



Commonwealth of the Northern Mariana Islands

Office of the Governor

Saipan, Mariana Islands 96950

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GOV. NMI SAIPAN

REPLY TO:

DEPT. or ACTIVITY

27 JUN 1989

GOV. COMM. 6-113
(HOUSE)

The Honorable Benigno M. Sablan
Acting Speaker
Sixth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

and

The Honorable Benjamin T. Manglona
Senate President
Sixth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Dear Mr. Acting Speaker and Mr. President:

This is to inform you that I have signed into law House Bill No. 6-25, H.D.3, S.D.1, S.C.S.1, "The Zoning Code of the commonwealth of the Northern Mariana Islands", which was passed by the Sixth Northern Marianas Legislature.

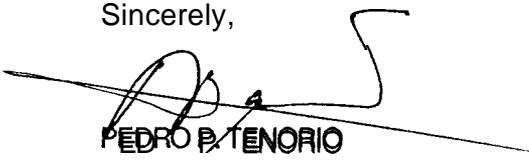
This measure differs from the previous ones in that it establishes a Zoning Board, that would prepare a Zoning Plan which shall be submitted to the Legislature for approval by the Legislative Delegation of the affected Senatorial District. Further, it mandates the Board to hold open public hearings in all major villages in order to solicit public opinion and input on any proposed Land Use Districts, boundaries, and regulations.

In addition, the Zoning Plan would be put before the voters, in the form of a legislative initiative, to accord the people of the Senatorial District to which such Plan applies, the opportunity to approve or reject such Zoning Plan.

There are numerous minor technical concerns that should be reviewed and clarified by the Legislature to avoid any confusion which might arise in the future. My staff will be ready to assist at any time.

~~This bill~~ becomes Public Law No. 6-32, of which copies are forwarded for your ready reference.

Sincerely,


PEDRO B. TENORIO
Governor

CC: Special Assistant for Programs and Legislative Review

received
4:03 pm
6-27-89

HOUSE OF REPRESENTATIVES
SIXTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
SECOND SPECIAL SESSION, 1989

PUBLIC LAW NO. 6-32

HOUSE BILL NO. 6-25,
House Draft 3, Senate Draft 1,
Senate Committee Substitute 1

AN ACT

TO ESTABLISH THE ZONING CODE OF THE COMMONWEALTH OF THE
NORTHERN MARIANA ISLANDS AND FOR OTHER PURPOSES.

Offered by Representatives: Vicente M. Sablan,
Antonio M. Camacho, Pedro R. Guerrero, Juan S. Reyes,
David C. Sablan and Manuel C. Sablan

Date: January 20, 1988

HOUSE ACTION

Referred to Committee on Natural Resources
Standing Committee Report No. 6-1 and 6-1A
First Reading: February 11, 1988
Second Reading: September 16, 1988
Final Reading: May 16, 1989

SENATE ACTION

Referred to Committee on Resources and Development
Standing Committee Report No. 6-119
First Reading: January 18, 1989
Second and Final Reading: April 13, 1989


FRANCES P. HERNANDEZ
Acting House Clerk
House of Representatives

FIRST REGULAR SESSION, 1988

AN ACT

To establish the Zoning Code of the Commonwealth of the Northern Mariana Islands and for other purposes.

BE IT ENACTED BY THE NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 SECTION 1. Amendment. Title 2 of the Commonwealth Code
2 is amended to add a new Division 7 to read as follows:

3 **"Division 7.** The Building and Zoning Codes.

4 CHAPTER 1. THE BUILDING CODE [RESERVED]

5 CHAPTER 2. THE ZONING CODE

6 Section 7201. SHORT TITLE. This law may be cited as
7 **"The Zoning Code of the Commonwealth of the Northern**
8 **Mariana Islands."**

9 ARTICLE 1. GENERAL

10 Section 7211. Purpose and Objectives.

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

17 (b) Satisfaction of this need requires a legal
18 system of land use guidance that is consistent with
19 the aspirations and values of the people, helps them
20 maintain a desirable lifestyle, produces appropriate

1 types and levels of development for the Commonwealth,
2 and preserves the environment for future generations.
3 Land use controls must also be practical and
4 responsive to changing circumstances.

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

11 (d) The purposes of this Act are to meet the
12 needs identified in (a) through (c) of this Section,
13 and to that end to establish and provide for a
14 Commonwealth Zoning Board and professional staff to
15 prepare for review and adoption by the Legislature,
16 and to administer subsequent to enactment, a land use
17 and zoning system that protects the interests of both
18 present and future land owners and the general public.
19 Section 7212. Policy and Jurisdiction.

20 (a) It shall be the policy of the Commonwealth,
21 implemented by the Zoning Board to:

22 (1) protect the health, safety, and general
23 welfare of the residents of and visitors to the
24 Commonwealth;

25 (2) promote and encourage basic public

1 services which meet the needs of the people;

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

5 (4) respect the indigenous cultures by
6 preserving archaeological, historical, and
7 architectural resources;

8 (5) promote the conservation of nonrenewable
9 resources;

10 (6) actively encourage conversion to
11 renewable energy sources: and

12 (7) adopt a flexible system of zoning that
13 allows for a mixture of uses and that avoids
14 nuisances by measuring the compatibility of
15 proximate uses against quantifiable performance
16 standards.

17 (b) This Act shall apply to the use of lands in
18 the Commonwealth by any person, who has use or
19 dispositional rights accorded them by virtue of land
20 ownership, leasehold, homestead, use permit, statutory
21 authority, or other instruments. Provided, that this
22 Act shall not apply to the islands of the First and
23 Second Senatorial Districts except by enactment of an
24 appropriate local law so applying this Act to a
25 particular Senatorial District.

1 Following such enactment, a Zoning Board member
2 for the Senatorial District to which this Act newly
3 applies shall be appointed and seated pursuant to
4 Section 7221(k) of this Act. The Zoning Board shall
5 then create a zoning plan for the such Senatorial
6 District, using the same procedures, educational
7 efforts, and time frames provided in this Act for
8 creation and adoption of a zoning plan for the Third
9 Senatorial District, except that the Zoning Advisory
10 Council for the Senatorial District to which this Act
11 newly applies by local law shall be created by the
12 same local law. The Zoning Board shall submit such
13 zoning plan to the Legislature for approval by the
14 Legislative Delegation of the effected District
15 pursuant to Section 7221(c) (4).

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

19 Section 7213. Definitions. As used in this Act:

20 (a) "Act" means this legislation and the
21 regulations issued under its authority.

22 (b) "District" means an area of land established
23 as a Land Use District. Except, "District" means a
24 Senatorial District when used in Section 7212(b) and
25 Section 7221(e), (f), and (k), or when modified by the

1 word "Senatorial".

2 (c) "Zoning Plan" means the proposal of the
3 Zoning Board submitted to the Legislature in
4 accordance with the provisions of this Act which shall
5 include, but is not limited to, these components of a
6 plan of zoning:

7 (1) a system of land use Districts setting
8 out the purposes and land uses characteristic of
9 each such District, the uses prohibited within
10 each, the uses permissible within each, and any
11 special requirements governing such uses;

12 (2) those quantifiable performance standards
13 which shall be employed in determining whether a
14 particular use or structure is permissible within
15 a particular District;

16 (3) maps showing the boundaries of each
17 District proposed; and

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

21 The Zoning Plan shall be constructed in statutory
22 form as appropriate.

23 (d) "Land" includes areas above and below the
24 ordinary high water mark.

25 (e) "Non-Conforming Use" means a structure or use

1 that is not permitted by laws and regulations
2 currently in effect.

3 (f) **"Person"** means any individual, estate, firm,
4 corporation, company, joint venture, association,
5 partnership, trust, receiver, club, syndicate,
6 cooperative association, or other entity, including
7 agencies and offices of the Government of the
8 Commonwealth.

9 (g) **"Owner"** includes lessees and homesteaders of
10 real property.

11 (h) **"Structure"** means any construction, or any
12 production or piece of work artificially built up or
13 composed of parts joined together in some definite
14 manner.

15 ARTICLE 2. ADMINISTRATION

16 Section 7221. Zoning Board: Creation,
17 Responsibilities, Composition, Term, Compensation,
18 Meetings, Appeals,

19 (a) Creation. There is established in the
20 Commonwealth Government a Zoning Board.

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

23 (1) to educate the public about this Act and
24 the requirement for compliance; such educational
25 program shall be mandatory and shall be

1 undertaken prior to submission of the Zoning Plan
2 of the Board to the Legislature:

3 (2) to administer and enforce this Act;

4 (3) to hear and grant or deny applications
5 for changes in Land Use District boundaries, uses
6 or requirements, imposing such conditions as are
7 deemed necessary to fulfill the purposes and
8 policies of this Act;

9 (4) to establish fees for processing of
10 applications and for other procedures required or
11 authorized by this Act:

12 (5) to report annually on its activities to
13 the Legislature; and

14 (6) to hire and supervise the activities of
15 the Zoning Administrator.

16 (c) Specific Responsibilities: Zoning Plan.

17 The Zoning Board shall be responsible for preparing
18 the Zoning Plan for the Third Senatorial District in
19 accordance with the guidelines provided in Section
20 7231 herein and consistent with the policies and
21 purposes of this Act.

22 (1) Public Participation. In coordination
23 with the Zoning Advisory Council the Zoning Board
24 shall hold open public hearings on the island of
25 Saipan, in at least all major villages, to

1 solicit public opinion on proposed Land Use
2 Districts, boundaries and regulations.

3 (2) Zoning Advisory Council. The Zoning
4 Board shall give due consideration to the
5 recommendations of the Zoning Advisory Council in
6 the preparation of the Zoning Plan.

7 (3) Coordination with MPLC. To the greatest
8 extent feasible, the Zoning Board shall
9 coordinate its responsibility for obtaining
10 public comment on proposed land uses, as per
11 subsection (c)(1) of this Section, with the
12 public comment activities of the Marianas Public
13 Land Corporation (MPLC), or its successor agency,
14 as MPLC fulfills its responsibility to adopt a
15 comprehensive land use plan for the public lands
16 of the Commonwealth.

17 To the greatest extent feasible, the Zoning
18 Board shall coordinate the Zoning Plan with the
19 comprehensive land use plan for public lands
20 adopted by MPLC.

21 (4) Report to Legislature, Adoption of
22 Zoning Plan. Within eight months of the date all
23 its members are confirmed by the appropriate
24 Legislative Delegation, the Zoning Board shall
25 submit its completed Zoning Plan to the

1 Legislature.

*Approval
Process*

2 The Legislative Delegation of the effected
3 Senatorial District shall have 60 days from
4 submission within which to approve, or amend and
5 approve, the Zoning Plan, by a separate local law
6 duly enacted. Failure of the Legislative
7 Delegation to act within this time shall
8 automatically place the approval of the Zoning
9 Plan before the voters of the Senatorial District
10 to which such Zoning Plan applies in the form of
11 a legislative initiative.

12 The initiative, to approve or disapprove the
13 Zoning Plan, shall be voted upon no sooner than
14 105 days after submission of the Zoning Plan to
15 the appropriate Legislative Delegation. The
16 initiative shall shall be held no later than 120
17 days after submission, or, at the same time as a
18 general election, if such general election occurs
19 with 180 days of submission. If the initiative
20 petition is approved by the voters, the Zoning
21 Plan shall become law upon certification of the
22 election results.

23 (d) Regulations. The Zoning Board shall
24 promulgate regulations to carry out the intent and
25 purposes of this Act. The Zoning Board shall adopt

1 such regulations within **60** days of adoption of the
2 Zoning Plan into law.

3 (e) Composition, Qualifications. The Board shall
4 consist of seven persons, appointed by the Governor,
5 subject to the confirmation of the Legislative
6 Delegation of the Third Senatorial District.

7 The Governor shall make all such appointments
8 within thirty days of the effective date of this Act
9 or of a vacancy occurring on the Board. Upon failure
10 of the Governor to make such appointments, the
11 Chairman of the appropriate Legislative Delegation
12 shall appoint the remaining members of the Board.
13 Appointments by the Chairman shall be subject to
14 confirmation by a majority vote of the Delegation.

15 The Legislative Delegation shall have thirty days
16 from the date of being informed of an appointment by
17 either the Governor or the Chairman of the Delegation
18 to confirm or reject such appointment. Failure to **act**
19 within this time shall be deemed an acceptance of the
20 appointment.

21 Each member of the Board shall be either of
22 Northern Marianas descent, as defined in Article XII,
23 Section 4, of the Constitution, or shall be a United
24 States citizen or national, who has been domiciled in
25 the Commonwealth for a minimum of five consecutive

1 years prior to selection. Each member shall be
2 qualified to vote in the Commonwealth, be at least
3 twenty-one years of age, and shall not be an employee
4 or officer of Commonwealth Government.

5 (f) **Term.**

6 (1) Initial Term. The terms of initial
7 Board members shall commence upon confirmation
8 of the appointment by the appropriate Legislative
9 Delegation and run until the second Monday of
10 January, **1992**. Commencing with the regular
11 general election on the first Saturday in
12 November, **1991**, and every two years thereafter on
13 that date, the name of each Board member shall be
14 placed upon the ballot for those Senatorial
15 Districts to which this Act applies. The voters
16 of said Districts shall **elect** to **retain** or remove
17 each such member.

18 (2) Subsequent Appointments. The terms of
19 subsequent appointees shall commence upon
20 confirmation of the appointment by the
21 appropriate Legislative Delegation and run until
22 the second Monday of January following the next
23 regular general election at which Board members
24 stand for retention.

25 (g) Compensation. The members of the Board shall

1 be compensated at the rate established for Board
2 Members of Government Corporations and Councils by
3 Public Law 4-32 (1 CMC, Section 8247, or as amended).

4 (h) Vacancy. Upon a vacancy on the Zoning Board
5 caused by death, resignation, or removal, the Governor
6 shall appoint a replacement with the qualifications
7 and in the manner prescribed in subsection (e) of this
8 section.

9 (i) Removal of a member. A Zoning Board member
10 shall be removed by the Governor for conviction of a
11 felony by a trial court, or for absence, in any twelve
12 month period from more than 50% of, or from three
13 consecutive, duly noticed, regular meetings of the
14 Board, unless such absence is the result of a
15 documented health problem. In addition, in matters
16 pertaining to the Board, a member shall be removed for
17 breach of fiduciary trust or for an intentional
18 violation of conflict of interest prohibitions, upon
19 the vote of a majority of the other Board members.

20 (j) Meetings. The Board shall meet at least once
21 a month, or as necessary to discharge its
22 responsibilities without undue delay. Either the
23 Chairman or any three members may call a meeting.
24 Advance public notice in, at least, one newspaper of
25 local circulation shall be provided, for, at least,

1 two weeks prior to a meeting. Meetings of the Board,
2 except for those meetings dealing with termination,
3 hiring, or discipline of the Administrator, shall be
4 open to the public. The opportunity for public
5 participation at meetings shall be provided. No
6 decisions of the Board shall be made other than in a
7 duly noticed public meeting. The Board shall adopt
8 rules of procedure necessary for the conduct of its
9 operations and meetings. A majority of the Board
10 members is required to transact official business
11 consistent with other applicable Commonwealth law.

12 A written record of all meetings shall be kept
13 and be available for public inspection. Such records
14 shall include clear statements of how and why
15 decisions were made. Copies of such records shall be
16 available to the public upon payment of a reasonable
17 copying cost.

18 (k) In the event either the First or Second
19 Senatorial District elects, pursuant to Section
20 **7212(b)**, to apply this Zoning Code to their respective
21 Senatorial District, an additional member for such
22 District shall be added to the Board by appointment of
23 the Governor, subject to confirmation by the
24 appropriate Senatorial District Delegation, as
25 provided in subsection (e) of this Section. All other

1 provisions of this Act regarding Board members shall
2 apply to Board members of the First or Second
3 Senatorial Districts.

4 (1) Appeals. An applicant may appeal a
5 determination of the Zoning Board pursuant to the
6 provisions of 1 CMC, Division 9, Section 9112, or as
7 amended; except, the Court shall act upon such appeals
8 within 60 days of the written record of the relevant
9 Zoning Board meeting being made available to the
10 Court.

11 Section 7222. Zoning Administrator: Creation,
12 Responsibilities, Staffing.

13 (a) Creation of Position. There is established
14 in the Commonwealth Government the position of Zoning
15 Administrator. The Administrator shall serve at the
16 pleasure of the Board. The Administrator shall have
17 at least a baccalaureate degree, but preferably a
18 graduate degree, in planning or a related field, and
19 five years of progressive experience in land use
20 planning, comprehensive planning, or land use
21 administration. All other qualifications of
22 applicants being equal, preference in hiring will be
23 given the applicant with the most advanced degree in
24 planning or a related field.

25 (b) Responsibilities. The Zoning Administrator

1 shall have the following duties:

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

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

5 (3) To prepare and maintain all necessary
6 land use and zoning maps: and

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

9 (c) Staffing. The Zoning Administrator may,
10 subject to legislative appropriation, staff an office
11 in order to execute the purposes of this Act. Hiring
12 and firing of staff shall be the sole responsibility
13 of the Administrator.

14 (d) Annual Report. The Zoning Administrator
15 shall secure from the Commonwealth Trial Court, Office
16 of the Recorder, on an annual basis, a detailed
17 inventory of all land transactions, involving one or
18 more parties of non-CNMI descent, and report this
19 information to the Zoning Board and to the
20 Legislature. The report shall indicate the name of
21 each individual involved in the land transaction,
22 amount and location of acreage involved, period of
23 lease, and intended use, if known. The Commonwealth
24 Trial Court shall cooperate in assisting the
25 Administrator in securing the information for this

1 annual report.

2 Section 7223. Zoning Advisory Council.

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

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

7 (1) advise the Zoning Board on the
8 appropriate components of the Zoning Plan.

9 (2) advise the Zoning Board on any proposed
10 initial regulations to implement this Act.

11 (c) Composition. The Council shall consist of
12 the Mayors of Saipan and the Northern Islands; the
13 Special Assistant for Carolinian Affairs; the Special
14 Assistant for Indigenous Affairs; the Chairman or
15 designee of the Board of the Marianas Public Land
16 Corporation; the President or designee of the Saipan
17 Chamber of Commerce; the Governor's Special Assistant
18 for Socioeconomic Planning; the Chief of the Division
19 of Environmental Quality of the Department of Public
20 Health and Environmental Quality; the Administrator of
21 the Office of Coastal Resources Management; the
22 Historic Preservation Officer of the Department of
23 Community and Cultural Affairs; the Chairman or
24 designee of the Board of Directors of the Commonwealth
25 Development Authority; the Chairman or designee of the

1 Board of the Commonwealth Utility Corporation; the
2 President or designee of the Northern Marianas
3 Technical/Professional Council: a representative of
4 the Soil Conservation Service of the United States
5 Department of Agriculture: the Director or designee of
6 the Department of Natural Resources: the Director or
7 designee of the Department of Commerce and Labor; the
8 Director or designee of the Department of Public
9 Works: the President or designee of the Northern
10 Marianas Hotel Association: the President or designee
11 of the CNMI Contractors Association; the Chairman or
12 designee of the Board of the Saipan Farmers
13 Cooperative; and the Chairman or designee of the Board
14 of the Public School System. In addition, the
15 Governor shall appoint one member of the public
16 representing fisheries and designate one member of the
17 Council as Chair of the Council, until such time as
18 the Council elects its own Chair. One staff member
19 each from the Commonwealth House Natural Resources and
20 Senate Resources and Development Committees shall be
21 appointed by the respective Committee Chairman to the
22 Advisory Council.

23 (d) Term. All members shall serve until the
24 Zoning Board submits its Zoning Plan. The Zoning
25 Advisory Council shall then be disbanded.

1 (e) Compensation. The members of the Council
2 shall receive no compensation, but shall be reimbursed
3 for reasonable and necessary expenses at established
4 Commonwealth Government rates for meetings actually
5 attended.

6 (f) Meetings. All meetings of the Council shall
7 be open to the public and the opportunity for public
8 participation shall be provided.

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

13 ARTICLE 3. ZONING DISTRICTS

14 Section 7231. Land Use Districts.

15 (a) Creation. Land Use Districts shall be
16 established to preserve, protect and encourage the
17 development of lands in the Commonwealth for those
18 uses to which the lands are best suited in accordance
19 with sound planning principles and in the interest of
20 the health and welfare of the people of the
21 Commonwealth. In preparing its Zoning Plan the Zoning
22 Board shall, in addition to carrying out the stated
23 general purposes and policies of this Act,
24 specifically establish and employ:

25 (1) standards for subdivision development;

1 (2) a system of flood control and flood
2 plain, wetlands, and watershed management:

3 (3) provisions which encourage fresh water
4 conservation:

5 (4) provisions which encourage energy
6 conservation and conversion to renewable energy
7 sources, particularly protecting lands which
8 would be suitable for use in association with an
9 ocean thermal energy conversion system:

10 (5) restrictions on the placement and size
11 of commercial advertising signage;

12 (6) protections for lands having special,
13 exceptional, critical, or unique biological
14 productivity, the loss of which would jeopardize
15 the continued existence of any species of
16 wildlife on any island or its surrounding waters;

17 (7) protections for lands having special,
18 exceptional, critical, or unique scenic,
19 historic, archaeological, architectural,
20 topographic, geologic, ethnologic, scientific,
21 cultural, or recreational significance:

22 (8) in commercial areas and within lands
23 which are a primary focus of the tourism
24 industry, restrictions and requirements which
25 protect the aesthetic and utilitarian values of

1 these areas, including, but not limited to,
2 minimum lot size, density, setback, landscaping,
3 parking, site coverage, and building height; and
4 (9) protections for lands in intensive
5 agricultural use or with a high capacity for
6 growing crops, including, but not limited to,
7 flowers, foliage, fruits, forage and timber, or
8 for the raising of livestock or the propagation
9 of fish or game.

10 To the extent compatible with Commonwealth laws
11 and Constitutional provisions on the management of
12 public lands, the Zoning Plan shall promote or create
13 a system of public parks, beach accesses, recreation
14 areas, and wild and natural areas.

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

21 (b) Maps. Once adopted by law, the maps showing
22 the boundaries of Districts shall be kept permanently
23 on file in the Zoning Administrator's office.

24 ARTICLE 4. NON-CONFORMING USES; CHANGES IN BOUNDARIES,

25 USES AND REQUIREMENTS

1 Section 7241. Non-conforming Uses or Structures:
2 Continuance. Uses and Structures, Areas and Parcels, Casual
3 or Illeaal Uses, Question of Fact, Illeaal Non-Conforming
4 Uses.

5 (a) Continuance of Non-Conforming Uses and
6 Structures. Within the Districts designated by the
7 Board in its proposed Zoning Plan and which become law
8 by enactment of the Legislature or by popular
9 initiative, as provided in Section 7221 of this Act,
10 or within the boundaries of such Districts later
11 established, there may be lots, structures, or uses of
12 land and structures that were lawful prior to the
13 enactment of the Zoning Plan but which would be
14 prohibited or restricted under the Zoning Plan, as
15 enacted, or under future amendments. The provisions
16 of this Section are intended to reasonably expedite
17 the eventual elimination of existing uses or
18 structures that are not in conformity with the enacted
19 Zoning Plan. However, in applying these provisions,
20 no elimination of non-conforming uses or structures
21 shall be effected so as to cause unreasonable
22 interference with established property rights or
23 unreasonable hardship upon the property owner or user.

24 (b) Non-conforming Uses or Structures. Any
25 lawful structures, or use of lands or structures

1 standards and procedures to determine the
2 percentage of damage to structures.

3 (c) Non-Conforming Areas and Parcels. A lot of
4 record may be occupied by any use permitted by this
5 Act within the District in which the lot is situated.

6 (d) Casual or Illegal Use of Land. A casual,
7 intermittent, temporary, or illegal use of lands or
8 structures shall not be sufficient to establish the
9 existence of a non-conforming use.

10 (e) Existence of Non-Conforming Use is a Question
11 of Fact. Whether a non-conforming use exists shall
12 be a question of fact and shall be decided by the
13 Zoning Board. The burden of proof lies with the
14 applicant.

15 (f) Illegal Non-Conforming Uses. An illegal,
16 non-conforming structure or use of land or structure
17 shall not be validated by the adoption of regulations.

18 (g) The Board shall annually report to the
19 Legislature on the number and type of non-conforming
20 structures and uses and make recommendation for
21 acquisition of such sites by purchase or land
22 exchange.

23 Section 7242. Changes in Boundaries, Uses and
24 Requirements.

25 (a) District Changes. Changes in Land Use

1 District boundaries, uses and requirements shall be
2 consistent with the purposes of this Act, the Coastal
3 Resources Management Act, and the provisions of this
4 subsection.

5 (1) Initiation. Changes may be initiated by
6 the Zoning Board, the Zoning Administrator, or by
7 application of a person to the Zoning Board.

8 (2) Administrative Findings. The Zoning
9 Administrator shall review proposed changes and
10 shall issue a finding and recommendation to the
11 Board within 30 days of the initiation.

12 (3) Determination. The Zoning Board shall
13 make its determination within 60 days of the date
14 of the public hearing. The Board shall
15 immediately forward notice of any change to the
16 applicant, the Governor, and the presiding
17 officers of the Legislature and shall publish
18 notice of the change in a newspaper of general
19 circulation in the Commonwealth. The
20 Administrator shall record any boundary change on
21 the official Land Use District Maps.

22 (4) Legislative Review. Any change in
23 District boundaries, uses or requirements may be
24 amended or changed by law enacted by the
25 Legislative Delegation of the affected Senatorial

1 District.

2 (5) Protection of Uniquely Valuable Lands.
3 Lands in intensive agricultural use or with a
4 high capacity for soil based agricultural or
5 other method of food production shall not be
6 taken out of the District designated for such
7 uses if to do so will significantly impair the
8 agricultural or food productivity of the
9 Commonwealth. Similar consideration shall be
10 given to lands suitable for aquaculture and ocean
11 thermal energy conversion.

12 ARTICLE 5. PROCEDURES, FEES, AND PENALTIES

13 Section 7251. Public Participation: Notice, Hearing,
14 Rules of Procedure.

15 (a) Public Hearings. The Board shall hold at
16 least one public hearing, providing ample, advance
17 public notice of at least 30 calendar days, in the
18 Senatorial District to be affected by any proposed
19 change of District boundary, uses or requirements.

20 (b) Rules of Procedure. The Board shall
21 prescribe rules of procedure to govern the publishing
22 of public notices and the conduct of public hearings.
23 The applications, filings, determinations, and records
24 kept pursuant to this Act shall be open to the public
25 for review and inspection.

1 Section 7252. Filing Fees: Authority; Fees: Payment.

2 (a) Authority to Establish Fees. The Zoning
3 Board shall establish fees for procedures required or
4 authorized by this Act. Such fees must bear a
5 reasonable relationship to the costs incurred by the
6 Commonwealth, including costs of investigation,
7 inspection, administration, supervision, and
8 enforcement. Except, the Board shall provide for a
9 system of fee credits for uses or structures,
10 residential or commercial, designed to produce energy
11 from renewable sources, conserve energy, or collect or
12 store rainwater.
13

14 (b) Payment in Full Required. The Zoning
15 Administrator shall not initiate any action authorized
16 by this Act which requires a filing fee prior to
17 receipt of full payment of such filing fee.

18 Section 7253. Simplification of Process. To the
19 maximum extent possible, in preparing the Zoning Plan the
20 Board shall integrate the functions of zoning, land use
21 planning, and environmental protection in the Commonwealth
22 into a consolidated, simplified process whereby landowners
23 and applicants may most directly meet lawful land use
24 requirements.

25 Section 7254. Penalties: Fines, Conflict of

1 Interest.

2 (a) Administrative Orders. The Zoning Board
3 shall investigate violations, and order violators to
4 conform with this Act or to cease and desist from any
5 unlawful acts. The Board may order demolition or
6 removal of non-conforming structures which are built
7 in willful violation of this Act. The Board shall
8 have the authority to recoup the cost of demolition
9 from the structure's owner. The Administrator or his
10 agent may with permission of the owner or order of the
11 Commonwealth Trial Court enter any premises at
12 reasonable times for inspection and verification of
13 any non-conforming uses.

14 (b) Penalties.

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

22 Any person who knowingly or willfully makes
23 a false statement, representation, or
24 certification in any documentation pertaining to
25 this Chapter or regulation or order issued

1 thereunder shall be subject to a fine of \$1,000,
2 or one year imprisonment, or both.

3 (2) Civil Penalty. The Office of the
4 Attorney General shall bring a civil action to
5 enjoin the use or contemplated use of any real
6 property in violation of this Act. Upon a
7 showing of a violation of this Act the court
8 shall issue an injunction prohibiting such use.
9 The Attorney General need not show irreparable
10 harm, as it is presumed: it is not necessary for
11 the Attorney General to show there is an
12 inadequate remedy at law to obtain an injunction.

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

18 (c) Conflict of Interest. Any person, including
19 Board members themselves, having a personal or
20 financial interest in any official proceeding of the
21 Zoning Board, or a familial relationship to the fourth
22 degree of consanguinity with any party to such
23 proceeding, shall disqualify himself or herself from
24 officially hearing or ruling in such proceeding. A
25 knowing or willful failure to do so is a misdemeanor,

1 punishable by not more than one year in prison and a
2 fine not to exceed \$1,000 for each violation.

3 (d) Private Action.

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

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

1 (e) Public Nuisance. Any use of land in
2 violation of this act is a per se public nuisance.

3 Section 7255. Accounting of Fines and Fees.

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

10 (b) All fines and fees collected pursuant to this
11 Act shall be expended for the operations of the Zoning
12 Board, the administrative staff, and the several
13 operations of the zoning program, including the
14 purchase of non-conforming structures, upon
15 appropriation by the Legislature. The Zoning Board
16 shall report annually to the Legislature on the amount
17 of fines and fees collected and the cost of the zoning
18 program.

19 ARTICLE 6. Authorization For Appropriation

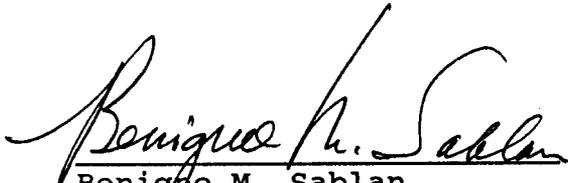
20 Section 7261. Authorization For Appropriation. There
21 is hereby authorized to be appropriated from the General
22 Fund of the Commonwealth the sum of three hundred and fifty
23 thousand dollars (\$350,000) to be used, upon appropriation,
24 to carry out the intent and purposes of this Act, including
25 public education programs, preliminary to the adoption of

1 the Zoning Plan. The Zoning Board and Office of the Zoning
2 Administrator shall be funded annually as appropriate,"

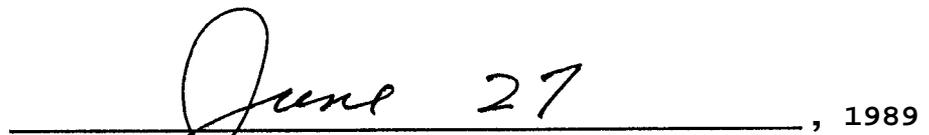
3 SECTION 2. Severability. If any section or
4 regulation of this Act should be declared invalid, the
5 judicial determination shall not affect the validity of the
6 Act or regulations as a whole, or any part thereof, other
7 than the particular part declared invalid.

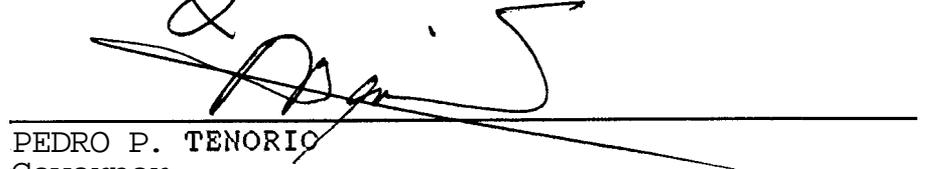
8 SECTION 3. Effective Date. This Act shall take
9 effect upon its approval by the Governor or upon its
10' becoming law without such approval.

Attest:


Benigno M. Sablan
Acting Speaker
House of Representatives


FRANCES P. HERNANDEZ
Acting House Clerk


June 27, 1989


PEDRO P. TENORIO
Governor
Commonwealth of the Northern Mariana Islands