

**18 GAR - LAND MANAGEMENT
CH. 3 - TERRITORIAL PLANNING COMMISSION**

**ART. 3 - INTERIM "H" RESORT-HOTEL ZONE
Article 3**

Interim "H" Resort-Hotel Zone

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NOTE: Rule-making authority cited for formulation of "H" Resort- Hotel Zone regulations by the Territorial Planning Commission, Public Law 14-82, Section 8.

§3301. Authority. These Rules and Regulations are promulgated by the Territorial Planning Commission under authority of 21 GCA Chapter 60 and 11 GCA Division 3.

§3302. Purpose. The purpose of these Rules and Regulations is to establish procedural requirements for:

- (a) Zone changes to an "H" designation.
- (b) Development within "H" Zones.
- (c) Substantive standards for development within "H" Zones.

§3303. Intent. These Rules and Regulations apply to that area rezoned "H" under the provisions of Public Law 14-41, as amended by Public Law 14-72 and Public Law 14-

82 (Tumon), as well as all future proposals for development within or changes of zone designation to an "H" Zone. As interim regulations, they shall remain in effect until such time as final "H" Zone regulations are adopted by the Territorial Planning Commission.

§3304. Definitions. For the purpose of defining those uses permitted in the "H" Zone under Public Law 14-41, but not defined elsewhere in the Government Code, the following definitions shall apply:

(a) *Amusement Activity*: an indoor or outdoor facility operated for the amusement or entertainment to the public.

(b) *Cultural Facility*: an indoor or outdoor facility operated for the purpose of portraying or promoting aspects of the Island's culture through use of plays, theaters, museums, arts and crafts galleries and displays and similar facilities.

(c) *Landscaped Area or Landscaping*: an area planted and covered with soft live flora such as lawn, ground cover, trees, shrubs or any other materials which would aesthetically enhance the area.

(d) *Park Recreational Facility*: an area or facility established and operated for the purpose of accommodating or promoting active or passive recreational activities including sports, interpretive parks, botanical and zoological gardens, playgrounds and such related facilities.

(e) *Tourism Related Shops, Offices and Supporting Services (Resort Commercial)*: commercial facilities and offices directly dependent on sales or services and immediate proximity to the public and, including but not limited to bicycle or moped rental facilities, but not such commercial or industrial activities as auto, motorcycle, bicycle and appliance sales or repair; assembly line, hardware, building, electrical or plumbing supply enterprises and related uses.

(f) *Transient Guest*: those persons who occupy a Hotet, lodging house or similar facility in a specific location for less than ninety (90) consecutive days.

§3305. Procedures for Zone Change to "H." A proposed zone change to "H" may be initiated by the Commission or by an application directed to the Commission by any person owning or leasing real property within the area covered by the proposed "H" Zone.

§3306. Same: Application. An application for a change of zone to "H" shall be filed with the Planning Division, Department of Land Management, on a zone change form, which, in addition to that information normally required for zone changes shall include:

(a) A legal description of the area proposed for rezoning, copies of certificates of title for property within the proposed zone and the name of the developer and/or development company, if appropriate.

(b) A statement outlining the reasons for requesting such a zone change including:

(1) A discussion of how the public necessity, convenience and general welfare justifies such a zone change.

(2) A description of the general geographical character of the area to be rezoned.

(3) Types of future uses or development proposed within the area, if any.

(4) Alternatives considered (PUD, Variance, C Zone, etc.).

(5) A general summary of the anticipated effect of the proposed rezoning on the surrounding environment including its impact on water quality (through drainage, leaching, runoff); any unique historical or ecological sites or other valuable natural or cultural resources; accessibility to beaches, caves, waterfalls or other recreational sites; and surrounding land-use patterns. General narrative discussion acceptable - no requirement to follow specific guidelines for preparation of Environmental Impact Statements or Assessments as established by Council on Environmental Quality; unless otherwise required by law.

(6) If proposed in conjunction with plans for substantial development of the subject area:

(A) A summary economic statement to include discussions of the operating and economic role and function of the development's major features, of the primary and secondary markets to be served, of the demand for support services to be generated and the manner in which each will be secured, and of the ways in which the development furthers the expansion in breadth or depth of the Island's economy; but to specifically exclude confidential or sensitive financial data such as forecasted operating cost breakdowns, revenues, cash flows, break-even points and profitability.

(B) A development schedule indicating the approximate date when construction or stages (by unit or increment basis) of any planned development are planned to begin and be completed.

(C) A statement of the applicant's tentative plans regarding the future selling or leasing of all or portions of the development, including specific land areas, condominium units or cottage or cluster developments by increment method.

(D) Where no public sewer, water or such public facilities exist, the proposed methods and facilities to provide such services.

(E) A plot plan of any proposed development within the "H" Zone area. The plot plan shall show the location of proposed major structures and facilities within the rezoned area, including sources of water and power, required sewage disposal systems and proposed landscaping. The plot plan shall indicate existing topography as defined in 21 GCA §62401.

§3307. Same: Public Hearing. Upon certification by the Territorial Planner that complete information has been provided by the applicant, the Commission shall hold at least one (1) public hearing thereon in the municipal district where the property to be rezoned is located, as such districts are described in 5 GCA Chapter 40, notice of time and place of which shall be given by at least one (1) publication in a newspaper of general circulation at least ten (10) days before the day of said hearing, and by mail to the Commissioner of the municipal district concerned, and to those landowners owning land within five hundred (500) feet of the property for which rezoning is requested, the mailing addresses for such landowners to be in the Real Estate Tax records.

§3308. Same: Subdivision and Development Review Committee. Prior to the public hearing, the Territorial Planner shall submit the application and other supporting documents including a summary report of the public hearing for the proposed zone change to the Subdivision and Development Review Committee for their review and recommendation. The Subdivision and Development Review Committee (SDRC) findings shall be presented at the public hearing.

§3309. Same: Approval by Commission and Governor. The Commission shall consider the proposed change of zone and may approve or disapprove the same, in whole or in part. The Commission shall make its findings and determinations within forty (40) days from the date of the hearing thereon and shall forward notice of such decision to the applicant, if any. If the application is approved in whole or in part by the Commission, the same shall be forwarded to the Governor who may approve or disapprove the proposed change in whole or in part.

§3310. Same: Approval by Legislature. Pursuant to 21 GCA Chapter 61, upon approval of the zone change by the Governor, it shall be submitted to the next portion of the next regular session of the Legislature convening after the said approval. Such amendment to the zoning map shall remain in effect unless amended or repealed by statute.

§3311. Same: Exceptions. Zone changes to "H" shall not be permitted for any area less than two and one half (2 1/2) acres in size.

§3312. Procedures for Development Within an "H" Zone. Before issuance of any building permit for development proposed either (1) in conjunction with submittal of a requested zone change to "H," or (2) in a prior approved "H" Zone, a tentative plan for such development shall be submitted to the Territorial Planner containing the following information as deemed appropriate by the Territorial Planner:

- (a) The name and address of the owner or owners of record, of the developer and of the person preparing the map.
- (b) Date, north arrow and scale.
- (c) A key map locating the development relation to surrounding areas.
- (d) The exact length and bearing of the exterior boundaries of the development which data shall be referenced to the "Guam Geodetic Triangulation Control Network" or such alternative system of triangulation control as the Territorial Surveyor may direct.
- (e) The accurate placement and outline of structures existing on the site.
- (f) The location, names and existing widths of adjacent street rights-of-way.
- (g) The location and dimensions of all known existing easements and reservations.
- (h) The location of existing utilities, sewers, drainage ditches and other drainage facilities located in, or adjacent to, the proposed development.
- (i) The location, width and direction of flow of all water courses within the subdivision area.
- (j) Topography with contour intervals of two feet (2') where the ground slope is five percent (5%) or less or contour intervals of five feet (5') where the ground slope is more than five percent (5%).
- (k) The location and widths of all existing or proposed streets in the development.
- (l) The approximate layout and approximate dimensions of each structure, facility or use proposed within the development.
- (m) Areas intended to be reserved for public use.
- (n) A drainage plan showing methods and facilities for collection and disposal of storm waters.

The storm drainage disposal area or channel must have a demonstrated ability to accept additional water in view of capacity of area or channel and of capacity of existing improvements confining the channel. The tentative plan shall be prepared in sufficient detail for analysis by the Commission as to sufficiency and most suitable location. The Commission may require the submission of detailed construction drawings as work is initiated to permit detailed analysis of construction conformity to law and the rules and regulations of the Commission, and to facilitate inspections.

§3313. Same: Subdivision and Development Review Committee. Upon certification by the Territorial Planner that such complete and accurate information as requested has been provided, such tentative plan shall be submitted to the Subdivision and Development Review Committee for review and recommendations.

§3314. Same: Approval by Commission. The Territorial Planning Commission shall either approve, including approval with conditions, or disapprove in whole or in part, the proposed tentative development plan. Upon approval, appropriate permits for initial construction may be issued. Any proposed use or structure which has not been included in an approved tentative plan must be approved by the Commission or at its discretion, the Territorial Planner, before issuance of any building permits.

§3315. Same: Bond. A performance bond or undertaking shall be required for any development undertaken pursuant to an approved tentative plan within an "H" Zone as otherwise provided in the regulations. The amount of the bond shall be one hundred ten percent (110%) of the infrastructure costs of the project, 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 Commission for failure to comply with any applicable land use, water quality or zoning regulation except as allowed for under prior granting of a variance or other legal exception from such requirement: including, but not limited to, erosion and grading standards, landscaping, height and setback requirements, the tentative,

development plan as approved by the Commission, and any applicable zone regulations. The entire bond or any portion thereof shall be forfeited as is required to complete the site preparation and infrastructure features of the project should these not be completed by the developer.

§3316. Same: Time Period. The Commission shall approve a maximum time period within which all of the improvements authorized in the tentative development plan shall be completed. The time period shall be no less than six (6) months, and no more than four (4) years. The time period shall be based on the size, character and complexity of the authorized improvements. The Commission may, for good cause shown, grant any extension of time.

§3317. Same: Certification of Completion. Upon completion or any portion of the project in accordance with the tentative plan, the Department of Public Works shall certify to the Commission that the project has been completed in accordance with the tentative plan.

§3318. Same: Exceptions. Requirements or preparation of tentative development plans and posting of performance bonds as outlined in this Section shall not apply to construction of single-family dwellings in that area in Tumon zoned "H" under Public Law 14-41, as amended.

§3319. Standards for Development Within and "H" Zone. All development within an "H" Zone shall comply with all applicable pollution and erosion standards as promulgated by the Guam Environmental Protection Agency. The nature, size, shape, lighting and style of an outdoor sign shall conform to those requirements as outlined in the Sign Regulations, 21 GCA Chapter 61 Article 5.

§3320. Same: Parking Regulations. The following parking regulations shall apply:

- (a) 21 GCA Chapter 61 Article 4.
- (b) Provisions noted under "footnotes" to the "H" Zone Yard and Height Regulations.

§3321. Same: Development and Activities. Development and activities within an "H" Resort-Hotel Zone shall:

(a) Provide open access to public resources including but not limited to beaches or other parts of the ocean shore, parks, conservation areas, rivers, waterfalls and other public resources.

(b) To the maximum extent possible, assure that all permissible and accessory uses enhance, compliment and do not detract from or surrounding area.

(c) When associated with or encompassing such valuable resources as unique land, water, floral, faunal, cultural, historic, archaeological or other such areas:\

(1) Provide interpretive materials, displays and information, as required, reviewed and approved by the Department of Parks and Recreation. The Territorial Planner shall certify to the TPC and SDRC that the interpretive materials, displays and information have been so approved.

(2) Assure that such resources remain, to the maximum extent possible, in their natural or undisturbed state.

§3322. Same: Design. Dwellings permitted in an "H" Zone shall be designed:

(a) To accommodate primarily the needs and desires of visitors, tourists and transient guests.

(b) In a compatible arrangement so as to compliment and enhance the adjacent structures and environment.

§3323. Same: Recreational and Amusement Activities. Such recreational or amusement activities as bowling alleys, movie theaters or sports facilities which normally and necessarily create temporary or occasional substantial adverse impacts, such as excessive noise, light or traffic shall be permitted in an "H" Zone only upon a determination by the Commission that such an activity is normally to be found in a tourism-related development area, and that the activity is reasonably compatible with the existing or reasonably foreseeable development of the surrounding area.

§3324. Same: Landscaping. Prior to issuance of occupancy permits for any development within an "H" Zone, the developer shall certify to the Territorial Planner that no less than two percent (2%) of the total construction cost for development of land oriented facility or structure was expended on landscaping that particular development. Allowable costs under such a requirement include the costs for purchase of landscaping vegetation and labor involved in its planting.

§3325. Same: Variances. Variance to these Regulations may be granted by the Commission only upon issuance of such findings or under such conditions as prescribed under 21 GCA §§61616-61617.

§3326. Same: Yard, Area and Height Regulations. The yard, area and height regulations for the "H" Zone are as outlined in the chart on next page.

§3327. Amendments. These Rules and Regulations may be amended by the Commission at any regular or special meeting by a majority vote, provided that a ten (10) day public notice is provided.

NOTE: Rules Adopted on March 10, 1978; filed with Legislative