shall meet the same requirements as in Section 708 Hotel/Motel.

Section 711 Nursing or Convalescent Facility

In addition to meeting the requirements of Section 702 and all other requirements of this Law, a nursing or convalescent facility in the RU Zoning District shall meet the same requirements as in Section 708 Hotel/Motel.

Section 712 Planned Development

- (a) In addition to meeting the requirements of Section 702 and all other requirements of this Law, a planned development, when defined as a conditional use, shall meet the requirements of this Section.
- (b) The proposed plan must demonstrate that the provisions of this code, including requirements for multiple buildings/large lot development and neighborhood design in Section 605 and Section 607.
- (c) A building shall be aligned so as to minimize obstruction of views of the ocean from uphill or inland properties and from lots in a Public Resource zoning district.
- (d) A traffic analysis and traffic management plan shall be provided. The developer shall provide for road surface, lighting, signaling, sidewalks, or other such improvements as are required to mitigate the impact of the development on the transportation system.

Section 713 Protected Care Housing

- (a) In addition to meeting the requirements of Section 702 and all other requirements of this Law, Protected Care Housing shall meet the requirements of this Section.
- (b) Facilities shall be at least 1,000 ft from public or private schools and day care facilities.
- (c) Lot size shall be at least 5 ha.
- (d) The impact on any adjoining uses, particularly residential, shall be minimized.

Section 714 Sanitary Landfill

- (a) In addition to meeting the requirements of Section 702 and all other requirements of this Law, a sanitary landfill shall meet the requirements of this Section.
- (b) The location shall be on arterial or collector roads.
- (c) Landscaping shall be provided adequate to completely obstruct the visibility of any buildings or to other facilities from adjacent residential, commercial, or recreational uses.
- (d) A plan for facility construction and operation shall be submitted that demonstrates that there would be no noticeable emissions of odors, noise, light and glare beyond the property line.
- (e) A pest control plan shall be provided that demonstrates adequate control will be maintained.
- (f) A traffic analysis and traffic management plan shall be provided that demonstrate that traffic loads will be acceptable.

Section 715 Transfer Station

A transfer station shall meet the requirements of Section 702 and all other requirements of this Law.

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Section 716 Warehousing and General Wholesaling

- (a) In addition to meeting the requirements of Section 702 (General Requirements for All Conditional Uses) and all other requirements of this Law, warehousing and general wholesaling may be permitted as a conditional use only if it meets the requirements of this Section.
- (b) In the MC Zoning District, this use shall be located only on an arterial or collector road.
- (c) In a VC or BR zoning district, this use may not be permitted unless it shall facilitate the use or reuse of an existing industrial or major commercial development.
- (d) This use shall only be permitted to occupy a structure that was:
 - (1) Constructed under a building permit issued prior to February 1, 2008; and
 - (2) Designed and proposed for industrial, heavy retail or similar use.
- (e) An existing structure may be expanded or a new structure may be added for this use only when such development would be, according to the preponderance of the evidence:
 - (1) Accessory to a structure that meets the requirements in subsection (d) (1) of this Section; and
 - (2) Critical to the economic viability of the project.

Section 717 Water or Wastewater Plant

A water or wastewater plant shall meet the requirements of Section 702 and all other requirements of this Law.

Section 718 Zoo/Aquarium

- (a) In addition to meeting the requirements of Section 702 and all other requirements of this Law, a zoo or aquarium shall meet the requirements of this Section.
- (b) An enclosure and animal keeping practices shall meet industry requirements.
- (c) The location shall be on an arterial or collector road.
- (d) A plan for facility construction and operation shall be submitted that demonstrates that there would be no noticeable emissions of odors, noise, light and glare beyond the property line.
- (e) A plan to adequately control pests shall be provided.

Section 719 Manufacturing and Processing

- (a) In addition to meeting the requirements of Section 702 (General Requirements for All Conditional Uses) and all other requirements of this Law, manufacturing and processing may be permitted as a conditional use only if it meets the requirements of this Section.
- (b) In VC or BR zoning district, this use may not be permitted unless it shall facilitate the use or reuse of an existing industrial or major commercial development.
- (c) This use shall only be permitted to occupy a structure that was:
 - (1) Constructed under a building permit issued prior to February 1, 2008; and
 - (2) Designed and proposed for industrial, heavy retail or similar use.
- (d) An existing structure may be expanded or a new structure may be added for this use only when such development would be, according to the preponderance of the evidence:
 - (1) Accessory to a structure that meets the requirements in subsection (c) (1) of this Section; and
 - (2) Critical to the economic viability of the project.

Section 720 Contractor's Office and Storage

- 1 (a) In addition to meeting the requirements of Section 702 (General Requirements for All
- 2 Conditional Uses) and all other requirements of this Law, a contractor's office and storage
- 3 may be permitted as a conditional use only if it meets the requirements of this Section.
- 4 (b) In an RU, VC or BR zoning district, this use may not be permitted unless it shall facilitate
- 5 the use or reuse of an existing industrial or major commercial development.
- 6 (c) This use shall only be permitted to occupy a structure that was:
- 7 (1) Constructed under a building permit issued prior to February 1, 2008; and
- 8 (2) Designed and proposed for industrial, heavy retail or similar use.
- 9 (d) An existing structure may be expanded or a new structure may be added for this use only
- 10 when such development would be, according to the preponderance of the evidence:
- 11 (1) Accessory to a structure that meets the requirements in subsection (c) (1) of
- 12 this Section; and
- 13 (2) Critical to the economic viability of the project.
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