

## Title 26

### ENVIRONMENTAL SAFETY AND LAND MANAGEMENT

**Chapters:**

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#### Chapter 01

#### OFFICE OF DISASTER ASSISTANCE

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**26.0101 Short title.**

This chapter shall be known and may be cited as the “Territorial Disaster Assistance Act of 1978”.

**History:** 1978, PL 15-105 § 1.

**26.0102 Purposes.**

The purposes of this chapter are to:

- (1) reduce vulnerability of people and communities of this Territory to damage, injury, and loss of life and property resulting from natural or manmade catastrophes, riots, or hostile military or paramilitary action;
- (2) prepare for prompt and efficient rescue, care, and treatment of persons victimized or threatened by disaster;
- (3) provide a setting conducive to the rapid and orderly start of restoration and rehabilitation of persons and property affected by disasters;

(4) clarify and strengthen the roles of the Governor, Territorial agencies and local governments in prevention of, preparation for, response to, and recovery from disasters;

(5) authorize and provide for cooperation in disaster prevention, preparedness, response, and recovery;

(6) authorize and provide for coordination of activities relating to disaster prevention, preparedness, response and recovery between agencies and officers of this Territory, and the federal government, other states and possessions of the United States, and foreign governments;

(7) provide a disaster management system embodying all aspects of predisaster preparedness and postdisaster response;

(8) assist in prevention of disaster caused or aggravated by inadequate planning for and regulation of public and private facilities and land use; and

(9) supplement, without in any way limiting, authority conferred by previous statutes of this Territory and increase the capability of the Territory and local agencies to perform disaster assistance services.

**History:** 1978, PL 15-105 § 2

#### **26.0103 Limitations of chapter.**

Nothing in this chapter may be construed to:

(1) interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by this chapter or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;

(2) interfere with dissemination of news or comment on public affairs; but any communications facility or organization (including but not limited to radio and television stations, wire services, and newspapers) may be required to transmit or print public service messages furnishing information or instructions in connection with a disaster emergency;

(3) affect the jurisdiction or responsibilities of police forces, fire fighting forces, units of the armed forces of the United States, or of any personnel thereof, when on active duty; but territorial disaster emergency plans shall place reliance upon the forces available for performance of functions related to disaster emergencies; or

(4) limit, modify, or abridge the authority of the Governor to proclaim martial law or exercise any other powers vested in him under the constitution, statutes, or common law of this Territory independent of, or in conjunction with, any provisions of this chapter.

**History:** 1978, PL 15-105 § 3.

#### **26.0104 Definitions.**

As used in this chapter:

(a) “Disaster” means occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or manmade cause, including but not limited to fire, flood, earthquake, wind, storm, wave action, oil spill, or other water contamination requiring emergency action to avert danger or damage, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, or hostile military or paramilitary action.

(b) “Political subdivision” means any district, county, village, or other unit or local government.

(c) “Unorganized militia” means all able-bodied male and female persons between the age of 16 and 50 years.

**History:** 1978, PL 15-105 § 4.

**26.0105 Responsibility of Governor-Disaster emergency council.**

(a) The Governor is responsible for meeting the dangers to the Territory and people presented by disasters.

(b) Under this chapter, the Governor may issue executive orders, proclamations, and regulations, and amend or rescind them. Executive orders, proclamations, and regulations have the force and effect of law.

(c) There shall be a disaster emergency council consisting of the Director of Public Safety, the Director of Homeland Security and 6 members appointed by the Governor for 4-year terms to advise him on matters relating to disasters; 3 members of the council are district governors of the 3 political districts of the territory.

(d) A disaster emergency shall be declared by executive order or proclamation of the Governor if he finds a disaster has occurred or that this occurrence or the threat thereof is imminent. The state of disaster emergency shall continue until the Governor finds that the threat or danger has passed or the disaster has been dealt with to the extent that emergency conditions no longer exist and terminates the state of disaster emergency by executive order or proclamation, but no state of disaster emergency may continue for longer than 30 days unless renewed by the Governor. The Legislature by concurrent resolution may terminate a state of disaster emergency at any time. Thereupon, the Governor shall issue an executive order or proclamation ending the state of disaster emergency. All executive orders or proclamations issued under this subsection shall indicate the nature of the disaster, the area or areas threatened, and the conditions which have brought it about or which make possible termination of the state of disaster emergency.

An executive order or proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and unless the circumstances attendant upon the disaster prevent or impede, promptly filed with the office of the Director of Homeland Security, and the office of the Territorial Registrar.

(e) An executive order or proclamation of a state of disaster emergency shall activate the disaster response and recovery aspects of the territory, local, and interjurisdictional disaster emergency plans applicable to the political subdivision or area in question and be authorized for the deployment and use of any forces to which the plan or plans apply and for use of distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to this chapter or any other provision of law relating to disaster emergencies.

(f) During the continuance of any state of disaster emergency, the Governor is Commander-in-Chief of the organized and unorganized militia and of all other forces available for emergency duty. To the greatest extent practicable, the Governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or regulations, but nothing herein restricts his authority to do so by orders issued at the time of the disaster emergency.

(g) In addition to any other powers conferred upon the Governor by law, he may:

(1) suspend the provisions of any regulatory statute prescribing the procedures for conduct of territorial business, or the orders, rules, or regulations, of any Territorial agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency;

(2) utilize all available resources of the Territorial Government as reasonably necessary to cope with the disaster emergency and of each political subdivision of the Territory;

(3) transfer the direction, personnel, or functions of Territorial departments and agencies or units thereof for the purpose of performing or facilitating emergency services;

- (4) subject to any applicable requirements for compensation under §10, commandeer or utilize any private property if he finds this necessary to cope with the disaster emergency;
- (5) direct and compel the evacuation of all or part of the population from any stricken or threatened area within the Territory if he deems this action necessary for the preservation of life or other disaster mitigation, response, or recovery;
- (6) prescribe routes, modes of transportation, and destinations in connection with evacuation;
- (7) control ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises therein;
- (8) suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles; and
- (9) make provision for the availability and use of temporary emergency housing.

**History:** 1978, PL 15-105 § 5; 2008, PL 30-35.

#### **26.0106 Office of Territory Emergency Management Coordination.**

(a) An Office of Territory Emergency Management Coordination is established in the Department of Homeland Security. The office is under the supervision and control of the Director of Homeland Security or his designee who is the disaster assistance coordinator. The office has a disaster assistance planner and other professional, technical, secretarial, and clerical employees necessary for the performance of its functions.

(b) The office shall prepare and maintain a territorial disaster assistance plan and keep it current, which includes:

- (1) prevention and minimization of injury and damage caused by disaster;
- (2) prompt and effective response to disaster;
- (3) emergency relief;
- (4) identification of areas particularly vulnerable to disasters;
- (5) recommendations for zoning, building, and other land use controls, safety measures for securing mobile homes or other nonpermanent or semipermanent structures, and other preventive and preparedness measures designed to eliminate or reduce disasters or their impact;
- (6) assistance to local official in designing local emergency actions plans;
- (7) authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage, or loss from flood, conflagration, or other disaster;
- (8) identification of federal, territory, and private assistance programs;
- (9) organization of manpower and chains of command;
- (10) coordination of the territorial disaster plan with the disaster plans of the federal government; and
- (11) other necessary matters.

(c) The office shall take an integral part in the development and revision of territory wide disaster plans. To this end it shall employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance. These personnel shall consult with the office on a regularly scheduled basis and shall make examinations of the areas, circumstances and conditions to which the disaster plans are intended to apply and may suggest or require revisions.

(d) In preparing and revising the Territorial disaster plan, the office shall seek the advice and assistance of local government, business, labor, industry, agriculture, and volunteer organizations and community leaders.

(e) The Territorial Disaster Assistance Plan or any part thereof maybe incorporated in rules of

the office or executive orders which have the force and effect of law.

(f) The office shall:

- (1) with the assistance of the political subdivisions, determine requirements of each village for food, clothing, and other necessities in the event of an emergency or disaster;
- (2) adopt standards and requirements for the Territorial Disaster Assistance Plan;
- (3) annually review the Territorial Disaster Assistance Plan;
- (4) establish and assist political subdivisions, to operate training programs and programs of public information;
- (5) make surveys and industries, resources, and facilities, within the Territory both public and private, as are necessary to carry out the purposes of this chapter;
- (6) plan and make arrangement for the availability and use of any private facilities, services, and property and, if necessary and if in fact used, provide for payment for use under terms and conditions agreed upon;
- (7) establish a register of persons with types of training and skills important in emergency prevention, preparedness, response, and recovery;
- (8) establish a register of mobile and construction equipment and temporary housing available for use in a disaster emergency;
- (9) prepare, for issuance by the Governor, executive orders, proclamations, and regulations as necessary or appropriate in coping with disasters;
- (10) cooperate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster prevention, preparation, response, and recovery; and
- (11) do other things necessary, incidental, or appropriate for the implementation of this chapter.

**History:** 1978, PL 15-105 § 6; amd 1983, PL 18-6 § 1; 2008, PL 30-35.

**Amendments:** 1983 Title of the office amended to Territory Emergency Management Coordination.

#### **26.0107 Availability of funds-Disaster contingency fund.**

(a) It is the intent of the Legislature and declared to be the policy of the Territory that funds to meet disaster emergencies must always be available.

(b) A Disaster Contingency Fund of not less than \$50,000 is established which shall be appropriated by the Legislature. Moneys in this contingency fund shall remain there until expended. This Fund becomes an earmarked portion of the economic stabilization and emergency fund created under 10.0701 and funded under 10.0702.

(c) The Disaster Contingency Fund is administered by the Advisory Budget Commission created under 10.0703.

(d) It is the legislative intent that the first recourse shall be to use funds regularly appropriated to Territorial agencies. If the Governor finds that the demands placed upon these funds in coping with a particular disaster are unreasonably great, he may, with the concurrence of the Advisory Budget Commission, make funds available from the Disaster Contingency Fund. If moneys available from the fund are insufficient and if the Governor finds that other sources of money to cope with the disaster are not available or insufficient, the Governor, with the concurrence of the Commission, may transfer and expend moneys appropriated for other purposes or may borrow from the United States Government or any other public or private source. Action under this subsection shall be only with the concurrence of the Commission.

(e) Nothing contained in this section may be construed to limit the Governor's authority to apply for, administer, and expend a grant, gift, or payment or pass-through funds in aid of dis-

aster prevention, preparedness, response, or recovery.

**History:** 1978, PL 15-105 § 7; amd 1982, PL 17-44 § 1.

**Amendments:** 1982 section entirely amended; subsection (b) on Disaster Emergency Funding Board deleted, other references to board changed to Advisory Budget Commission; subsections (c)-(e) relettered to be (d) - (f).

#### **26.0108 Intergovernmental arrangements.**

(a) The Governor may enter into a mutual aid compact with any state, or possession of the United States if he finds that joint action with the state or possession is desirable in meeting common intergovernmental problems of emergency disaster planning, prevention, response, and recovery.

(b) If any person holds a license, certificate, or other permit issued by any state or political subdivision thereof evidencing the meeting of qualifications for professional, mechanical, or other skills, the person may render aid involving that skill in this Territory to meet an emergency or disaster, and this Territory shall give due recognition to the license, certificate, or other permit.

**History:** 1978, PL 15-105 § 8.

#### **26.0109 Disaster prevention.**

(a) In addition to disaster prevention measures as included in the Territorial Disaster Assistance Plan, the Governor shall consider on a continuing basis steps that could be taken to prevent or reduce the harmful consequences of disasters. At his direction, and pursuant to any other authority and competence they have, Territorial agencies, including but not limited to those charged with responsibilities in connection with floodplain management, stream encroachment and flow regulation, weather modification, fire prevention and control, air quality, public works, land use and land use planning, and construction standards, shall make studies of disaster prevention-related matters. The Governor, from time to time, shall make recommendations to the Legislature, local governments, and other appropriate public and private entities as may facilitate measures for prevention or reduction of the harmful consequences of disasters.

(b) The Department of Public Works, in conjunction with the office, shall keep land uses and construction of structures and other facilities under continuing study and identify areas which are particularly susceptible to severe land shifting, subsidence, flood or other catastrophic occurrence. The studies under this subsection shall concentrate on means of reducing or avoiding the dangers caused by this occurrence or the consequences thereof.

(c) If the office believes on the basis of the studies or other competent evidence that an area is susceptible to a disaster of catastrophic proportions without adequate warning, that existing building standards and land use controls in that area are inadequate and could add substantially to the magnitude of the disaster, and that changes in zoning regulations, other land use regulations, or building requirements are essential in order to further the purposes of this section, it shall specify the essential changes to the Governor. If the Governor upon review of the recommendation finds after public hearing that the changes are essential, he shall inform the Legislature and request legislative action appropriate to mitigate the impact of disaster.

(d) The Governor at the same time that he makes his recommendations under subsection (c), may suspend the standard or control which he finds to be inadequate to protect the public safety and by regulation place a new standard or control in effect. The new standard or control shall remain in effect until rejected by concurrent resolution of both Houses of the Legislature or amended by the Governor. During the time it is in effect, the standard or control contained in the Governor's regulation shall be administered and given full effect by all relevant regulatory

agencies of the Territory and local governments to which it applies. The Governor's action is subject to judicial review in accordance with the Administrative Procedure Act, 4.1001 et seq., but shall not be subject to temporary stay pending litigation.

**History:** 1978, PL 15-105 § 9.

#### **26.0110 Compensation provisions.**

(a) Each person within this Territory shall conduct himself and keep and manage his affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the Territory and the public successfully to meet disaster emergencies. This obligation includes appropriate personal service and use or restriction on the use of property in time of disaster emergency. This chapter neither increases nor decreases these obligations but recognizes their existence under the constitution and statutes of this Territory and the common law. Compensation for services or for the taking or use of property shall be only to the extent that obligations recognized herein are exceeded in a particular case and then only to the extent that the claimant may not be deemed to have volunteered his services or property without compensation.

(b) No personal services may be compensated by the Territory or any subdivision or agency thereof, except under statute or local law or ordinance.

(c) Compensation for property shall be only if the property was commandeered or otherwise used in coping with a disaster emergency and its use or destruction was ordered by the Governor or a member of the disaster emergency forces of this Territory.

(d) Any person claiming compensation for the use, damage, loss, or destruction of property under this chapter shall file a claim with the office on forms the office provides. The claims shall be submitted by the office to the Attorney General for handling.

(e) Unless the amount of compensation on account of property damaged, lost, or destroyed is agreed upon between the claimant and the office, the amount of compensation shall be calculated similarly as compensation due for a taking of property under condemnation laws of the Territory.

(f) Nothing in this section applies to or authorizes compensation for the destruction or damaging of standing timber or other property in order to provide a firebreak or to the release of waters or the breach of impoundments in order to reduce pressure or other danger from actual or threatened flood.

**History:** 1978, PL 15-105 § 10.

#### **26.0111 Communications.**

The office shall determine what means exist for rapid and efficient communications in times of disaster emergencies. The office shall consider the desirability of supplementing these communications resources or of integrating them into a comprehensive territorial communications system or network. In studying the character and feasibility of any system or its several parts, the office shall evaluate the possibility of multipurpose use thereof for general Territorial and local governmental purposes. The office shall make recommendations to the Governor as appropriate.

**History:** 1978, PL 15-105 § 11.

## **Chapter 02**

**(RESERVED)**

## Chapter 03

### ZONING REGULATIONS

#### Sections:

- 26.0301 Purpose.
- 26.0302 Interpretation.
- 26.0303 Definitions.
- 26.0304 Zoning Board-Members-Term-Authority.
- 26.0305 Zoning Board-Temporary members.
- 26.0306 Zoning Board-Staff.
- 26.0310 Division of territory into zones.
- 26.0311 Zoning map.
- 26.0312 Zone boundaries.
- 26.0313 Conformance of use to zone.
- 26.0314 Single dwelling zones, R1.
- 26.0315 Multiple dwelling zones, R2.
- 26.0316 Agricultural zones, A.
- 26.0317 General commercial zones, C1.
- 26.0318 Limited commercial zones, C2.
- 26.0319 Limited industrial zones, M1.
- 26.0320 General industrial zones, M2.
- 26.0321 Hotel zones, H.
- 26.0322 Watershed conservation zones, WC.
- 26.0323 Recreation conservation zones, RC.
- 26.0330 Nonconforming buildings.
- 26.0331 Nonconforming use of building.
- 26.0332 Nonconforming use of land.
- 26.0333 Buildings, land and uses which become nonconforming.
- 26.0334 Identification and notification of nonconformance.
- 26.0340 Variances.
- 26.0341 Review of zoning board action.
- 26.0342 Violation-Penalty.

#### 26.0301 Purpose.

It is the purpose of this chapter to:

- (1) establish certain minimum regulations for the protection and promotion of the encourage the orderly, profitable, and health development of the resources or their diversion into uses detrimental to the future growth of Samoa;
- (2) assure that economic development is encouraged by enlarging the opportunity for private investment;
- (3) facilitate governmental services by providing for the orderly extension of utilities, roads, and other governmental services;
- (4) promote the public health, safety and general welfare by preventing unreasonable congesting and concentration of population and assuring adequate light, air, and privacy of all property;
- (5) protect the unique character of Samoa, and the right of all Samoans to have a planned and attractive environment for themselves as well as for their visitors and guests; and
- (6) provide and preserve space for a growing population.



**History:**1965, PL 9-19.

### **26.0302 Interpretation.**

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the protection and promotion of the public health, safety and general welfare, and shall be liberally construed in furtherance of these objectives.

**History:**1965, PL 9-19.

### **26.0303 Definitions.**

For the purposes of this chapter:

(1) "Accessory building" means a detached subordinate building located on the same lot with a main building, the use of which is customarily secondary to that of the main building or to the use of the land.

(2) "Apartment house" means the same as "multiple dwelling".

(3) "Board" means the Zoning Board.

(4) "Building" means any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind.

(5) "Dwelling" means a building or portion thereof designed exclusively for residential occupancy, including one-family, two-family and multiple dwellings, but not including hotels.

(6) "Dwelling unit" means one or more rooms and a single kitchen in a dwelling, designed as a unit for occupancy by one family for living and sleeping purposes.

(7) "Home occupation" means an occupation, carried on by occupants of a dwelling as a secondary use of such dwelling, in connection with which there is no display, stock-in-trade or commodity sold on the premises, and no other person employed.

(8) "Hotel" means any building containing space or rooms intended or designed to be used, or which is used, rented, or hired out to be occupied, or which is occupied for sleeping and/or eating purposes by transient guests.

(9) "Lot" means a parcel of land occupied or to be occupied by a use or building, and accessory buildings and uses, together with such yards, open spaces and lot area as are required by this chapter, and having frontage on a street or public thoroughfare.

(10) "Multiple dwelling" means a building containing 3 or more dwelling units.

(11) "Nonconforming building" means a building or structure which does not conform to the regulations of this chapter and which lawfully existed at the time the regulations with which it does not conform became effective.

(12) "Nonconforming use" means a use of a building or land which does not conform to the regulations of this chapter and which lawfully existed at the time the regulations with which it does not conform became effective.

(13) "One-family dwelling" means a detached building containing only 1 dwelling unit.

(14) "Private automobile parking area" means an open area, located on the same lot with a dwelling or hotel, for parking automobiles of the occupants of such building.

(15) "Public automobile parking area" means an open area, other than a street or private automobile parking area, designed to be used for the parking of 2 or more automobiles.

(16) "Story" means that portion of a building between the ground or the surface of any floor and the surface or the floor or ceiling next above it.

(17) "Structure" means anything constructed or erected on the ground or attached to something having a location on the ground.

(18) "Use" means the purpose for which land or a building is arranged, designed or intended

or for which either land or a building is or may be occupied or maintained.

(19) “Yard” means an open space on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in is chapter.

**History:**1965, PL 9-19.

**26.0304 Zoning Board-Members-Term- Authority.**

(a) There shall be a Zoning Board consisting of 9 members, all of whom shall be nationals or citizens of the United States and who shall be appointed as follows: The Governor shall appoint 4 members, the district governor of each district shall each appoint 1 member, the Speaker of the House shall appoint 1 member, and the President of the Senate shall appoint 1 member. The Chairman of the Zoning Board shall be a member thereof and shall be elected by the board.

(b) Each member shall serve a term of 2 years; however, members may be reappointed to the board.

(c) The Board shall have the authority and duty to adopt such rules as it may deem necessary to carry into effect the provisions of this chapter. Rules shall be adopted in accordance with 4.1001 et seq.

**History:**1971, PL, 12-7 § 1.

**26.0305 Zoning Board-Temporary members.**

When the Zoning Board is considering a zoning map for an individual village, 2 persons elected by the village council shall sit with the Zoning Board as temporary advisory members. The temporary members shall have advisory powers only and shall not be entitled to vote.

**History:**1965, PL, 9-19.

**26.0306 Zoning Board-Staff.**

The Governor shall detail or assign such staff assistance as he decides may be needed and available to assist the Zoning Board to perform its ministerial functions. The Board may not delegate its responsibility for granting variances

**History:**1965, PL, 9-19.

**26.0310 Division of Territory into zones.**

In order to carry out the purposes and provisions of this chapter, areas within the Territory of American Samoa are divided into 10 zones, as follows:

- R1 Single Dwelling Zone
- R2 Multiple Dwelling Zone
- A Agricultural Zone
- C1 General Commercial Zone
- C2 Limited Commercial Zone
- M1 Limited Industrial Zone
- M2 General Industrial Zone
- WC Watershed Conservation Zone
- RC Recreation Conservation Zone
- H Hotel Zone

**History:** 1965, PL 9-19.

**26.0311 Zoning map.**

(a) The zone symbols in 26.0310, and the boundaries, must be shown upon a map made a part of this chapter. The map must be designated as the “zoning map”, and it and all the notations and references and other information shown thereon shall be as much a part of this chapter as if the matters and information set forth in the map were fully described in this section.

(b) For purposes of convenience, it is necessary to divide the zoning map into separate parts, inasmuch as a comprehensive survey and study of the entire Territory of American Samoa, for planning and zoning purposes, takes time to complete. As rapidly as possible, various parts of the zoning map shall be adopted by act of the Zoning Board until the entire Territory has been covered by the zoning map.

**History:** 1965, PL 9-19.

**Reviser’s Comment.**

Section 30.0202 of the code of American Samoa, 1961 Ed., adopted a map entitled “Zoning Map Part 1 Tutuila” as a part of the zoning map.

**26.0312 Zone boundaries.**

(a) Where the zone boundaries are indicated by lines on the zoning map, the map and all the notations, references, and their extensions must be construed to be the zone boundaries.

(b) Where the zone boundaries indicated on the map are not street, alley, or lot or boundary lines, or extensions thereof, the zone boundaries must be determined by the use of the scale appearing on the zoning map unless otherwise specifically shown by dimension.

(c) In any case where there is uncertainty as to the intended location of a zone boundary, the Zoning Board shall have the power to determine its intended location.

**History:** 1965, PL, 9-19.

**26.0313 Conformance of use to zone.**

No building or structure may be erected or maintained, and no existing building or structure may be altered, enlarged, moved or maintained, and no building or land may be used for any purpose, except for a use permitted in the zone in which such building or land is located as provided in this chapter.

**History:** 1965, PL, 9-19.

**26.0314 Single dwelling zones, R1.**

The uses permitted in single dwelling zones are:

- (1) one-family dwellings;
- (2) schools and churches;
- (3) parks, playgrounds and community buildings;
- (4) gardening for noncommercial purposes;
- (5) uses customarily accessory to any of the above uses, including home occupations and private automobile parking areas and private garages.

**History:** 1965, PL, 9-19.

**26.0315 Multiple dwelling zones, R2.**

The uses permitted in multiple dwelling zones are:

- (1) any use permitted in the R1 single dwelling zone;
- (2) keeping of poultry and domestic livestock for noncommercial purposes;

- (3) accessory buildings and structures, stables, barns, corrals, pens, and other similar structures;
- (4) two-family dwellings and multiple dwellings;
- (5) hospitals, sanatoriums and institutional uses.

**History:**1965, PL, 9-19.

#### **26.0316 Agricultural zones, A.**

The uses permitted in agricultural zones are:

- (1) any use permitted in R1 and R2 zones;
- (2) farming, including all types of activities and pursuits customarily carried on the fields of agriculture and horticulture, and farms and ranches for the raising of poultry and the raising and grazing of domestic livestock, including dairies and hog raising;
- (3) uses customarily accessory to any of the above uses, including home occupations and private automobile parking areas;
- (4) accessory buildings and structures, including private garages, stables, barns, corrals, pens, and other similar structures.

**History:**1965, PL, 9-19.

#### **26.0317 General commercial zones, C1.**

The uses permitted in general commercial zones are:

- (1) any use permitted in the R1, R2 and C2 zones;
- (2) wholesale and retail stores, shops and businesses;
- (3) amusement enterprises;
- (4) automobile service stations, public automobile parking areas and public garages (not including automobile repair shops):
- (5) bakeries;
- (6) hospitals and clinics;
- (7) laundries and dry cleaners;
- (8) offices, business or professional, and banks;
- (9) personal service shops, including barbershops, beauty parlors and the like;
- (10) public utility buildings and uses, including fire and police stations, telephone exchanges, electric distributing substations and the like;
- (11) repair shops and service shops, including shoe repair shops, plumbing shops, dressmaking shops and the like, but not including automobile repair shops;
- (12) restaurants and cafes;
- (13) studios;
- (14) other uses which in the judgment of the Board, as evidenced by a resolution in writing, are similar to those listed in this section;
- (15) uses customarily accessory to any of the above uses, including only those accessory to manufacturing, compounding or processing activities as are necessary for the ordinary conduct of the listed uses and which are an integral part thereof;
- (16) accessory buildings and structures;
- (17) public vehicle parking areas.

**History:**1965, PL, 9-19.

#### **26.0318 Limited commercial zones, C2.**

The uses permitted in limited commercial zones are: personal service shops and general

stores, including barbershops, beauty parlors and the like; provided, that such personal services are carried on exclusively within a dwelling.

**History:**1965, PL, 9-19.

**26.0319 Limited industrial zones, MI.**

- (a) The uses permitted in limited industrial zones are:
- (1) any use permitted in the CI zone;
  - (2) the manufacturing, compounding, processing or treating of such products as bakery goods, drugs, cosmetics, and food products (not including fish and meat products or the rendering of fats and oils);
  - (3) the manufacturing, compounding, assembling or treating of articles or merchandise from previously prepared materials;
  - (4) automobile repair shops, including painting, body and fender work and rebuilding; truck and tractor repairing; and tire retreading;
  - (5) bottling and packing plants;
  - (6) ceramic products manufacturing.
  - (7) machine shops, welding shops and sheet-metal shops;
  - (8) warehouses and cold storage plants;
  - (9) lumber yards, building material sales yards, contractors' equipment storage yards and the like;
  - (10) other uses which in the judgment of the Board, as evidenced by a resolution in writing, are similar to those listed in this section;
  - (11) uses customarily accessory to any of the above-listed uses, and accessory buildings and structures.
- (b) The uses listed in subsection (a) must be conducted within a building, or within an area enclosed by a fence or wall at least 6 feet in height, except for necessary gates.

**History:**1965. PL, 9-19.

**26.0320 General industrial zones, M2.**

- The uses permitted in general industrial zones are:
- (1) any use permitted in the CI and MI zones except dwellings and hotels;
  - (2) any other uses not specifically prohibited by law, including those which are or may be objectionable, obnoxious or offensive by reason of odor, dust, smoke, noise, gas, fumes, cinders, vibration or water-carried waste:
  - (3) uses customarily accessory to buildings and structures.

**History:**1965. PL, 9-19.

**26.0321 Hotel zones, H.**

The use permitted in hotel zones is hotels.

**History:**1965, PL 9-19.

**26.0322 Watershed conservation zones, WC.**

- (a) The uses permitted in watershed conservation zones are: any use permitted in R1, R2 and A zones.
- (b) The uses listed in subsection (a) shall be conducted to insure maximum protection against erosion and contamination of water supplies, and to insure preservation of the natural characteristics of the watershed area.

**History:** 1965, PL, 9-19.

**26.0323 Recreation conservation zones, RC.**

(a) The uses permitted in recreation conservation zones are:

- (1) agricultural crops;
- (2) recreational facilities.

(b) No structure of any sort other than as approved by the Territorial Park and Recreation Board may be constructed between roads parallel to and near the ocean, and the mean high water mark of the ocean. Where no road parallels the ocean, there may be no structure between the mean high water mark and a point 30 feet inland from the mean high water mark of the ocean.

(c) The uses and limitations listed in this section must be conducted to insure the development of recreational facilities and the retention of the natural scenic beauty of the area.

**History:** 1965, PL, 9-19.

**26.0330 Nonconforming buildings.**

(a) A nonconforming building may be maintained and repaired, except as otherwise provided in this section.

(b) A building nonconforming as to use regulations may not be added to or enlarged in any manner unless the building, including such additions and enlargements, is made to conform to all the regulations of the zone in which it is located.

(c) A building nonconforming as to height or yard regulations may be added to or enlarged if such addition or enlargement conforms to all the regulations of the zone in which it is located.

(d) A nonconforming building which is damaged or partially destroyed by fire, flood, wind, earthquake or other calamity to the extent of not more than 50% of its value at the time of such damage or destruction may be restored if the total cost of such restoration does not exceed 50% of the value of the building at the time of such damage or destruction. Where the damage or destruction exceeds the value, the building may not be repaired or reconstructed unless the entire building is made to conform to all regulations for a new building in the zone in which it is located.

**History:** 1965, PL, 9-19.

**26.0331 Nonconforming use of building.**

(a) The nonconforming use of a building, existing at the time this chapter became effective, may be continued.

(b) The nonconforming use of a building may be changed to any other use which is permitted in the same zone as the use for which the building or structure is designed or intended. The nonconforming use of a building may also be changed to any use permitted in a more restricted zone classification, it may not thereafter be changed to a use of a less restricted zone classification.

**History:** 1965, PL, 9-19.

**26.0332 Nonconforming use of land.**

The nonconforming use of land existing at the time this chapter became effective may be continued, except that such use may not be extended either on the same or on to adjoining property. Where a nonconforming use of land is discontinued or changed, any future use of such land must be in conformity with the provisions of this chapter.

**History:** 1965, PL, 9-19.

**26.0333 Buildings, land and uses which become nonconforming.**

The provisions of 26.0330 through 26.0332 apply to buildings, land and uses which hereafter become nonconforming due to any classification or reclassification of zone or to any change in the provisions of this chapter.

**History:** 1965, PL, 9-19; amd 1979, PL 16-14 § 1.

**Amendment:** 1979 Changed manner of appeal.

**26.0334 Identification and notification of nonconformance.**

The Zoning Board shall identify nonconforming uses and notify the owner and occupant in writing.

**History:** 1965, PL, 9-19.

**26.0340 Variances.**

(a) The Zoning Board may grant a variance from the regulations applicable to a zone if it finds that the variance is necessary to make possible a reasonable use of land or a building, or that the refusal of a variance would impose a hardship, and that the variance would not be injurious to the neighborhood.

(b) Variances shall be granted only on request, after notice and public hearing, and on the basis of written finding. Appropriate conditions and safeguards may be included.

**History:** 1965, PL, 9-19.

**26.0341 Review of zoning board action.**

An appeal from an action of the Zoning Board may be taken in like manner to appeals under the Administrative Procedure Act 4.1040 through 4.1044.

**26.0342 Violation-Penalty.**

Any person and any firm, corporation or officer thereof, violating any provision of this chapter, is guilty of a class B misdemeanor.

**History:** 1965, PL9-19; amd 1980, PL 16-90 § 91.

**Amendments:** 1980 Amended to conform with penalties provided for in Title 46, Criminal Justice.

**Chapter 04**

**(RESERVED)**

**Chapter 05**

**SIGN REGULATIONS**

**Sections:**

- 26.0501 Regulated.**
- 26.0502 Signs allowed without permit.**
- 26.0503 Permits for otherwise prohibited signs.**

- 26.0504 Signs existing upon enactment of chapter.**
- 26.0505 Persons responsible for signs.**
- 26.0506 Administration of chapter.**
- 26.0507 Enforcement of chapter.**
- 26.0508 Violation-Penalty.**

**26.0501 Regulated.**

Except as otherwise allowed or permitted in this chapter, it is unlawful to erect, maintain or display outdoors in American Samoa, any sign, including any billboard, ground sign, wall sign, roof sign, illuminated sign, projecting sign or display illustration, for the announcement or the advertisement of any business, product, service or event.

**History:**1965, PL 9-10.

**26.0502 Signs allowed without permit.**

The following signs shall be allowed without permit:

(1) any sign attached to, painted upon, or otherwise placed upon a building where the business announced or advertised is actually carried on, or the product announced or advertised is actually manufactured, assembled, or sold, or the service announced or advertised is actually available, or the event announced will actually take place. No such sign may project higher than the highest point of the building nor wider than the widest point of the building to which it is attached;

(2) any sign painted upon any vehicle used as a bus or a taxi for the sole purpose of identifying the owner or operator of the service, either by words or appropriate pictures or symbols;

(3) signs erected and maintained by the Government of American Samoa or any agency or instrumentality thereof;

(4) temporary signs, which shall mean any sign, banner, pennant, or advertising display constructed of cloth, canvas, light fabric, cardboard, or other light material, and not to be displayed for more than 72 hours;

(5) memorial signs or tablets, including the names of buildings and dates of construction, when such are cut into any masonry surface or constructed of bronze or other noncombustible materials;

(6) signs denoting the architect, engineer or contractor, when placed upon work under construction and not exceeding 16 square feet in area;

(7) signs informing people to keep off private property.

**History:**1965, PL, 9-10, 1970, PL, 11-104.

**26.0503 Permits for otherwise prohibited signs.**

(a) Any sign otherwise prohibited by this chapter may be allowed by the government by the issuance of a special sign permit, for which a fee of \$2 must be charged.

(b) In the issuance of such special sign permits, the following guidelines shall be considered:

(1) whether the proposed sign would in any way interfere with or detract from the natural beauty and attractiveness of American Samoa;

(2) whether the purpose sought to be served could also be served by a sign which would be permissible under 26.0502;

(3) whether the proposed sign would in any way interfere with traffic or pose a safety hazard.

(c) Special sign permits are not to be issued indiscriminately, but only when the need for them is shown and the purpose to be served is a worthy one.



**History:** 1965, PL, 9-10.

**26.0504 Signs existing upon enactment of chapter.**

Any presently existing sign not of a type permitted under 26.0502 must either be removed within 60 days of the enactment of this chapter or an application for a special sign permit therefor shall be filed with the Government. Failure to comply with this section subjects the person or persons responsible to the penalties provided in this chapter.

**History:** 1965, PL, 9-10.

**26.0505 Persons responsible for signs.**

Any person, which term shall include any corporation, partnership, association, or organization of any kind, who erects, maintains or displays, or who permits upon property owned or controlled by him or it the erection, maintenance or display of a sign, is responsible for that sign.

**History:** 1965, PL, 9-10.

**26.0506 Administration of chapter.**

The Governor may delegate the administration and enforcement of this chapter to such official, officials or agency of the Government as may from time to time appear best suited for such task.

**History:** 1965, PL 9-10.

**26.0507 Enforcement of chapter.**

The official, officials or agency charged with the enforcement of the provisions of this chapter shall have the power to order the removal of any sign which is in violation of this chapter. In the event such an order is not obeyed within 48 hours, the official or agency shall have the right to remove the sign summarily, and no liability may attach to him or it if it should subsequently be held that the sign was not in violation of this chapter.

**History:** 1965, PL, 9-10.

**26.0508 Violation-Penalty.**

(a) Any person responsible for a sign which is in violation of this chapter is guilty of a class C misdemeanor in determining the fine.

(b) Each day such sign continues in violation of this chapter, the person or persons responsible shall be guilty of a separate offense, and shall be punishable therefor.

**History:** 1965, PL, 9-10; amd 1980, PL 16-90 § 92.

**Amendments:** 1980 Amended to conform with penalties provided for in Title 46, Criminal Justice.

**Chapter 06-09**

**(Reserved)**

**Chapter 10**

**UNIFORM BUILDING CODE**

**Sections:**

- 26.1001 Adoption of code-Exceptions.**
- 26.1002 Application to erect building-Information required.**
- 26.1003 Application to erect building-Fee.**
- 26.1004 Inspection of completed building.**
- 26.1005 Removal of structures on government property.**
- 26.1006 Destruction of unsafe buildings.**
- 26.1007 Violation-Penalty.**

**26.1001 Adoption of code-Exceptions.**

The Uniform Building Code, Short Form, 1964 Edition, Volume I, as approved by the International Conference of Building Officials, is hereby adopted and shall have full force and effect of law in American Samoa, with the following exceptions:

(a) Section 201 of the Uniform Building Code is amended to read as follows:

“Section 201—There is hereby established in the Territory of American Samoa, the ‘Building Department’, which shall be under the jurisdiction of the Department of Public Works. The Governor shall appoint a building official who shall be charged with administration and enforcement of this Code”.

(b) The term “Governor” shall be substituted for the terms “city council” and “mayor” where they appear in Chapter 2 of the Code, and the term “city” as defined in Section 404 of the Code is amended to read as follows:

“city , as used in this Code, is the Territory of American Samoa”.

(c) Table No. 3-A—Building Permit Fees of the Uniform Building Code, is amended to read as follows:

<b>Total Valuation</b>	<b>Fee</b>
\$100 or less	No fee
\$100, to and including \$2,000	\$ 2.00
More than \$2,000, to and including \$10,000	5.00
Each additional \$1 ,000 or fraction thereof, to and including \$25,000	2.00
Each additional \$1 ,000 or fraction thereof, to and including \$50,000	1.00
Each additional \$1,000 or fraction thereof, more than \$50,000	0.50
Any agricultural structure and Samoan fales	No fee

(d) Table No. 25-A—Available square feet per occupant of the Uniform Building Code, is amended by deleting the figure “300” in the square feet per occupant column which applies to dwelling and substituting therefor the figure, “100”.

(e) The term “one year” shall be substituted for the term “60 days” where it appears in the first sentence of subsection (d) of Section 302 of the Code.

**History:** 1962, PL, 7-26; 1966, PL, 9-34; 1969, PL, 11-48; 1969, PL, 11-50.

**26.1002 Application to erect building-Information required.**

Each application to erect a building must be in writing and accompanied by a sketch showing the location of the proposed structure, its dimensions, structural details, the number, locations, and dimensions of its doors, windows and other openings for light and ventilation, its sanitary facilities, and the methods of entering the building and portions thereof so as to prevent collapse or separation during high winds.

**History:** 1962, PL, 7-26.

**26.1003 Application to erect building-Fee.**

Each application must be accompanied by a minimum fee of \$1. A larger fee may be charged in the case of business buildings where inspections are necessary, such fee to be reasonable in view of the service to be rendered.

**History:** 1962, PL, 7-26.

**26.1004 Inspection of completed building.**

Upon completion of each building, it must be inspected by a representative of the Department of Public Works to determine whether or not the plans have been followed and whether or not the building is safe for occupancy.

**History:** 1962, PL, 7-26.

**26.1005 Removal of structures on government property.**

Any building or other structure erected or located on land owned by the Government of the United States or the government of American Samoa must be removed at the expense of the owner within 30 days after receipt of written notice therefor signed by the Governor.

**History:** 1962, PL, 7-26.

**26.1006 Destruction of unsafe buildings.**

If any building or other structure is considered to be in such a dilapidated condition as to be unsafe and dangerous, the owner shall tear down and remove the building within 30 days after receipt of written notice to do so signed by the Governor.

**History:** 1962, PL, 7-26.

**26.1007 Violation-Penalty.**

Any person violating any provision of this chapter is guilty of a class C misdemeanor and any building erected in violation of this chapter must be removed or altered in accordance with the order of the Governor at the expense of the owner thereof.

**History:** 1962, PL, 7-26; amd 1980, PL, 16-90 § 90.

**Amendments:** 1980 Amended to conform with penalties provided for in Title 46, criminal Justice.

**Case Notes:**

While Government can complain if house of pastor is not within dimension required by statute, private party cannot if house is built within land given for this purpose. RCAS 17.0106. Muasau v. Pita, 4 ASR 155 (1963).

**Chapter 11**

**PLUMBING**

**Sections:**

- 26.1101 Authority of Governor to prescribe requirements.**
- 26.1102 Alteration, repair, or renovation of plumbing system.**
- 26.1103 Abatement of nuisances.**

**26.1101 Authority of Governor to prescribe requirements.**

The Governor is authorized to prescribe plumbing requirements for all plumbing systems hereafter installed. The requirements shall be those which in the opinion of the Governor are necessary to protect the public health and safety.

**History:**1972, PL, 12-44 § 12.

**26.1102 Alteration, repair, or renovation of plumbing system.**

Alterations, repairs, or renovations of existing plumbing may deviate from the requirements for new systems only to the extent approved by the Director.

**History:**1972, PL, 12-44 § 12.

**26.1103 Abatement of nuisances.**

Whenever compliance with all of the provisions of this chapter fails to eliminate or alleviate a nuisance that may involve health or safety hazards, the owner or his agent may be ordered by the director to install such additional plumbing or drainage equipment as may be necessary to abate such nuisance.

**History:**1972, PL,12-44 § 12.

**Chapter 12-14**

**(RESERVED)**

**Chapter 15**

**CONSTRUCTION MATERIALS**

**Sections:**

- 26.1501 Definitions.**
- 26.1502 Establishment of standard grades.**
- 26.1503 Indication of quality grade.**
- 26.1504 Inspections.**
- 26.1505 Refusal to allow inspection-Penalty.**
- 26.1506 Failure to display correct, quality grade notice-Penalty.**
- 26.1507 Knowing display of false quality grade notice-Penalty.**

**26.1501 Definitions.**

Unless otherwise specifically stated or necessarily required by the context, the following definitions of words, terms, and phrases shall apply throughout this chapter:

(a) "Construction materials" means all articles commonly used in the building and construction of buildings and other structures, including lumber, plywood, masonite, cement, nails, glass windows, glass louvers, roofing iron, reinforcing iron, screen wire, nylon screen wire, ratproof wire, paints, and such other items as the director shall by regulation direct.

(b) "Director" means the Director of Administrative Services of the Government.

(c) "Samoan" or "Samoan descent" includes American Samoans of at least 1/2, Samoan blood and persons born on other islands of the Pacific Ocean who are of at least 1/2 Polynesian, Melanesian or Micronesian blood and reside in American Samoa.

**History:**1962, PL 7-23; 1965, PL 9-17; 1968, PL 10-66.

**26.1502 Establishment of standard grades.**

(a) The Director shall establish a system of uniform standard quality grades for all construction materials commonly sold at retail in American Samoa and for which it is practical to do so.

(b) The Director shall publish the standards so established as regulations and in a convenient form.

**History:** 1965, PL 9-17.

**26.1503 Indication of quality grade.**

Every retail establishment offering construction materials for sale in American Samoa shall clearly indicate in such manner as to be evident to prospective purchasers the quality grade of the item or items offered. Such indication shall be by marking the item or by signs or in such other manner as the Director may by regulation prescribe, and shall be in accordance with the standards established pursuant to 26.1502. For items for which the Director has not established standards, no indication of quality grade shall be required.

**History:** 1965, PL, 9-17.

**26.1504 Inspections.**

At least once every 2 calendar months, or more often in his discretion, the Director shall cause an inspection to be made of retail establishments offering construction materials for sale to determine compliance with the requirements of 26.1503. Violations must be reported to the office of the Attorney General.

**History:** 1965, PL 9-17.

**26.1505 Refusal to allow inspection-Penalty.**

A dealer at retail in construction materials who refuses during normal business hours to allow the inspection provided for in 26.1504 shall be guilty of a class C misdemeanor and shall be sentenced accordingly.

**History:** 1965, PL 9-17; amd 1980, PL 16-90 § 31.

**Amendments:** 1980 Amended to conform with penalties provided for in Title 46, Criminal Justice.

**26.1506 Failure to display correct, quality grade notice-Penalty.**

(a) A dealer at retail in construction materials who fails to display in the prescribed manner the indication of quality grade required by 26.1503, or who negligently allows the display of a false indication of quality grade, shall be guilty of a class B misdemeanor and shall be sentenced accordingly.

(b) Each separate failure to display a required indication of quality grade and each separate false indication of quality grade shall be deemed a separate offense.

**History:** 1965, PL, 9-17; amd 1980, PL 16-90§ 32.

**Amendments:** 1980 Amended to conform with penalties provided for in Title 46, Criminal Justice.

**26.1507 Knowing display of false quality grade notice-Penalty.**

(a) A dealer at retail in construction materials who knowingly displays or allows the display of a false indication of quality grade shall be guilty of a class B misdemeanor and shall be sentenced accordingly.

(b) Each willful or knowing display of a false indication of quality grade is a separate offense.

**History:** 1965, PL, 9-17; amd 1980, PL, 16-90 § 33.

**Amendments:** 1980 Amended to conform with penalties provided for in Title 46, Criminal Justice.