

CHAPTER 85-80
DIVISION OF ZONING

Chapter Authority:

Chapter History:

Commission Comment: PL 1-8, tit. 1, ch. 13 (effective Aug. 10, 1978), formerly codified in part at 1 CMC §§ 2651, et seq., originally created a Department of Natural Resources within the Commonwealth government.

PL 6-32 (effective June 27, 1989), codified as amended at 2 CMC §§ 7201-7255, contains the Commonwealth of the Northern Mariana Islands zoning code. The zoning code established a Commonwealth Zoning Board to prepare for review and adoption by the legislature, and to administer, subsequent to enactment, a land use and zoning system in the Commonwealth. See 2 CMC § 7211(d); 2 CMC § 7221(c). 2 CMC § 7221(d) authorizes the Zoning Board to promulgate regulations to carry out the intent and purposes of the zoning code. PL 17-70 (effective March 22, 2012), amends Section 7221 to increase the number of terms for Zoning Board members.

Saipan Local Law 8-7 (effective Apr. 29, 1993), codified at 10 CMC §§ 3511-3517, approved the Saipan Zoning Law pursuant to 2 CMC § 7221(c)(4). Saipan Local Law 9-1 (effective Aug. 15, 1994) suspended Saipan Local Law 8-7. See Saipan LL 9-1 § 1; see also the commission comment to 10 CMC § 3511. According to Saipan LL 9-1 § 2: “All employees and equipment of the Zoning Board shall be transferred to the Office of Coastal Resource Management together with the appropriations relative to their positions.”

Executive Order 94-3 (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 §§ 104 and 306(c):

Section 104. Department of Lands and Natural Resources.

The Department of Natural Resources is re-designated the Department of Lands and Natural Resources.

...

Section 306. Department of Lands and Natural Resources.

...

(c) Zoning Board. The Zoning Board is abolished and, except as provided in Section 401(c) of this plan, its functions transferred to a Division of Zoning in the Department of Lands and Natural Resources, which shall have at its head a Director of Zoning. The Zoning Board of Rota, established by [Rota LL 8-2], is not affected by this subsection.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

In 1997, the Legislature passed the “Public Lands and Natural Resources Administration Act of 1997,” PL 10-57 (effective Apr. 18, 1997), codified as amended at 1 CMC §§ 2651-2691. PL 10-57 repealed and reenacted chapter 13, division 2 of title 1 of the Commonwealth Code, 1 CMC §§ 2651, et seq., and statutorily established the Department of Lands and Natural Resources (DLNR) with the structure, duties and responsibilities set forth in the act. See 1 CMC § 2651 and the commission comment thereto.

PL 10-57 § 4 vacated Executive Order 94-3 § 306. PL 10-57 § 3, enacted a new article 5, entitled “Division of Zoning,” in title 1, div. 2 of the Commonwealth Code, codified as amended at 1 CMC § 2691. 1 CMC § 2691(d) directs the Secretary of DLNR to submit to the Governor recommendations for a simplified system of zoning for the third senatorial district.

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Attorney General Opinion 04-07 (issued Mar. 11, 2004), reprinted at 26 Com. Reg. 22213-22222 (Mar. 23, 2004), concluded that the suspension of the Saipan zoning law in Saipan Local Law 9-1 is invalid because the third senatorial district delegation lacked the authority to enact such a suspension. Attorney General Opinion 04-07 found that the Saipan zoning law created pursuant to 2 CMC §§ 7201-7255, and approved pursuant to Saipan Local Law 8-7, is still in force.

Pursuant to PL 6-32, the Zoning Board adopted “Rules and Regulations to Govern the Meetings and Proceedings of the Commonwealth Zoning Board.” See 13 Com. Reg. 8062 (Oct. 15, 1991).

On May 27, 1993, pursuant to PL 6-32 and Saipan Local Law 8-7, the Zoning Board promulgated emergency and proposed “Zoning Fee Schedule Regulations.” See 15 Com. Reg. 10709 (July 15, 1993) (effective for 120 days from May 27, 1993). The Fee Schedule Regulations were proposed again and permanently adopted. See 15 Com. Reg. 10867 (Sept. 15, 1993); 15 Com. Reg. 11082 (Nov. 15, 1993).

On December 10, 1993, pursuant to PL 6-32 and Saipan Local Law 8-7, the Zoning Board promulgated emergency and proposed “Zoning Schedule for the Termination of Off-site Signs.” See 15 Com. Reg. 11092 (Dec. 15, 1993) (effective for 120 days from Dec. 10, 1993). The regulations were proposed again and permanently adopted. See 16 Com. Reg. 11665 (Feb. 15, 1994); 16 Com. Reg. 11840 (Apr. 15, 1994).

In 1994, pursuant to PL 6-32 and Saipan Local Law 8-7, the Zoning Board also adopted “Saipan Zoning Schedule for the Termination of Illegal Property Use Regulations.” See 16 Com. Reg. 11814 (Apr. 15, 1994); 16 Com. Reg. 12237 (July 15, 1994).

Given the current status of the authorizing laws, the continuing validity of the regulations promulgated by the Zoning Board is in question.

[Reserved for future regulations of the Division of Zoning.]