

Guam Coastal Management Program
Document

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Government Code

TITLE LXV (LXVI)

CHAPTER II

Comprehensive Planning

- § 62010. Legislative Findings.
- § 62011. Legislative Intent.
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- § 62013. Council Responsibilities and Authority.
- § 62014. Support and Coordination for Comprehensive Planning.
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§62010. Legislative Findings. The Legislature recognizes that since the early 1960s, Guam has experienced population, economic and physical growth rates that are among the highest in the region, that Guam and her people have benefited greatly from all levels of socio-economic and physical development which has thus far taken place but it is the desire of the people of Guam to sustain and encourage the development of the island in a manner that would foster greater economic opportunities and stability for Guam without adversely affecting the cultural, environmental, social and natural resources unique to the island; that without careful study of the types and scale of socio-economic development anticipated for Guam and her residents, there will continue to be an absence of foresight, direction and guidance present in the current and future stages of development needed by Guam to sustain the desired standards and quality of living for its people; that to fully enjoy the benefits that can and would be derived from Guam's limited human and natural resources, development in Guam must be guided by a Comprehensive Development Plan that reflects the desires and aspirations of all who are guided by it; that a process for formulating Guam's Comprehensive Development Plan shall be established which shall identify the roles, authorities, responsibilities and processes involved in the formulation of the plan;

That there is a pressing need to establish policies which reflect the people's aspirations with respect to the future development of Guam - policies which evolve from sound strategic planning

initiatives, policies that take into account all diverse elements of community needs and desires; policies that would channel the deployment of resources to meet the following goals and objectives:

1. To upgrade the quality of life for Guam's people;
2. To create conditions and opportunities whereby people fully participate and benefit at every level of social and economic activity;
3. To maintain balance and equity between development and the environment in order to preserve the unique culture, traditions and beauty of the island;
4. To optimize the use of resources to meet present and future infrastructure and suprastructure requirements of the people of Guam;
5. To develop and maintain infrastructure capacity at a level that could sustain future population, socio-economic and physical growth.

§62011. Legislative Intent. It is the intent of the Legislature (i) to integrate its policy-making efforts with public and private interests engaged in physical, social and economic development planning for the island; (ii) to establish a process and mechanism through which duly adopted policies of Guam are linked with all elements of governmental and non-governmental development planning and implementation activity, the island having experienced the ill-effects of fragmented and disjointed development efforts resulting from the absence of both an integrated planning process and a Comprehensive Development Plan that contain rational parameters for Guam's growth; (iii) that all planning efforts that occur in Guam, be they private or public, adhere and conform to the adopted policies, goals and objectives set forth in Guam's Comprehensive Development Plan; (iv) to ensure that the people of Guam are not subjected to unbridled and unmanageable growth that would threaten the benefits, comforts and privileges to which each Guam resident is entitled; and (v) that the formulation of the Guam Comprehensive Development Plan serve to guide the island's growth and development up to and through the Twenty-First Century.

The Legislature wishes to collectively draw input, participation and expertise from all segments of the community in the effort to establish comprehensive planning for Guam and to solicit the services of development planning experts from both the public and private sectors.

In its desire to establish short-range and comprehensive long-term development objectives for Guam, inclusive of but not limited to the areas of education, visitor industry, economic development, community development, health, transportation, communication, public safety, agriculture, taxation, culture, labor and human resources, recreation, environment, and political development, the Legislature hereby establishes strategies for initiating comprehensive planning for Guam and the formulation of the Guam Comprehensive Development Plan. These strategies shall be as follows:

- a. To determine the extent that Guam's land, water and human resources limit urban and rural development;
- b. To plan for the preservation of the natural charm and character of Guam within the framework of a growing population and modern technology;
- c. To establish specified areas of use within urban, suburban, rural, agriculture, conservation, industrial, and resort contexts;

- d. To provide a development pattern that enhances the comfort, convenience and economic welfare of the individual;
- e. To prepare land-use capability criteria as a basis for real property evaluation that equalize the divergent qualities of location;
- f. To reappraise the extent of public, private and Federal land tenure in Guam and provide guidelines for relocation of inefficient or inappropriate uses;
- g. To plan for the development and extension of necessary infrastructure and transportation facilities;
- h. To plan for a high quality environment essentially free from pollution and with adequate and well-kept open space throughout Guam's varying activity centers;
- i. To prepare criteria of substandard neighborhoods and identify areas that meet these criteria;
- j. To recommend creative legislation regulating Guam's use of land for the protection of future generations.

Nothing in this Chapter is intended to limit the scope of any element or the areas of concern cited herein. However, it is the intention of the Legislature to fully integrate all planning elements and concerns within a viable development planning mechanism.

§62012. Territorial Planning Council.

(a) Creation and Membership. There is hereby created within the government of Guam a Territorial Planning Council (the "Council") of twelve (12) members consisting of the Director of Land Management, the Director of Planning, the Administrator of the Guam Economic Development Authority, the Director of Commerce, the General Manager of the Guam Visitors Bureau, one (1) member of the Mayors' Council to be nominated by the Mayors' Council and appointed by the Governor, three (3) members of the Legislature, including one (1) minority member, each to be nominated by the Speaker and appointed by the Governor, one (1) member of the Chamber of Commerce appointed by the Governor with the advice and consent of the Legislature, one (1) member of the community at large appointed by the Governor with the advice and consent of the Legislature, and the Administrator of the Guam Environmental Protection Agency.

(b) Chairperson. The Council shall select a Chairperson and Vice-Chairperson from among its members to preside over its affairs.

(c) Executive Secretary. The Director of Planning shall be the Executive Secretary of the Council.

(d) Procedures. The Council shall, pursuant to the Administrative Adjudication Law, adopt rules, procedures, and regulations to govern its meetings, hearings, business and affairs.

(e) Fees. Members of the Council who are not public officials shall be compensated Fifty Dollars (\$50) per meeting not to exceed One Hundred Dollars (\$100) per month.

§ 62013. Council Responsibilities and Authority. The responsibilities and authority of the Council shall be:

(a) Prepare Plan. To cause to be prepared, through the services of a consortium of both public and private experts possessing diverse planning experience and expertise, a comprehensive

development plan (the "Plan"), which shall provide short- and long- range guidance for the social, economic, infrastructure, suprastructure, and physical development of Guam, and which shall contain a statement of development objectives, standards and principles with respect to the most desirable use of land within Guam for residential, recreational, agricultural, commercial, industrial, and other uses completely serviced by an access and circulation network and infrastructure consistent with proper protection to enhance the quality of the environment and preserve Guam's natural beauty and historical heritage;

(b) Assist Planning. To harmonize, improve and assist in implementing comprehensive planning activities at all levels of government;

(c) Insure Consistency. To insure that the current planning programs and projects are consistent with the comprehensive development plan and the comprehensive program and financial plan (set out in the Executive Budget Acts) and the policies enumerated in this Chapter;

(d) Rules. To adopt any necessary rules or regulations in accordance with the Administrative Adjudication Law and to exercise all other powers necessary and proper for the discharge of its responsibilities;

(e) Recommendations. To develop all elements of the comprehensive development plan for Guam, as described in §62020 of this Chapter, and to make detailed written recommendations to the Governor, including minority dissenting opinions, for approval, disapproval, revision, amendment or referral to specific agencies or groups for further study and review;

(f) Agreements. To enter into and carry out any agreement or agreements in connection with the provisions of this Chapter and to solicit assistance from public, private or Federal sources as required in the development planning process and which are not inconsistent with or contrary to the laws of Guam; and

(g) Annual Report. To deliver to the Governor on the last Monday of January of each year a written report of the planning program and progress.

§62014. Support and Coordination for Comprehensive Planning. All agencies, departments, boards, commissions and other instrumentalities of the government of Guam shall review their present statutory authority, administrative regulations and current planning policies and procedures to determine where there is any duplication, any deficiencies or inconsistencies therein which prohibit or tend to prohibit integration, coordination and compliance with respect to the purposes and provisions of this Chapter and shall thereafter propose to the Council at a date determined by the Council such measures as may be necessary to bring their planning authority functions and programs into conformity with the intent, purposes, and procedures set forth in this Chapter. All master plans, development plans, long-range plans, and the like prepared by public agencies shall be submitted to the Council for processing as part of the comprehensive planning program. Emphasis will be placed on the continuing nature of the comprehensive plan program rather than a final completion of a single plan. The Council may assign, with concurrence of the director or other head of the agency involved, planning staffs or portions thereof of staff or(f) line agencies who shall prepare portions of the plan under the supervision of the Bureau of Planning.

§62015. Plan Review: Public Hearings. The Plan or any of its elements prepared by the various public agencies or any private entity, shall be submitted to the Council for review. Within

forty-five (45) days following receipt of any such element or elements by the Council, the Council shall hold one (1) or more public hearings thereon. Announcements of such hearings shall be printed in a newspaper of general circulation on Guam ten (10) days and one (1) day prior thereto. Summaries of the element or elements to be heard shall be prepared by the Council and submitted to appropriate news media.

§62015.1 Plan Submission. Within thirty (30) days after the hearing of the Plan or any of its elements, the Council shall submit to the Governor its recommendation thereon including a summary of testimony at the hearing(s).

§62015.2 Cooperation of Other Departments. Every department and agency of the government of Guam is hereby directed to render such assistance to the Council as the Council may require.

§62016. Plan Adoption. The Plan or any of its elements received by the Governor from the Council shall be approved, disapproved or referred to the Council for further recommendation prior to approval. The Governor shall have sixty (60) calendar days to act on the Plan or any of its elements submitted, provided, however, that if no action is taken thereon within sixty (60) calendar days after submission, the Plan or any of its elements so submitted shall be deemed approved by the Governor. Within ten (10) calendar days of approval by the Governor, the Plan or any of its elements shall be submitted to the Legislature for adoption. The Legislature shall review and approve or disapprove the Plan or any of its elements within sixty (60) calendar days of its receipt. In the event of failure by the Legislature to act within such sixty (6) calendar day period, the Plan or any of its elements so submitted shall be deemed approved.

§62017. Bureau of Planning. There is created within the Office of the Governor, the Bureau of Planning (the "Bureau"), which shall provide technical assistance, support and planning information to the Council and assist the Council in its effort to integrate and coordinate all levels of development planning throughout the government of Guam. The administrator of the Bureau, who shall be designated Director of Planning (the "Director"), shall be appointed by the Governor with the consent of the Legislature, and shall be a person who, as a result of training, experience and attainments, is exceptionally well-qualified to analyze and interpret development trends and information of all kinds, to appraise and coordinate planning programs and supervise the execution of the responsibilities of the Council in accordance with the policies set forth in this Chapter. The Director shall be responsible for the administration of this chapter and shall supervise the staff of the Bureau which, in addition to its regular duties, shall serve the Council.

§62018. Same: Staff Organization. The staff of the Bureau shall be organized into such divisions, sections, or units as are sufficient to appraise, coordinate and assist in the preparation of long-range planning programs for the social, economic, infrastructure, and suprastructure development of Guam. Expertise, either singly or collectively, should be evident in such areas as community facilities, conservation, cultural development, demography, economics, education, environment, finance, infrastructure, land utilization, natural resources, transportation, urban and rural design, utilities, and visitor industry. Preparation of planning elements not the duty and

function of staff and line agencies, shall be the responsibility of the staff of the Bureau.

§62019. Powers of the Bureau. In the execution of its responsibilities under this Chapter, the Bureau is authorized to perform the following functions:

(a) Grants. To apply for and accept grants, loans, contributions, appropriations and assistance from the Federal government and from any other sources, public or private, and enter into and carry out contracts or agreements in connection therewith, and include in any contract for financial assistance with the Federal laws as it may deem reasonable and appropriate and which are not inconsistent with the purposes of this Chapter and the laws of Guam;

(b) Contracts. To contract for any professional services if such work or services cannot satisfactorily be performed by its employees;

(c) Studies. To conduct, or cause to be conducted, investigations, studies, surveys, research and analysis relating to physical, human, social, and economic development of Guam and to publish the results thereof;

(d) Policies. To develop and recommend territorial policies to foster and promote the improvement of planning activity and development quality;

(e) Private Services. To utilize to the fullest extent possible, the services, facilities and information of public and private agencies and organizations and individuals in order that duplication of effort and expenses may be avoided;

(f) Appraise Plans. to review, appraise and make such use as it sees fit of all existing plans, inclusive of the 1978 Kabalas Na Planu Para Guahan, and those presently being prepared;

(g) Data Bank. To develop an information system and data bank for the continual collection and storage of public information needed or utilized in the development plan process; and

(h) Annual Report. To report to the Council and the Legislature of its annual progress and of its fiscal year activities.

§62020. Content of the Plan. The Comprehensive Development Plan for Guam shall contain specific elements as follows:

(a) Land Use. A land-use element together with the appropriate zoning recommendations supporting distribution, location and the extent of uses of land for housing, business, industry, agriculture, recreation, education, public buildings, open space, conservation and other categories of public and private uses of land, which include islands, reef and lagoon areas, and the sea within the territorial waters, inclusive of a statement of the standards of population and building density and building intensity for the various districts and other areas covered by the Plan, and regulatory criteria governing the use, development and subdivision of land;

(b) Community Design. A community design element consisting of standards and principles governing the subdivision and development of land and showing recommended designs for community and neighborhoods development and redevelopment, including sites for schools, parks, playgrounds and other community uses;

(c) Transportation. A transportation element which would provide a comprehensive transportation and circulation system consisting of existing and proposed major routes, thoroughfares, highways, and collector streets; locations of rights-of-way, terminals, viaducts, and grade separation, port, harbor, aviation and mass transit lines, and related facilities, all of which are correlated with the land use element of the Plan;

(d) **Regulations.** A regulatory element concerning parking facilities and building setback lines and the delineations of such systems on the land, a system of street naming, housing and building numbering, and such other matters as may be related to the improvement of circulation of traffic;

(e) **Public Facilities.** A public services and facilities element showing general plans for sewage, refuse disposal, drainage, and local utilities, and rights-of-way, easements, and facilities for them;

(f) **Public Lands.** A public lands element that provides an inventory of all government of Guam and federal lands;

(g) **Public Buildings.** A public buildings element identifying locations and arrangement of civic and community centers, public schools, libraries, police and fire stations, and other public buildings, including their architecture and the landscape treatment of their grounds;

(h) **Housing.** A housing element consisting of standards and plans for elimination of substandard dwelling conditions, the improvement of housing, and the provision of adequate sites for housing;

(i) **Redevelopment.** A redevelopment element for the elimination of unsafe or blighted areas, community redevelopment and the revitalization of housing sites, business and industrial sites, public building sites, and for other purposes authorized by law;

(j) **Conservation.**

1. Reclamation of land and waters;
2. Flood control;
3. Prevention and control of pollution of streams and other waters;
4. Regulations of the use of land in stream channels and conservation areas;
5. Prevention, control, and correction of the erosion of soils, beaches, and shores; and
6. Protection of watersheds.

A conservation element to guide the conservation, development, and utilization of natural resources including forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources which, as sub-elements, may also incorporate the following:

(k) **Recreation.** A recreation element establishing a comprehensive system of areas and public sites for recreation, including the following and, when practicable, their locations and proposed development:

1. Natural reservations,
2. Parks,
3. Parkways,
4. Beaches,
5. Reef and lagoons,
6. Playgrounds,
7. Historic and archaeological sites, and
8. Other recreation areas.

(l) **Safety.** A safety element for the protection of the community from natural and man-made hazards including features necessary for such protection as evacuation routes, peak load water supply requirements, minimum road widths, clearances around structures, geologic hazard mapping in areas of known geologic hazards;

(m) **Tourism.** A visitor industry element which will establish cooperation and coordination

between the public and private sectors to provide for steady and regulated growth within the visitor industry, while developing the industry in a manner that will continue to provide new business and job opportunities and steady employment for the people of Guam, and which will enable Guam's people to obtain job training and education geared for upward job mobility within the industry;

(n) **Development Policy.** A short and long-range socio-economic development strategy to include policy, opportunities, and programs to address or alleviate problems concerning health services, manpower planning, employment opportunity, education, elimination of poverty, law enforcement, welfare, substandard housing, consumer protection, public revenue and expenditures, cultural heritage preservation, visitor industry, and the like to include population characteristics and economic analysis with projections for each region and sub-region of the island;

(o) **Capitol Improvements.** A short and long-range capital improvements program and projects to be derived from public and private input and compiled from schedules of proposed capital improvements submitted to the Council by each department, agency, division, board, commission, branch, and instrumentality of the government of Guam; and which shall provide recommendations and identify programs for the balanced development of the island's port, highway, communication, and public transportation facilities including, but not limited to, institutions of higher learning, health and welfare facilities, correctional institutions, elementary and secondary schools, electric power, water telephone, sewer and other utility facilities;

(p) **Policy Statements.** A statement of specific policies for at least each of the following general areas: Socio-economic and human resource development, natural resource development, environmental protection, historical, and cultural preservation, public safety, housing and community development, education, land-use and population growth, visitor industry, or in other areas deemed appropriate by the Council;

(q) **Other Elements.** Such additional elements dealing with other subjects, which in the judgement of the Council relate to the physical development of Guam.

§62021. Plan Implementation and Financing. The Comprehensive Development Plan shall contain a schedule of programs and projects to be implemented annually. Funding for such programs and projects shall be identified in the Plan by the project's or program's principal or administering government agency or instrumentalities. Funding for programs or projects contained in the Plan which do not fall under the authority or responsibility of any particular instrumentality of the government of Guam shall be met by annual appropriation of the Legislature.

§62022. Annual Budget. The Chairman of the Council shall prepare and submit the Council's first annual fiscal year budget to the Legislature within ninety (90) calendar days of the enactment of this Chapter, and thereafter shall submit its annual budgets prior to the end of each fiscal year. Such budget shall contain a financial breakdown of personnel, administrative and all operating costs to be incurred by the Council in the performance of provisions set forth in this Chapter. Said personnel expenditures shall be applied to the full staffing requirements of the Council as submitted to the Legislature by the Council.

§62023. Master Plan Proposals. The Council shall proceed to develop proposals consisting of a scope of work and cost estimates for all elements of the Plan. The Council shall incorporate in its annual budget submission to the Legislature the amount of financial resources needed to facilitate the objectives of this Chapter.

§62024. Coordination of Effort. Any existing Committee, Commission, Task Force or body mandated to engage in planning for Guam or for particular areas or jurisdictions within Guam, shall seek to ensure that such planning efforts are provided the appropriate financial, human, technical and support resources necessary to accomplish any mandates or requirements of law relative to development planning; provided, however, that such planning efforts are supportive of and consistent with the intent of this Chapter.

For purposes of this Chapter, all plans prepared by any agency or instrumentality of the government of Guam shall be circulated to other agencies or instrumentalities affected by such plan and to the Bureau for review and finalization not later than sixty (60) days prior to submission of the plan to the Council.

§62025. Severability. If any provision of this Chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Chapter which can be given effect without the invalid provisions or application, and to this end, the provisions of this Chapter are severable."

Section 2. Section 13200, Title XIV, Chapter III, Government Code is repealed and reenacted to read:

§13200. Territorial Land-Use commission. There is within the government of Guam the "Territorial Land-Use Commission." The Commission shall be composed of seven (7) members to be appointed by the Governor by and with the advice and consent of the Legislature for a period of five (5) years; provided, however, that of the seven (7) members first appointed, one (1) shall serve for a term of one (1) year, two (2) shall serve for terms of three (3) years each, and the remaining four (4) shall serve for terms of five (5) years each, as designated by the Governor."

Section 3. Subsection (a) of Section 48003, Title XLV, Chapter I, Government Code, is repealed and reenacted to read:

"(a) Commission means Territorial Land-Use Commission."

CHAPTER 61

Zoning Law

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|----------------|---|
| Article | 1. General Provisions. |
| | 2. Establishment of Zones and Boundaries. |
| | 3. Use Regulations. |
| | 4. Height Regulations. |
| | 5. Yard and Area Regulations. |
| Part | 1. Yard and Area. |
| | 2. Accessory Buildings. |
| | 3. Nonconforming Buildings & Uses. |
| | 4. Automobile Parking & Loading Space Regulations. |
| | 5. Sign Regulations. |
| | 6. Junk Yards. |
| | 6. Administration and Enforcement. |
| Part | 1. Administrating & Enforcing. |
| | 2. Appeals & Reviews. |
| | 3. Changes of Zones. |
| | 4. Recording - Submission to the Legislature. |
| | 5. Fees. |
| | 6. Penalty for Violation. |

- - -

Article 1

General Provisions

- | | |
|----------------|--|
| §61101. | Title. |
| §61102. | Purpose. |
| §61103. | Definitions. |
| §61104. | Interpretation. |
| §61105. | Vote requirements for the Commission. |

§61101. Title. This Chapter shall be known as *The Zoning Law of the Territory of Guam*.

SOURCE: GC §17000.

§61102. Purpose. The purpose of this Chapter is to establish certain minimum regulations for the protection and promotion of the public health, safety and general welfare of the people of the Territory of Guam, which regulations are deemed necessary in order to encourage the most appropriate use of land, to provide adequate open spaces about buildings for light and air, to prevent undue concentration of population, and to assure adequate provisions for community utilities and facilities such as water, schools, parks and other public requirements.

SOURCE: GC §17001.

§61103. Definitions. For the purpose of this Chapter, certain terms are defined as follows:

(a) *Accessory Building.* 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.

(b) *Apartment House.* Same as *dwelling, multiple*.

(c) *Automobile Parking, Private.* An open area, located on the same lot with a dwelling or hotel, for parking automobiles of the occupants of such buildings.

(d) *Automobile Parking Area, Public.* An open area, other than a street or private automobile parking area, designed to be used for the parking of two or more automobiles.

(e) *Building.* Any structure built for the support, shelter or enclosure of persons, animals, chattels, or property of any kind.

(f) *Building Height.* The vertical distance measured from the average level of the highest and lowest point of that

portion of the lot covered by the building to a point midway between the highest and lowest point of the roof.

(g) *Compact Automobile*. An automobile whose gross area for parking purposes is one hundred sixty (160) square feet or less.

(h) *Cluster Development*. Placement of residential units in close association to each other in order to consolidate required lot area into usable open space for the benefit of those living in such residential units.

(i) *Commission*. Shall mean the Territorial Land Use Commission of Guam.

(j) *Dwelling*. A building or portion thereof designed exclusively for residential occupancy, including one-family, two-family and multiple dwellings, but not including hotels.

(k) *Dwelling Unit*. 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.

(l) *Dwelling, One-Family*. A detached building containing only one dwelling unit.

(m) *Dwelling, Two-Family*. A detached building containing two dwelling units.

(n) *Dwelling, Multiple*. A building containing three or more dwelling units.

(o) *Family*. An individual, or two or more persons related by blood or marriage, or a group of not more than five persons who need not be related by blood or marriage living together as a single housekeeping unit.

(p) *Home Occupation*. An occupation, carried on by occupants of a dwelling as a secondary use of such dwelling, in connection with which there is no display, no stock in trade nor commodity sold on the premises, and no other person employed.

(q) *Hotel*. A building containing six or more rooms intended or designed to be used, or which are used, rented, or hired out to be occupied, or which are occupied for sleeping purposes.

(r) *Junk Yard*. An open area where waste, scrap metal, paper, rags, or similar materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including the dismantling or storing of wrecked automobiles or other vehicles, and buildings. The terms dismantling or storing do not include the action of a licensed automobile repairer or garage owner in stripping an automobile or other vehicle of its usable parts as long as such action is accomplished within ten (10) days of the arrival of the motor vehicle being so stripped on the premises of the garage or automobile repair business.

(s) *Lot*. 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 Title, and having frontage on a street.

(t) *Lot Line, Front*. The line separating the lot from the street. For the purposes of yard requirements, a corner lot has two front yards and no rear yard. Within a panhandle lot, the front lot line begins at the interior end of the panhandle.

(u) *Lot Line, Rear*. The lot line which is opposite and most distant from the front lot line.

(v) *Lot Line, Side*. Any lot line not a front lot line or a rear lot line.

(w) *Lot Depth*. The horizontal distance between the front and rear lot lines, measured in the mean direction of the side lot lines.

(x) *Lot Width*. The horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

(y) *Lot Area*. The total horizontal area within the lot lines of a lot.

(z) *Nonconforming Building*. 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.

(aa) *Nonconforming Use*. 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.

(bb) *Planned Unit Development District*. A substantial area in which development follows an approved plan integrating a combination of uses in an appropriate and unified manner.

(cc) *Standard-sized automobile*. An automobile whose gross area for parking purposes is greater than one hundred sixty (160) square feet.

(dd) *Story*. That portion of a building between the surface of any floor and the surface of the floor or ceiling next above it.

(ee) *Structure*. Anything constructed or erected which requires location on the ground or attached to something having a location on the ground.

(ff) *Use*. The purpose of 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.

(ff) *Yard*. An open space on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this Chapter.

(gg) *Yard, Front*. A yard adjoining the front lot line and extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lot.

(hh) *Yard, Rear.* A yard extending across the full width of the lot between the most rear main building and the rear lot line. The depth of the required rear yard shall be measured horizontally from the nearest part of a main building toward the nearest point of the rear lot line.

(ii) *Yard, Side.* A yard between a main building and the side lot line, extending from the front yard or front lot line where no front yard is required to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest part of the main building.

SOURCE: GC §17004; amended by P.L. 10-5 and P.L. 21-49:1.

§61104. 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.

SOURCE: GC §17003.

§61105. Vote requirements for the Commission. In any action by the Commission under this Title, including but not limited to approvals of zone, changes in zones, variances, appeals, and all other actions, four (4) affirmative votes of the members of the Commission shall be required. The Chairperson of the Commission shall vote on all matters before it.

SOURCE: Added by P.L. 21-129:10.

Article 2

Establishment of Zones and Boundaries

- §61201. Zones.
- §61202. Zoning Map: Agana: Adopted.
- §61203. Zone Boundaries.
- §61204. Church Zone in Dededo.
- §61205. Maina R-2 Zone.
- §61206. Maina Commercial Zone.
- §61207. Tumon Commercial Zone.
- §61208. Yigo Commercial Zone.
- §61209. Nimitz Hill R-2 Zone.
- §61210. Tumon Bay *H Resort-Hotel Zone*.
- §61211. Artero Urunao Property Zoned H.
- §61212. Notification & Appeal of Zoning (Tumon Bay).
- §61213. Interim Regulations to Enforce *H Zone*.

§61201. Zones. In order to carry out the purposes and provisions of this Chapter, areas within the Territory of Guam are hereby divided into eight zones, known as:

- A Agricultural Zone.
- R1 One-Family Dwelling Zone.
- R2 Multiple Dwelling Zone.
- P Automobile Parking Zone.
- C Commercial Zone.
- M1 Limited Industrial Zone.
- M2 Industrial Zone.
- LC Limited Commercial Zone.

The aforesaid zone symbols and the boundaries of such zones shall be shown upon a map or maps which shall be designated as the *Zoning Map*.

The *Zoning Map* shall be adopted by the Commission and shall be effective upon its approval by the Committee on Rules of the Legislature and by the Governor. The *Zoning Map* shall

be submitted to the Committee on Rules prior to its submission to the Governor and such map shall be deemed approved by said Committee unless within fifteen (15) days of its receipt thereof, said Committee shall adopt a resolution disapproving the same, in which case the map shall be returned to the Commission. No such map shall be adopted by the Commission except after public hearing, ten (10) days notice of time and place of which shall be given in a newspaper of general circulation.

The Zoning Map may be divided into separate parts and separately adopted and approved as the necessary planning and study therefor is completed.

SOURCE: GC §17050.

§61202. Zoning Map of Agana. The zoning map of Agana, identified as Drawing No. GI-54517 and heretofore adopted as part of the zoning map, is hereby amended by extending the commercial zones appearing on said map, north of Route 8 and south of the Mongmong-Maite road, two hundred (200) feet in depth on each such area. Notwithstanding any other provision of law, these two commercial zones may not hereafter be altered or changed except by statute. The zoning map of Agana is further amended by extending the commercial zones north and south of Route Four, from Marine Drive to Lot 83 Sinajana on the north side and to Lot 3202 Sinajana on the south side, to a depth of two hundred (200) feet where the zones are not already of that depth and by further extending the commercial zone on said map to include the entire area bordered by Route Four, 3rd Street South, First Street East and Cliff Drive Extension.

SOURCE: GC §17050.1 repealed and reenacted by P.L. 10-5 as amended by P.L. 12-160.

§61203. Zone Boundaries. Where the zone boundaries indicated on the Zoning Map, said map, and all the notations,

references and their extensions; such lines shall be construed to be the zone boundaries.

Where the zone boundaries indicated on said map are not street, alley or lot lines, or extensions thereof, the zone boundaries shall be determined by the use of the scale appearing on the Zoning Map, unless otherwise specifically shown by dimension.

In any case where there is uncertainty as to the intended location of a zone boundary, the Commission shall have the power and duty to determine its intended location.

SOURCE: GC §17051.

§61204. Church Zone in Dededo. As an amendment to the Dededo Zoning Map (Land Management Drawing No. E3-67S39), adopted by the Committee on Rules of the Guam Legislature pursuant to the provisions of §61201 of this Chapter, the area in the municipality of Dededo, bounded by West Santa Monica Avenue to the north, Dolores Street to the east, and West San Antonio Avenue to the south and west, is hereby declared to be zoned for church and church-related activities.

SOURCE: GC §17052 enacted by P.L. 10-106.

§61205 Maina R-2 Zone. Basic Lots Nos. 242, 243 and 269 REM, all in Maina in the municipality of Asan, are hereby rezoned to R-2, multiple dwelling.

SOURCE: GC §17053 enacted by P.L. 12-111.

§61206. Maina Commercial Zone. Lots Nos. 235-REM-3-1 and 235-REM-3-2 in Maina in the municipality of Asan are hereby rezoned to C, commercial.

SOURCE: GC §17053.1 enacted by P.L. 12-111.

§61207. Tumon Commercial Zone. All property lying on either side of Route 1 (Marine Drive) between the two intersections of Tumon Loop with Route 1, to a depth of 200 feet from the edge of the right of way along Route 1, is hereby estab-

lished as commercial zone property. The Department of Land Management is hereby directed to amend its zoning maps accordingly.

SOURCE: GC §17053.2 enacted by P.L. 12-160.

§61208. Yigo Commercial Zone. All property lying on either side of Route 1 (Marine Drive) between the Old Marbo PX and the Yigo Catholic Church, to a depth of 200 feet from the edge of the right of way along Route 1, is hereby established as commercial zone property. The Department of Land Management is hereby directed to amend its zoning maps accordingly.

SOURCE: GC §17053.3 enacted by P.L. 12-160.

§61209. Nimitz Hill R-2 Zone. All property lying on either side of the road from Top 'O The Mar (Nimitz Hill - Spruance Drive) to the New Piti Elementary School, to a depth of 200 feet from the edge of the right of way along Route 6, is hereby established as R-2 zone property. The Department of Land Management is hereby directed to amend its zoning maps accordingly.

SOURCE: GC §17053.4 enacted by P.L. 12-160.

§61210. Tumon Bay H Resort-Hotel Zone. All land in the area known as Tumon Bay as designated by the Bureau of Planning's Tamuning Community Design Map No. 10, at the effective date of this Act is zone H Resort-Hotel Zone pursuant to the provisions of this Act.

SOURCE: GC §17111 enacted by P.L. 14-41 as amended by P.L. 14-82:7.

§61211. Artero Urunao Property Zone H. The following described real property is zoned H Resort-Hotel Zone:

The Artero Urunao property consisting of Lots 10080; PO 2.2; PO 2.3; PO 2.5; PO 3.1; PO 4.1; PO 5.30; and that lot starting at the shoreline of the Pacific Ocean at a point northeast of Double Reef, thence 360 meters due east, thence 900 meters north 7 degrees,

thence 173 meters north 81 degrees; thence 69 meters north 27 degrees, thence 425 meters north 60 degrees to the Pacific Ocean thence generally south along the Pacific Ocean shoreline to the starting point northeast of Double Reef as shown on the map entitled Marianas Area, Real Estate Requirements, Northwest Guam Air Force Base, Y and D Drawing No. 597 - 464, Marianas Area Drawing No. 10995, as approved by the Base Development Officer for the Chief of Bureau on September 24, 1963.

SOURCE: GC §17112 added by P.L. 18-48:9.

§61212. Notification and Appeal of Zoning [Tumon Bay].

Any property owner affected by the rezoning in this Law may, notwithstanding the provisions of this Law and not more than ninety (90) days after the effective date of this Law, notify the Territorial Land Use Commission that he desires that his land remain zoned as it is on the effective date of this Law and his land shall then remain so zoned.

The Director of the Department of Land Management, as the Executive Secretary of the Territorial Land Use Commission, shall, within forty-eight (48) hours of the effective date of this Law, send each landowner affected herein with a written notice concerning the provisions of this Section of this Law.

SOURCE: P.L. 14-41:3, effective June 28, 1977, which enacted §§17110 and 17111 GC [renumbered §§61311 and 61210 respectively] establishing H Zone and designating Tumon Bay. GC §1711 was subsequently amended by P.L. 14-82:7 codified by Compiler.

§61213. Interim Regulations to Enforce H Zone. The Territorial Land Use Commission shall adopt within thirty (30) days following enactment of this Act such interim regulations as required to enforce the intent and provisions of the H Resort-Hotel Zone. Such interim regulations shall be adopted pursuant to those procedures outlined in the Administrative Adjudication Law, 5 GCA Ch. 9. Such interim regulations shall

be in effect until adoption of final regulations by the Territorial Land Use Commission

SOURCE: P.L. 14-82.8 effective December 8, 1977. Codified by Compiler

NOTE: The Legislature has often rezoned areas on Guam by uncodified legislation. Please check the various session laws and the appropriate maps at the Department of Land Management for the latest zone changes

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Article 3

Use Regulations

- §61301. Conformance of Uses to Zone Regulations.
- §61302. Regulations Along District Boundaries.
- §61303. Conditional Use.
- §61304. A Rural Zone.
- §61305. R1 One Family Dwelling Zone.
- §61306. R2 Multiple Dwelling Zone.
- §61307. C Commercial Zone.
- §61308. P Automobile Parking Zone.
- §61309. M1 Light Industrial Zone.
- §61310. M2 Heavy Industrial Zone.
- §61311. H Resort-Hotel Zone.

§61301. Conformance of Uses to Zone Regulations. No building or structure shall be altered, enlarged, moved or maintained, and no building or land shall be used for any purpose, except for a use permitted in the zone in which such building or land is located, as hereafter provided in this article.

SOURCE: GC §17100.

§61302. Regulations Along District Boundaries. Where a commercial or industrial use occurs in zones permitted such uses, but in areas which are located adjacent to rural or residential zones, the yard requirement shall be twice that required of such use or twenty (20) feet, whichever is the greater.

SOURCE: GC §17101.

§61303. Conditional use. (a) In addition to permitted uses in each of the zones, specified uses are permitted upon approval by the Commission of the site plan including, but not limited to, disposal of sewage, access, parking, structure location and dimensions of buildings, impact of the proposed use on adjacent land uses, and accompanying covenants that may

include performance standards. The Commission shall also consider such other elements as may be reasonably related to the health, safety and general welfare of the community.

(b) Notwithstanding any prior conditional use as provided in subsection (a) of this section, any amendment to a site plan which plan was previously approved by the Commission shall be approved by the Commission in accordance with the criteria set forth in subsections (a) and (c) of this section.

(c) In any hearing or meeting on an application for conditional use whether based on an original or amended site plan, in each of the zones, the Commission shall require the applicant to give personal written notice at least ten (10) days prior to the hearing to property owners within a radius of five hundred feet (500') or if personal notice is not possible, then written notice to the last known address of such owner at least twenty-five (25) days prior to the hearing by certified mail, return receipt requested. In addition, the commission shall require the applicant to erect a sign on the subject location, no smaller than four feet (4') by eight feet (8') in height and width, displayed to make the following information available to the general public in a reasonable manner:

(a) a Statement of Public Notice that an application for conditional use has been filed with the Territorial Land Use Commission;

(b) the title of the application as filed, containing the name of the owner, the name of the developer, the lot number, and the proposed conditional use; and

(c) the date, time and place of each public hearing and Commission meeting where public comments can be presented to the Commission. The sign shall be required to be erected and displayed with current information no less than ten (10) consecutive days prior to each scheduled public hearing or meeting. The Commission shall not render a decision in favor of any applicant that fails to

comply with this sign requirement and any other public notice requirement that is prescribed or imposed. Failure to meet the notice requirements as provided herein renders any approval by the commission null and void.

(b) Pursuant to subsection (a) of this section, the Department of Land Management (the *Department*) shall determine the names and addresses and properly serve or mail all required notices to all persons within the five hundred foot (500') radius of the proposed project who will be affected thereby. As provided in subsection (a), the notices shall be served not less than ten (10) calendar days before any public hearing is to be conducted. The five hundred foot (500') radius shall be measured from the exterior boundary lines of the project, and not from the center.

(c) The Department shall charge the applicants with all costs incurred in carrying out the requirements of subsection (b) of this section, and all costs and fees so collected shall be deposited in the Department's operational funds to be expended for the Division of Planning as the Director of Land Management may determine.

(d) One Hundred Fifty Thousand Dollars (\$150,000) are appropriated from the General Fund to the Department to employ additional staff to undertake the work required by this section, to purchase "4 x 4" wheel vehicles for the Department, and to purchase desks and chairs, filing cabinets and other logistical necessities required by the Department to accomplish the work required by this section.

SOURCE: Repealed and reenacted by P.L. 21-14:11.

§61304. A Rural Zone. (a) Uses permitted:

- (1) One-family dwellings and duplexes.
- (2) Farming and fisheries, including all types of activities and pursuits customarily carried on in the field of agriculture and fisheries, including the raising of crops

and fruits, poultry and livestock, grazing and dairying, tree and other vegetative production whether for commercial or personal uses.

(3) Cockpits.

(4) Uses customarily accessory to any of the above uses including home occupations, and private automobile parking areas as well as accessory buildings and structures such as private garages, warehouses, barns, corrals or other similar structures.

(b) Conditional Uses:

(1) Parks, playgrounds and community centers.

(2) Biological gardens.

(3) Schools and churches.

(4) Hospitals, sanitariums, and institutional uses.

(5) Cemeteries.

(6) Recreational use including golf courses, marinas, beaches, swimming pools and accessory residential and commercial use.

(7) Extractive industry.

(8) Utilities and public facilities.

(9) Wholesale and retail stores, shops and businesses.

(10) Automobile service stations, including service shops.

(11) Accessory uses and structures for the above."

SOURCE: GC §17103 is repealed and reenacted by P.L. 21-72:23.

§61305. R1 One-Family Dwelling Zone. (a) Use Permitted.

(1) One-family dwellings.

(2) Gardening and the keeping of pets for noncommercial purposes.

(3) Use customarily accessory to any of the above uses including home occupations and private parking areas with accessory buildings and structures.

(b) Conditional Use.

- (1) Duplexes.
- (2) Schools and churches.
- (3) Parks, playgrounds and community centers.
- (4) Health service office, outpatient with laboratory.
- (5) Utilities and public facilities.

SOURCE: GC §17104.

§61306. R2 Multiple Dwelling Zone. (a) Use Permitted.

- (1) One-family dwellings.
- (2) Duplexes.
- (3) Multi-family dwellings.
- (4) Hotels, private groups, and institutions.
- (5) Accessory uses and structures for the above.

(b) Conditional Uses.

- (1) Any conditional uses permitted in the R1 zone.
- (2) Health Clinics.
- (3) Utilities and public facilities.
- (4) Air, bus, taxi, auto, rental terminals.
- (5) Accessory uses and structures for the above.

SOURCE: GC §17105. Subsection (b) as amended by P.L. 11-60.

§61307. C Commercial Zone. (a) Use Permitted.

- (1) One-family dwellings.
- (2) Duplexes.
- (3) Wholesale and retail stores, shops and businesses.

- (4) Amusement enterprises.
- (5) Automobile service station, including minor repairs.
- (6) Bakeries.
- (7) Mortuaries.
- (8) Offices, business or professional inclusive of professional healing arts offices and clinics, and banks.
- (9) Personal service shops, including barber shops, beauty parlors, laundromats, and the like.
- (10) Repair shops and service shops, including shoe repair shops, plumbing shops, dressmaking shops, and the like, but not including automobile repair shops for major work.
- (11) Restaurants and cafes.
- (12) Studios.
- (13) Other uses which in the judgment of the Commission, as evidenced by resolution in writing, are similar to those listed herein.
- (14) Uses customarily accessory to any of the above listed uses, including only those accessory to manufacturing, storage, compounding, or processing activities which are necessary for the ordinary conduct of said listed uses and which are an integral part thereof."

SOURCE: GC §17106. Repealed and reenacted by P.L. 21-40:20.

§61308. P Automobile Parking Zone. (a) Use Permitted.

- (1) Public or commercial parking area and garages.
- (2) Public access to adjoining parking areas.
- (3) Loading and unloading of automobiles or trucks, but not to use portions of required parking space.
- (4) Service vehicle storage after commercial hours.

(5) Utilities and public facilities.

(6) Accessory uses and structures for the above.

SOURCE: GC §17107.

§61309. M1 Light Industrial Zone. (a) Use Permitted.

(1) Any use permitted with or without condition in the commercial zone.

(2) The manufacturing, compounding, processing or treating of such products as drugs, cosmetics, and food products (not including fish and meat products nor 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 packaging plants.

(6) Ceramic products manufacturing.

(7) Laundries and cleaning and dyeing establishments.

(8) Machine shops and sheet metal shops.

(9) Warehouses and cold storage plants.

(10) Lumber yards, building material salesyards, contractor's equipment storage yards, and the like.

(11) Other uses which in the judgment of the Commissions, as evidence by a resolution in writing, are similar to those listed herein.

(12) Uses customarily accessory to any of the above listed uses, and accessory buildings.

(b) Conditional Use.

(1) Other industrial uses not objectionable, obnoxious or offensive by reason of odor, dust, smoke, noise, gas fumes, cinders, vibration, flashing lights, or water-carried waste.

(2) Utilities and public facilities.

(3) Accessory uses and buildings for the above.

SOURCE: GC §17108.

§61310. M2 Heavy Industrial Zone. (a) Use Permitted.

(1) Any uses permitted in the M1 zone, excepting residential use.

(2) Junk Yards. Under the special provisions set forth in part 6, Article 5 of this Chapter.

(3) 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.

(4) Uses customarily accessory to any of the uses herein permitted, and accessory buildings and structures.

(b) Conditional use.

(1) all residential uses.

(2) Accessory uses and structures for the above.

SOURCE: GC §17109.

§61311. H Resort-Hotel Zone. Notwithstanding any other provision of law, rule or regulation to the contrary, there is hereby created a **H Resort-Hotel Zone** for the purpose of being applied to areas to accommodate the needs and desires of visitors, tourists and transient guests.

(a) Purpose. It applies to specific areas where public roads and public utilities are available or where suitable alternative private facilities are assured. It may apply to a single isolated

hotel or resort with or without a commercial mall or shopping section.

This Zone provides for high-intensity development in a compatible arrangement of structures and uses in a unique setting. It shall be designed to promote a superior level of convenience, comfort and amenity within the zone; to encourage safe and pleasant pedestrian circulation; to preserve existing attractions; and to assure beneficial visual relationships from principal viewpoints.

Development shall be designed to establish an open character, with higher portions of buildings well spaced and oriented with respect to principal views from within the zone. Pedestrian circulation systems shall form a convenient and coordinated network through buildings and landscaped open spaces, supplementing sidewalks along streets; and where extensive areas of the shoreline are in such configuration as to allow it conveniently, walkways and/or bikeways shall be provided along the waterfront on both public and private property.

Since hotels complement other activities in this zone without creating excessive automotive traffic, it is intended to permit higher floor-area ratios for hotel uses than for other uses within the zone.

Since the zone is separated from major parking facilities in adjoining areas, it is intended that off-street parking requirements shall apply within its boundaries. It is further intended in view of the unusual visual exposure that adverse visual influences such as excessive signs, inappropriate lighting and open-storage shall be prohibited.

(b) Permitted Uses.

(1) Cultural and recreational facilities, hotels, restaurants, tourism related shops and offices, dwellings, parks,

marinas, zoos, amusement activities and supportive services.

(2) Permitted Accessory uses and Structures. Uses and structures which are customarily accessory and clearly complementary to permitted principal uses and structures shall be permitted. Service stations shall be permitted only within, and as accessory to, parking garages containing two hundred fifty (250) or more parking spaces.

SOURCE: GC §17110 enacted by P.L. 14-41.

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Article 4

Height Regulations.

§61401. Height Limit Established.

§61402. Buildings and Structures Permitted Above Height Limit.

§61401. Height Limit Established. In the A, R1, LC, R2, C, M1 and M2 Zones, no building or structure shall be erected or maintained, nor shall any existing building or structure be altered, enlarged, moved, or maintained, to exceed a height limit of three stories (the three stories shall not exceed a height of thirty (30) feet), except that in the C Zone within the New Agana lot and block system the building height limit shall be six (6) stories (the six stories shall not exceed a height of seventy-five (75) feet)."

SOURCE: GC §17150. Amended by P.L. 21-14:21.

§61402. Buildings and Structures Permitted Above Height Limit. The following buildings, structures and equipment may be erected and maintained above the permitted height limit:

(a) In the A Zone, any building may exceed the height limit of two stories or thirty (30) feet, if such building is located at least at a distance equal to two times the height of the building from any lot line;

(b) Shelters accessory to roof gardens or decks, providing such shelters are open on two or more sides, occupy less than half the roof area, do not exceed the height limit by more than ten (10) feet, and are set back at least eight (8) feet from each lot line;

(c) Roof structures for the housing of stairways, tanks, ventilating fans, or similar structures and equipment for the maintenance of the building; and

(d) Aerials, flagpoles, skylights, steeples, towers, fire or parapet walls, or other similar structures.

(e) Hotels, provided, that for every foot in elevation exceeding the standard limitation, two feet shall be added to each of the required yard depths and widths; and provided, further, that the height limit for any such hotel shall be six (6) stories (the six (6) stories shall not exceed a height of seventy-five (75) feet).

SOURCE: GC §17151.

Article 5

Yard and Area Regulations

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|-------------|---|
| Part | 1. Yard and Area. |
| | 2. Accessory Buildings. |
| | 3. Nonconforming Buildings and Uses. |
| | 4. Automobile Parking and Loading Space Regulations. |
| | 5. Sign Regulations. |
| | 6. Junk Yards. |

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Part 1

Yard and Area

- §61501. Minimum Yards and Lot Areas Established.
- §61502. General Yard and Area Requirements.
- §61503. Exceptions to Yard and Area Regulations.
- §61504. Statement of Purpose: Building and Building Height Restrictions in Beach Areas.

§61501. Minimum Yards and Lot Areas Established. No building or structure shall be erected or maintained, nor shall any existing building or structure be altered, enlarged, moved or maintained, on any lot, unless a front yard a rear yard and two (2) side yards are provided and maintained on such lot. The depth of such front and rear yards and the width of such side yards shall not be less than the depth and width specified in the following Yards and Lot Area table. Further, no lot width or lot area, nor any lot area per dwelling shall be less than that specified in said table. A commercial building to occupy the whole width of a lot must be of four-hour fire resistive construction. If party walls are to be erected, the written consent of the owners of adjacent lots must be obtained as a prerequisite for the issuance of a building permit to start construction. If the building to be erected is not of fireproof

construction, the side yards of eight (8) feet wide must be provided. In the rural (A) Zone, all structures shall have front and rear yards of twenty-five (25) feet and side yards of fifteen (15) feet; the width of each lot shall be one hundred (100) feet with an area of not less than twenty thousand (20,000) square feet. The lot area per dwelling unit in the Rural Zone (A) shall not be less than ten thousand (10,000) square feet.

§61502. General Yard and Area Requirements. (a) No required yard or other open space provided about any building or structure for the purpose of complying with the provisions of this Title, shall be considered as providing a yard or open space for any other building or structure.

(b) No lot or parcel of land under separate ownership at the time this law became effective shall be separated in ownership or reduced in size below the minimum lot width or lot area set forth in the Yards and Lot Area table.

(c) Where a lot in the R1 zone has an area of ten thousand (10,000) square feet or more, a one family dwelling may be erected and maintained on each five thousand (5,000) square feet thereof, if front, side and rear yards of the depth and width specified in the Yard and Lot Area table are provided and maintained for each such dwelling.

(d) In the C and M1 zones, every building hereafter erected on a lot which abuts a primary or secondary highway, as shown on a highway plan adopted by the Commission or Legislature, shall provide and maintain a front or side yard having a depth or width, as the case may be, of not less than that required to conform to the line of such highway.

(e) A hotel or motel, while considered a multi-family use, requires a minimum of four hundred (400) square feet of lot area per living unit in a commercial zone.

(f) A cluster development may have a reduction of yards and lot width upon approval by the Commission.

SOURCE: GC §17201 as amended by P.L. 10-5.

§61503. Exceptions to Yard and Area Regulations. (a) No front yard need be provided on a lot in a hillside area where the topography of the lot is such as to make it unreasonable or impractical to locate a building on the lot and provide a front yard.

(b) No side yard need be provided for a dwelling or hotel erected above the ground floor of a building, where the ground floor is designed for commercial or industrial purposes.

(c) Cornices, eaves, belt courses, sills, canopies or other similar architectural features, may project into a required side yard not more than two inches for each one foot of width of such side yard and may project into any other required yard space not more than thirty (30) inches.

(d) Open, unenclosed stairways or balconies, not covered by a roof or canopy, may project into a required rear yard not more than for (4) feet, and such balconies may project into a required front yard not more than six (6) feet.

(e) Open, unenclosed porches, platforms, places, not covered by a roof or canopy, or landings, which do not extend above the level of the first floor of the building, may project into any required front, side, or rear yard, not more than six (6) feet.

(f) A fence, lattice work screen, wall, or hedge, not more than six (6) feet in height, may be located in any required front, side or rear yard.

(g) In computing the lot area of a lot which abuts upon an alley one-half ($\frac{1}{2}$) the width of such alley may be assumed to be a portion of the lot.

(h) Accessory buildings or structures may be located and maintained in a rear yard, except in the required ten (10) foot rear yard which is that portion adjoining the rearmost main

building on the lot. Such buildings or structures may also be located and maintained in any side yard, except in the required eight (8) foot side yards adjoining each of the side lot lines. When such buildings or structures are to be used exclusively for storage or as outdoor cooking facilities, they may be located in a side or rear yard with walls erected on the rear and/or side lot lines; provided that such buildings or structures shall not exceed two hundred (200) square feet of floor space and the roofs thereof shall not project beyond the rear or side lot lines and shall be sloped in such a manner as to prevent rain run off from flowing to adjacent property. A storage or cooking facility may only be constructed on residential lots which meet the yard requirements provided by §61501 of this Code.

SOURCE: GC §17202. Subsection (h) amended by P.L. 15-61:1 and 17-25:III:4 and 18-32:10.

§61504. Statement of Purpose: Building and Building Height Restrictions in Beach Areas. (a) The Legislature finds that the indiscriminate building of structures on the beaches of the Territory of Guam creates a menace to the well-being of the people of the territory by increasing the pollution of tidal waters, that such construction, in addition, deprives the people of Guam of their right to the untrammelled use of beach areas beyond the high water mark, and finally, that such construction destroys the natural beauty of Guam's beaches, one of the territory's greatest natural resources. Accordingly, it is the purpose of the restrictions hereinafter contained to protect the beaches of Guam for future generations, to alleviate the health problems caused by construction near tidal areas, and to make certain that the people of Guam remain free to use the beaches of the territory to the maximum extent not incompatible with private ownership of the lands adjoining said beaches.

(b) Along any beach in the territory of Guam, no building may be constructed within thirty-five feet (35') of the mean high watermark bounding said beach, nor may any building

higher than twenty feet (20') be constructed within seventy-five feet (75') of the said mean high watermark. For the purpose of this section, the term, beach does not include those areas where the shoreline is a cliff or bluff higher than twenty-five feet (25'), nor shall it include those areas where the shoreline is bounded by village lots containing no more than a thousand (1000) square meters in those villages wherein residences have been constructed along the shoreline since prior to the Second World War, and term building included any structure except a retaining wall that cannot be seen.

SOURCE: GC §17203. Subsection (b) amended by P.L. 12-19.

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Part 2

Accessory Buildings

§61511. Location of Accessory Buildings.

§61511. Location of Accessory Buildings. In the A, R1, and R2 zones, no accessory building shall be erected or maintained and no existing building shall be enlarged, moved or maintained, unless such accessory building is located on the lot in conformance with following regulations:

(a) Every accessory building shall be located on the rear one-half (½) of the lot and shall be not less than eight (8) feet from the side street lot line of a corner lot;

(b) Every accessory building located in a rear yard (between the rear lot line and the rearmost main building on the lot) shall not be less than ten (10) feet from said main building and not less than five (5) feet from any lot line which is not a street line;

(c) Every accessory building located in a side yard (between the side lot line and side of a main building) shall be

not less than five (5) feet from such main building and not less than eight (8) feet from the side lot line; and

(d) No accessory building shall be located in a front yard or on the front one-half (½) of a lot, except on hillside lots where the topography makes it impractical to conform to the other regulations of this article.

SOURCE: GC §17250.

Part 3

Nonconforming Buildings and Uses.

- §61521. Nonconforming Buildings.
- §61522. Application of §61521(c).
- §61523. Nonconforming Use of Buildings.
- §61524. Nonconforming Use of Land.
- §61525. Nonconforming by Reclassification or Change.

§61521. 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 shall not be added to or enlarged in any manner, unless said 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; provided, that a residential building nonconforming as to height regulations may be added to or enlarged notwithstanding the fact that such addition or enlargement may violate yard regulations, and a building nonconforming as to yard regulations may be added to or

enlarged notwithstanding the fact that such addition or enlargement violates height regulations.

(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 fifty percent (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 fifty percent (50%) of the value of the building at the time of such damage or destruction. Where the damage or destruction exceeds said value, the building shall 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.

(e) A building nonconforming as to restrictions set forth in §61504 of this Chapter may be maintained and repaired but may not be enlarged, and in the case of its damage or partial destruction by fire, flood, wind, earthquake, or other calamity, to the extent of not more than fifty percent (50%) of its replacement cost at the time of such damage or destruction, then it may be restored if the total cost of such restoration does not exceed fifty percent (50%) of the replacement cost of the building at the time of such damage or destruction. Where the damage or destruction exceeds said cost, the building shall not be repaired or reconstructed.

SOURCE: GC §17300. Subsection (c) amended by P.L. 12-160:7.

§61522. Application of §61521(c) The provisions of §61521(c) shall be applied to alterations, additions, or improvements constructed prior to the effective date of this law.

SOURCE: P.L. 12-160:7, effective August 27, 1974; codified by the Compiler.

§61523. Nonconforming Use of Buildings. (a) The nonconforming use of a building, existing at the time this law became effective, may be continued.

(b) The use of nonconforming 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 use of a non-conforming building may also be changed to any use permitted in a more restricted zone classification. Where the use of a nonconforming building is hereafter changed to a use of a more restricted zone classification, it shall not thereafter be changed to a use of a less restricted zone classification. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

SOURCE: GC §17301.

§61524. Nonconforming Use of Land. The nonconforming use of land, existing at the time this law became effective, may be continued except that such use shall 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 shall be in conformity with the provisions of this Chapter.

SOURCE: GC §17302.

§61525. Nonconforming By Reclassification or Change. The foregoing provisions of this Chapter shall also 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.

SOURCE: GC §17303.

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Part 4

Automobile Parking and Loading Space Regulations

§61531. Automobile Parking Space.

§61531.1 Option for Compact Automobiles.

§61532. General Requirements.

§61533. Loading Space.

§61531. Automobile Parking Space. Off-street automobile parking space shall be provided as follows:

(a) For dwelling, at least two automobile parking spaces for each dwelling unit;

(b) For hotels, at least one automobile parking space for each four (4) guest rooms;

(c) For places of assembly, such as churches, auditoriums or theaters with seating facilities, one parking space for each four seats;

(d) For places of assembly, such as restaurants or night clubs without fixed seating facilities, one parking space for each one hundred (100) square feet of customer area in such use;

(e) For retail sales of building materials, and goods requiring extensive display areas, industrial buildings and warehouses, one parking space for each eight hundred (800) square feet of area in such use, exclusive of loading requirements;

(f) For retail and wholesale sales and services, exclusive of warehouse activity, at least one space for each one hundred (100) square feet or portion thereof of usable commercial floor area;

(g) For professional and business offices, public administration offices, one parking space for each four hundred (400) square feet or portion thereof of floor area;

(h) For offices and clinics, of healing arts, at least five (5) spaces for each practitioner;

(i) For hospitals and nursing homes, at least one space for each two (2) beds;

(j) Three spaces for every four (4) employees.

(k) Total parking requirements will be a total of all applicable elements in paragraphs (a) through (k);

(l) Appropriate parking space for open space activities such as swimming beaches, picnic areas, campgrounds, boating areas, shall be determined by the Territorial Land Use Commission.

SOURCE: GC §17350 as amended by P.L. 11-160, P.L. 12-142; subsection (f) amended by P.L. 12-163; subsection (g) amended by P.L. 12-177.

COMMENT: Subsection (f) as amended by P.L. 12-163 reduced the area of square footage from one hundred fifty (150) as found in P.L. 12-142, to one hundred (100) square feet as it was originally. The figure of 150 feet was erroneously printed in the 1974 Government Code Supplement, and previously in this section.

61531.1 Option for compact automobiles. The off-street automobile parking space required under §§61531 and 61532 of this Chapter may, at the option of the owner, be laid out at the ratio of sixty (60%) for compact automobiles to forty percent (40%) for standard-sized automobiles or at any lesser percentage of compact automobiles.

SOURCE: Added by P.L. 21-49:3.

§61532. General Requirements. (a) Automobile parking space required by this Chapter shall be provided at the time of the erection of any main building or at the time any existing main building is enlarged or increased in capacity by adding dwelling units, guest rooms or floor area, and such parking space shall thereafter be maintained.

(b) In the case of a dwelling, the automobile parking space shall be on the same lot and may be provided either in a private garage or in a private automobile parking area.

(c) In the case of multi-residential buildings, churches, theaters, clinics, commercial or industrial buildings, the automobile parking space shall be on the same lot or may be provided in a parking garage available to the public or a private parking area adjacent thereto.

(d) Every automobile parking space shall have adequate access to a public right of way, and for standard-sized automo-

biles shall contain a minimum of one hundred eighty (180) square feet and for compact automobiles, a minimum of one hundred sixty (160) square feet.

SOURCE: GC §17351 as amended by P.L. 12-142; subsection (d) of §61532 is amended by P.L. 21-49:2.

§61533. Loading Space. Off-street loading spaces for every commercial or industrial building shall be provided, located and scaled to meet the anticipated needs of all establishments and activities likely to require such space. In general, off-street loading space shall be located in service areas at the rear or sides of establishments in such a way that there will be minimum interference with off-street parking or vehicular movement in off-street parking areas.

SOURCE: GC §17352; repealed and reenacted by P.L. 12-142.

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Part 5

Sign Regulations

- §61541. Restriction of Use.
- §61542. Regulation of Political Candidates' Signs.
- §61543. Erection of Signs.
- §61544. Signs in Other Than English or Chamorro Language.
- §61545. Penalty.
- §61546. Signs on School Bus Stop Shelters.

§61541. Restriction of Use. No structure of any kind or character erected or maintained for outdoor advertising or identification purposes, upon which any poster, bill, printing, painting, or other advertisement of any kind whatsoever is placed, including statuary for advertising or identification purposes, and no card, cloth, paper, metal, painted or wooden sign of any character placed for outdoor advertising or identification purposes, on or to the ground or any tree, wall, bush, rock, fence, building, structure or thing, either privately

or publicly owned, shall be placed or maintained on property adjacent to any highway, road, street, boulevard, lane, court, place, summons, trail, way, or other right of way or easement used for or laid out and intended for the public passage of vehicles or of vehicles and persons except as provided below:

(a) In Residential and Agricultural zones no exterior name plate or sign shall be erected, displayed, or maintained, except the following:

(1) One non-moving, non-flashing sign for each family residing on the premises indicating the name of the resident or pertaining to a permitted occupation provided that each such sign does not exceed three (3) square feet in area.

(2) One non-moving, non-flashing sign, not exceeding twelve (12) square feet in area, pertaining to permitted buildings, structures, and uses of the premises other than dwellings and occupations permitted therein.

(3) Temporary unlighted signs aggregating not over twenty-four (24) square feet in area pertaining to the sale or lease of the premises.

(4) Unlighted directional signs not exceeding three (3) square feet in area pertaining to churches, schools, institutions and other public or nonprofit uses.

(b) In Commercial zones, no exterior signs shall be erected displayed or maintained except the following:

(1) Signs indicating the name of a person or the type of business occupying the premises or the name of the building, provided that:

(i) Individual signs shall be non-flashing and non-moving.

(ii) Individual signs shall be placed flat on the building wall, shall not be higher than the roof line of

the building, and shall project no further than eighteen (18) inches from the wall to which they are attached.

(iii) Individual signs shall not cover an area in excess of ten percent (10%) of the surface of the wall to which they are attached.

(2) Free standing, doubled faced signs indicating the name of a person or the type of business occupying the premises or the name of the building, provided that:

(i) such signs shall not exceed forty (40) square feet in area on each face nor twelve (12) feet in height;

(ii) such structure shall not be placed closer than ten (10) feet to any street or highway right-of-way; and

(iii) one such sign shall be permitted for each premises or building.

(c) In Industrial zones no exterior signs shall be erected, displayed or maintained except the following:

(1) Signs indicating the name of a person, or the type of industry occupying the premises or the name of the building, provided that:

(i) Individual signs shall be non-flashing and non-moving.

(ii) Individual signs shall be placed flat on the building wall, shall not be higher than the roof line of the building, and shall project no further than eighteen (18) inches from the wall to which they are attached.

(iii) Individual signs shall not cover an area in excess of ten percent (10%) of the surface of the wall to which they are attached.

(2) Free standing signs identifying the name of the owner or occupant of the premises, or advertising goods manufactured or produced, or services rendered, on the premises, provided that:

(i) Such sign shall not exceed sixty (60) square feet in area nor twelve feet (12) in height.

(ii) Such structure shall not be placed closer than ten (10) feet to any street or highway right of way.

(iii) Such signs shall be non-moving and non-flashing.

(iv) One (1) such sign shall be allowed for each industrial structure, or complex or structures housing a single industrial user.

(d) The provisions of this section shall not apply to any sign placed by or for purposes of any charitable, religious and civic organization, individual or entity, if the same remains posted or erected for a period of not more than sixty (60) days.

SOURCE: GC §17400. Subsection b(1)(c) amended by P.L. 16-77; subsection (b)(2) repealed and reenacted by P.L. 15-140:13.

§61542. Regulation of Political Candidates' Signs. It is the intention of the Legislature that information concerning elections and candidates be readily available to the general public through road signs on government property. Therefore, notwithstanding any other provision of law:

(a) Candidates for public office or other persons having an interest in an election may place political signs, including posters and banners, advocating voting for or against candidates, or other matters to be considered by the electorate, on government property upon payment of a single One Hundred Dollar (\$100.00) deposit to the Department of Public Works to insure that the signs are removed within two (2) weeks after the election, subject to the following restrictions only:

(1) Wooden or metal freestanding signs may not be posted within eight (8) feet of the paved traveled portion of the roadway or in such a manner that they impede drivers' visibility of other traffic.

(2) Signs shall not be nailed to trees on government property.

(3) Signs may not block any sidewalk, road, or driveway.

(4) Wooden or metal freestanding signs may be placed in parks adjacent to Marine Drive in a zone not less than eight (8) feet nor more than twenty-five (25) feet from the paved traveled portion of the roadway.

(5) No building permits shall be required for temporary political campaign signs, other than the One Hundred Dollar (\$100.00) deposit required in Subsection (a) of this Section.

(6) Nothing in this Section shall be construed as authorizing the posting of campaign material of any kind on or in any government building.

(7) No wooden or metal freestanding sign may be posted at any intersection if it will in any way impede visibility of drivers and traffic.

(8) No sign may be posted in any traffic median strip.

(9) If signs are not removed two (2) weeks after the day of any general or special election, the single One Hundred Dollar (\$100.00) deposit shall be forfeited as liquidated damages for removal of the signs.

(10) The Department of Public Works may require each candidate or person or group posting freestanding signs on government property to provide a list of the approximate location of all signs.

(b) Candidates for public office or other persons having an interest in an election may place political signs which are limited to paper or cloth posters advocating voting for or against candidates, or other matters to be considered by the electorate, on Guam Power Authority power poles or on Guam Telephone Authority poles, subject to the following restrictions and conditions:

(1) No campaign material of any kind may be posted on or in any buildings belonging to the Guam Power Authority or the Guam Telephone Authority.

(2) No banner or advertisement may be strung on any of the Authorities' poles.

(3) No sign or other thing may be attached to any pole of the authorities that will create a hindrance to that pole's accessibility for line repair maintenance work.

(4) Small-sized paper, plastic or cloth signs or posters, not to exceed eighteen inches (18") by twenty-four inches (24"), may be stapled, taped or glued to the Authorities' poles, provided that the person placing the sign shall remove the same no later than two (2) weeks following the election. Under no circumstances, however, may roofing tacks or nails of any size be used in attaching the signs or posters to the authorities' poles.

(c) No building permit shall be required for political signs on private property; provided, that the person erecting the sign has the permission of the private property owner first; and further provided, that all such signs shall be removed within two (2) weeks after the election.

(d) It shall be a misdemeanor for any person to remove, knock down, or take down a political sign, except:

(1) A private property owner upon whose land the sign is posted.

(2) The person who put up the sign.

(3) In the case of a sign advocating the election of a candidate, that candidate or his designee.

(4) Any government employee or any other person, commencing two (2) weeks after the general election or special election.

(5) A public official or employee may remove a sign, after fifteen (15) days prior notice to the person concerned, because it violates the provisions of this Section.

(6) A public official may move a sign to a nearby location if the sign constitutes an immediate and substantial hazard and threat to the public health and safety; or if it significantly blocks drivers' visibility of other vehicles and constitutes a safety hazard to safe locations nearby. In such a case, the owner of the sign shall be notified.

(7) In the case of utility poles, by a utility employee because the sign or poster constitutes a hinderance to the maintenance of the poles or utility system.

(8) A public official may remove wooden or metal freestanding signs anytime Guam is in typhoon condition 1 or 2. Said sign shall be held and returned to the persons who put them up as soon as Guam returns to typhoon condition 4.

(9) If for any reason a government official or employee needs to temporarily take down a sign, they shall put it back up within two (2) days.

(e) Political signs may not be erected pursuant to this Section earlier than one hundred eighty (180) days before any special, general, or primary election.

(f) Any confiscated sign may be picked up by the group, candidate, or person who put it up. The treasurer or candidate involved shall be promptly notified of the confiscation so that sign may be picked up.

(g) No other deposit or fee may be required from a candidate or person posting political signs, other than the single One Hundred Dollar (\$100.00) deposit required to be posted with the Department of Public Works. No additional deposit or fees may be charged by the government of Guam, the Guam Power Authority, the Guam Telephone Authority, or any other department or agency.

(h) Any excess deposits previously paid, whether before or after the effective date of this Act, by any candidate, group or person for the purpose of posting signs and held by Guam Power Authority or Department of Public Works shall be refunded within ten (10) days of the effective date of this Act.

(i) If any candidate, person, or group has had any deposit forfeited which was posted for purposes of placing signs, by Department of Public Works or by the Guam Power Authority, such deposits which were forfeited shall be returned to the candidate, group or person posting such amount within ten (10) days after the effective date of this Act.

(j) Any signs which have been previously confiscated before the effective date of this Act shall be returned to the group, person or candidate that put them up.

SOURCE: GC §17400.1 added by P.L. 18-40:36.

§61543. Erection of Signs. All permitted signs shall be erected in such a manner as not to create a hazard to public safety or property, and shall be resistant to winds, typhoon, earthquake or other natural phenomenon. Engineering design shall be based on applicable sections of the Building Law of Guam (Chapter 66 of 21 GCA).

The Building Official shall set specific engineering design standards. Application, accompanied by detailed drawings and specifications shall be submitted to the Building Official, who will review said plans and grant permit for the erection of said sign, free-standing or attached. The Building Official shall refer

said plans to the zoning inspector to assure conformity to the provisions of this Chapter.

SOURCE: GC §17401.

§61544. Signs in Other Than English or Chamorro Language. Any permitted sign erected, displayed or maintained pursuant to §61541(b)(1) and (2) of this Chapter which contains a message in a language other than English or Chamorro in Roman alphabet characters shall contain a meaningful translation in the English or Chamorro language which shall be printed on the sign using Roman alphabet characters. The Chamorro Language Commission shall assist in translating and approve all Chamorro translations required by this Section for existing and new signs. The English or Chamorro translation must predominate the sign.

SOURCE: GC §17402 enacted by P.L. 15-100:2 as amended by P.L. 15-147:10.

COURT DECISIONS: This section, requiring that covered by either in English, Chamorro or have a translation, is contrary to the owner's rights of free speech and, thus, void. *Govt. of Guam v. Wang & Tung Hua Trading Co., Ltd.*, 2 Guam R. 102 (1980).

§61545. Penalty. Any person who violates the provision of §61544 of this Chapter shall be subject to a civil penalty not to exceed One Thousand Dollars (\$1,000) for each such violation. Actions to recover the penalty provided for in this Section shall be brought by the Attorney General at the request of any person in the territory of Guam. All penalties recovered in any such action shall be paid into the General Fund.

SOURCE: GC §17402.1 enacted by P.L. 15-100:2.

§61546. Signs on School Bus Stop Shelters. Notwithstanding any law in this Chapter to the contrary, it shall not be illegal for the Department of Education to place a sign on any school bus stop shelter to identify and commemorate a public business or individual who contributed money to provide for the erection and maintenance of such shelters. Such signs shall

be non-moving and non-flashing and not larger than the dimensions of the bus stop shelter.

SOURCE: GC §17403 enacted by P.L. 15-144:5.

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Part 6

Junk Yards

- §61561. Permits Required.
- §61562. Improvement Standards
- §61563. Application Required.
- §61564. Hearing Required.
- §61565. Permit Issued or Denied.
- §61566. Nonconforming Junk Yards.

§61561. Permits Required. No person shall establish a junk yard or extend the boundaries of an existing junk yard without obtaining a permit from the Territorial Land Use Commission. Junk yards which are established on the effective date of this Part shall be governed by the provisions of §61566.

§61562. Improvement Standards. (a) The minimum enclosed area for a junk yard shall be forty thousand (40,000) square feet.

(b) The junk yard shall be enclosed by a fence not less than eight (8) feet in height.

(c) The junk yard enclosure shall be set back forty (40) feet from any public road, and twenty (20) feet from all abutting property lines.

(d) The exterior yards established by subparagraph (c) above shall be maintained in a sanitary and not unsightly manner.

§61563. Application Required. The owner shall make application for the issuance of a permit under Part 6 of this

Article to the Territorial Land Use Commission. Such application shall include:

- (a) A statement of intent;
- (b) A map of the general area showing the subject lot and all abutting properties, with names and addresses of owners; and
- (c) A proposed site plan, showing proposed enclosure, access and egress.

§61564. Hearing Required. Within one month of the first regularly scheduled Territorial Land Use Commission meeting after receipt of an application, the Territorial Land Use Commission shall hold a public hearing on the proposed junk yard. The Territorial Land Use Commission shall cause notice of such application and hearing to be sent to abutting property owners by registered mail, and advertisement of such hearing to be sent to abutting property owners by registered mail, and advertisement of such hearing to appear in a newspaper of general circulation throughout the territory at least ten (10) days prior to the hearing.

§61565. Permit Issued or Denied. After such public hearing, if the Territorial Land Use Commission determines that the standards set forth in §61602 are met, the Territorial Land Use Commission shall issue a permit. Any person aggrieved by a decision of the Territorial Land Use Commission under this section shall have the right to appeal to the Superior Court as provided in §61621 of this Chapter.

§61566. Nonconforming Junk Yards. (a) The nonconforming use of a building or premises for the purpose of operating a junk yard within any Agricultural (A), Residential (R1 and R2), or Commercial Zone (C and LC) shall, within five (5) years after the effective date of this Chapter, be discontinued and the building or premises thereafter devoted to a use

permitted in the zone in which such building or premises are located.

(b) The nonconforming use of a building or premises for the purpose of operating a junk yard within a Light Industrial (M1) Zone may continue subject to the provisions of Article 5, Part 3 of this Chapter, provided that it is made to conform to the provisions of §61562 within the (1) year of the effective date of this Part. If such action is not taken, the provisions of subparagraph (a) shall apply.

SOURCE: This Part was sourced in GC §§17425-17430, effective March 29, 1968.

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Article 6

Administration and Enforcement

- Part
1. Administrating and Enforcing.
 2. Appeals & Reviews.
 3. Changes of Zones.
 4. Recording - Submission to the Legislature.
 5. Fees.
 6. Penalty for Violation.

Part 1

Administrating and Enforcing

- §61601. Enforcement.
§61602. Building Permit Required.
§61603. Building Permit Not to be Issued.
§61604. License Approval Required.

§61601. Enforcement. The Building Official designated in Chapter 66 of this Title shall have the power and duty to enforce the provisions of this law. All authority granted to him by Chapter 66 of this Code may be used in furtherance of these enforcement activities, whenever such authority is necessary and applicable.

SOURCE: GC §17450.

§61602. Building Permit Required. Before commencing the construction of a new building or structure, or the alteration, enlargement or moving of an existing building or structure, a building permit authorizing such work shall first be obtained from the Building Official as provided for in Chapter 66 of this Code; provided however that the Building Official may delegate the authority to issue permits outside of the organized villages to the commissioners referred to in Title 1, Chapter 40 of this Code.

SOURCE: GC §17451

NOTE: §17451 was included in the original Government Code and was amended by P.L. 2-21 which added "... commissioners referred to in Title XXVI of this Code (Alcoholic Beverage Control Law)". Reference to Title XVI, GC 1970 Ed., Commissioners of Guam, may have been intended. Commissioners of Guam is now located in Chapter 40 of Title 5 Guam Code Annotated, Government Operations.

CROSS-REFERENCES: P.L. 19-51:5 states:

Notwithstanding any provision of law, a building permit, application or notice to the building official shall not be required to paint or clean any building or structure or to build any fence which otherwise complies with Government of Guam laws, rules and regulations.

§61603. Building Permit Not to be Issued. No building permit or certificate of occupancy shall be issued by the Building Official for the erection, alteration, enlargement, or use of any building or structure or part thereof, or for the use of any land, which is not in accordance with all provisions of this law. Any building permit or certificate of occupancy issued in conflict with the provisions of this Chapter, shall be null and void.

SOURCE: GC §17452.

§61604. License Approval Required. No license pertaining to the use of land or building shall be issued by any department, officer or employee of the government of Guam, vested with such duty, unless the application for such license has been approved by the Building Official as to the conformance of said use with the provisions of this Chapter. Any license issued in conflict with the provisions of this Chapter shall be null and void.

SOURCE: GC §17453.

Part 2

Appeals and Reviews

§61615. Appeals Involving Administration Enforcement.

- §61616. Variances.
- §61617. Variance Requirements.
- §61618. Variance Application--Form and Contents.
- §61619. Hearing Date--Notice.
- §61620. Decision by Territorial Land Use Commission.
- §61621. Decision Final--Appeal.
- §61622. Jurisdiction.
- §61623. Review by Municipal Planning Council.
- §61624. No use of parks

§61615. Appeals Involving Administration Enforcement.
The Territorial Land Use Commission shall also have and exercise the following powers:

(a) To hear and decide appeals where it is alleged by the appellant that there is an error in any refusal of a building permit or certificate of occupancy, or other order, requirement, or decision made by the Building Official or other administrative official in the administration of this Chapter; and

(b) To hear and decide appeals from any order, requirement, decision or determination made by the Building Official in the enforcement of the provisions of this Chapter.

The procedure for filing such appeals as well as the procedure governing the actions of the Commission thereon, shall be similar to that set forth in §§31062 to 31071 inclusive of Chapter 66 of this Code.

(c) Four (4) affirmative votes of its members shall be required to approve any action by the Territorial Land Use Commission, and the chairperson thereof is required to vote on all matters.

SOURCE: GC §17500. Subparagraph (c) is added to §61615 by P.L. 21-72:25 (c).

NOTE: The Compiler has changed the reference in the first sentence of subsection (a)(a) from *Territorial Land Use Commission* to *Territorial Land*

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Use Commission to conform to the clear intent of the Legislature as evidenced in the amendment to subsection (d).

§61616. Variances. Where practical difficulties, unnecessary hardships, or results inconsistent with the general purposes of this Chapter would occur from its strict literal interpretation or enforcement, the Territorial Land Use Commission shall have authority to grant such variances therefrom as may be in harmony with its general purpose and intent, so that the spirit of the law shall be observed, public safety secured, and substantial justice done, including the following:

(a) Permit the extension of an existing or proposed conforming building or use into an adjoining more restricted zone for a distance not exceeding fifty (50) feet;

(b) Permit a building or use (including automobile parking) on a lot immediately adjoining or across an alley from a less restricted zone, upon such conditions and safeguards as will tend to cause an effective transition from the less restricted to the more restricted zone;

(c) Permit the addition, enlargement or moving or a nonconforming building or structure;

(d) Permit such modification of the height regulations as may be necessary to secure an appropriate building or structure on a lot which has such physical characteristics or is so located with relation to surrounding development that it cannot be properly improved without such modification;

(e) Permit such modification of the yard, lot width or lot area regulations or requirements as may be necessary to secure an appropriate building or structure on a lot which is of such size, shape or topography, or is so located in relation to adjacent property or improvements that it cannot be appropriately improved without such modification;

(f) Permit such modifications on the lot area per dwelling unit (density) requirements as may be necessary to secure an

appropriate development of a lot in keeping with its size and location;

(g) Permit the modification or waiver of the automobile parking space or loading space requirements where such modification would not be inconsistent with the purposes of this Chapter;

(h) Permit temporary buildings or uses for a period not to exceed two (2) years in undeveloped areas;

(i) Permit the following uses in zones from which they are prohibited by this Chapter: governmental enterprises; public utilities and public service uses or structures; hospitals or institutions; or development of natural resources.

(j) Permit the construction of buildings in violation of the restrictions of §61504 of this Chapter;

(k) Permit the owner of a lot in a rural zone to parcel therefrom one lot not less than ten thousand (10,000) square feet in area to be used for a single family residence, such variance to be conditioned upon a prohibition on any subsequent parcelling of the lot and that the parcelled out lot be served by water and power and a public road.

SOURCE: GC §17501. Subsection (k) added by P.L. 10-173 as (j) and renumbered by the Ed., GC (1974 Supp.)

§61617. Variance Requirements. No variance shall be granted by the Commission unless it finds:

(a) That the strict application of the provisions of this Chapter would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the law;

(b) That there are exceptional circumstances or conditions applicable to the property involved or to the intended use thereof that do not apply generally to other property in the same zone;

(c) That the grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or neighborhood in which the property is located; and

(d) That the grant of such variance will not be contrary to the objectives of any part of the Master Plan adopted by the Commission or Legislature;

(e) That, as to variances from the restrictions of §61504 of this Chapter, the proposed building will substantially enhance the recreational, aesthetic or commercial value of the beach area upon which the building is to be constructed, and that such building will not interfere with or adversely affect the surrounding property owners' or the public's right to an untrammelled use of the beach and its natural beauty.

The above requirements need not apply to the types of uses specified in §61616(i), and variances for such uses shall only be granted by the Commission where it finds that they are deemed essential or desirable to the public convenience or welfare, are in harmony with the various elements or objectives of the Master Plan, and will not be materially detrimental or injurious to the property or improvements in the immediate neighborhood.

SOURCE: GC §17502.

§61618. Variance Application--Form and Contents. An application for variance shall be filed with the Executive Secretary of the Commission upon a form and accompanied by such data and information as the Commission may prescribe.

SOURCE: GC §17503.

§61619. Hearing Date--Notice. Upon the filing of variance application the Commission shall fix a reasonable time for hearing the same and shall give notice thereof to the applicant and may give notice to any other parties in interest. All hearings shall be conducted in the affected municipality and

shall be in accordance with the rules established by the commission, but any party in interest may appear in person, or by designated attorney or agent. At least one such hearing shall be conducted after six o'clock p.m.

SOURCE: GC §17504 as amended by P.L. 20-217:3.

§61620. Decision by Territorial Land Use Commission. If, from the facts presented with the application at the hearing, or by investigation by or at the instance of the Commission, the Commission makes the findings set forth in §61617, it may grant the variance in whole or in part, upon such terms and conditions as it deems necessary to conform to the general intent and purpose of this law. If the Commission fails to make said findings, it shall deny the application. Each decision by the Commission authorizing a variance from the regulations herein established must be by resolution adopted by a majority of its membership, setting forth in writing the findings required by §61617, except that no written findings shall be required in granting minor variances from the height, yard, lot width, lot area or lot area per dwelling unit requirements. The Commission shall make its decision on each variance application within a reasonable time and shall forthwith furnish a copy thereof to the applicant and to other parties in interest who have requested to be notified. Additional copies of the decision shall be filed in the records of the Department of Public Works. If the decision filed involves a variance granted by the Commission, said variance shall be the authority for the Director of Land Management to endorse and to issue any building permit or certificate of occupancy in conformance thereto and for the approval of any application for the approval of a required license.

SOURCE: GC §17505.

§61621. Decision Final--Appeal. The decision by the Commission on any variance shall be final, except that any party aggrieved by such decision shall be entitled to a judicial review thereof by application to the Superior Court within

fifteen (15) days after the filing of the Commission's decision in the Department of Land Management and the Department of Public Works.

SOURCE: GC §17506.

§61622. Jurisdiction. The Superior Court of Guam shall have jurisdiction over all actions arising from the provisions of this Title.

SOURCE: GC §17507. *Island* changed to *Superior Court* pursuant to P.L. 12-85.

§61623. Review by Municipal Planning Council. The Municipal Planning Council of each municipal district to be affected by a proposed variance shall review the request and express its opinion thereon by resolution adopted by a majority of its members, and submit such resolution to the Commission within twenty (20) days from the date of its public hearing thereon for the Commission's consideration thereof pursuant to §61620.

SOURCE: §61623 added by P.L. 20-217:4.

§61624. No use of parks. The government of Guam shall not, in considering proposed variances, allow any part of the Guam Territorial Park System to be used by a private landowner to fulfill the parking or other requirements of the construction which is the subject of the proposed variance.

SOURCE: Added by P.L. 20-188:8. Renumbered by Compiler because previous section number already in use.

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Part 3

Changes of Zones

§61630. Requirements For Changes.

§61631. Procedure.

§61632. Application--Form and Contents.

- §61633. Hearing Date--Notice.
- §61634. Decision by Commission.
- §61635. Planned Development Districts.
- §61636. Change of Zoning Map.
- §61637. Agricultural Impact Statement.
- §61638. Review by Municipal Planning Council.
- §61639. Summary procedure for agricultural and single family residential rezoning.

§61630. Requirements For Changes. The Commission may, with the approval of the Governor, change the zones established under this Chapter whenever it finds that the public necessity, convenience and general welfare justify such action.

SOURCE: GC §17600.

§61631. Procedure. A proposed change may be initiated by the Commission or by an application directed to the Commission by any person owning or leasing real property within the area covered by the zone.

SOURCE: GC §17601.

§61632. Application--Form and Contents. An application for a change of zone shall be filed with the Commission upon a form and accompanied by such data and information as the Commission may prescribe.

SOURCE: GC §17602.

§61633. Hearing Date--Notice. Upon the filing of an application for change of zone, the Commission shall hold at least one hearing thereon in the municipal district where the property to be rezoned is located, as such districts are described in Chapter 40, 5 GCA Government Operations, notice of time and place of which shall be given at least one publication in a newspaper of general circulation, at least ten (10) days before the day of said hearing, and by mail to the Commissioner of the municipal district concerned, and to those landowners owning land within five hundred (500) feet of the property for

which rezoning is requested, the mailing addresses for such landowners to be in the Real Estate Tax records.

SOURCE: GC §17603 as amended by P.L. 10-158.

§61634. Decision by Commission. The Commission shall consider the proposed change of zone and may approve or disapprove the same, in whole or in part. The Commission shall make its findings and determination within forty (40) days from the date of the hearing thereon and shall forward notice of such decision to the applicant, if any. If the application is approved in whole or in part by the Commission, the same shall be forwarded to the Governor who may approve or disapprove the proposed change in whole or in part.

SOURCE: GC §17604.

§61635. Planned Development Districts. A PD District enables the unified development of a substantial land area with such combination of uses as shall be appropriate to an integrated plan for the area. The procedure for establishing a PD District is the same as that for the rezoning of an area, providing that a detailed plan be submitted to and discussed with the Territorial Land Use Commission. The application shall be accompanied by the appropriate fee and the detailed plan, or revision thereof. The Territorial Land Use Commission may approve the detailed plan and rezoning, following the required hearing, upon findings that the plan, considering structures, uses, access, regulations and layout fixed in it, comprises:

(a) An area of sufficient acreage to constitute a large planning unit having special attributes for integrated development;

(b) An appropriate development of the area from the viewpoints of its natural features, location and suitability for particular uses;

(c) A combination of structures and uses which are in reasonable association and proportion to make a harmonious unit and likely to continue compatibly with one another;

(d) All structures, including accessory structures, shall not cover more than thirty percent (30%) of the area;

(e) A project adequately serviced by the necessary public services, existing or proposed;

(f) A project consistent with an appropriate development of adjacent areas and not unreasonably detrimental to the existing structures and uses in such areas; and

(g) An appropriate evolution of the comprehensive plan for that portion of the territory.

In approving a detailed development plan, the Territorial Land Use Commission may impose such regulations of yards, open space, lot coverage, density, and height as are reasonably required to permit the foregoing findings.

SOURCE: GC §17605.

§61636. Change of Zoning Map. Any changes of zones or approval of comprehensive community plan pursuant to this Chapter shall be endorsed and delineated upon the Zoning Map and shall constitute an amendment of said map.

SOURCE: GC §17606.

§61637. Agricultural Impact Statement. No additional land may be established as a rural zone and no land presently zoned A may be rezoned without the Commission first having considered an agricultural impact statement which shall be submitted by the Director of the Department of Agriculture. This statement shall provide a detailed statement of:

(a) The agricultural impact of the proposed rezoning upon the agricultural components of the Guam Master Plan.

(b) Any adverse conservation or agricultural effects which cannot be avoided should the rezoning be approved.

(c) The Director's opinion whether said rezoning should be approved and reasons therefor.

SOURCE: GC §17607 enacted by P.L. 12-208.

§61638. Review by Municipal Planning Council. The Municipal Planning Council of each municipal district to be affected by a proposed zone change shall within forty (40) days from the date of a public hearing held thereon by such council express its opinion thereon by resolution adopted by the majority of its members. Such resolution shall be forwarded to the Governor for his consideration thereof pursuant to §61634 within twenty (20) days from the date of its adoption.

SOURCE: Added by P.L. 20-217:5.

§61639. Summary procedure for agricultural and single family residential rezoning. The Department of Land Management (the *Department*) is directed to set up a procedure whereby landowners of agriculturally- or single family residentially-zoned properties in Guam can expeditiously apply for rezoning of their parcels. Owners of agriculturally-zoned property may apply to rezone their property as either Single Family Residential (R-1) or Multi-Family Residential (R-2); owners of single-family residentially-zoned property may apply to rezone their property to Multi-Family Residential (R-2). Such procedure shall be incorporated into rules and regulations to be promulgated by the Director of Land Management pursuant to the Administrative Adjudication Law, which rules shall include provisions as to lot size and required infrastructure and shall include the following steps:

(A) The submission of a completed application to the Director who shall render a decision thereon within sixty (60) days; provided, that:

1. The Public Utility Agency of Guam, the Guam Power Authority and the Environmental Protection Agency of Guam certify in writing, which certificates shall be attached to the application, that there is

adequate infrastructure to accommodate the zone change.

2. The applicant meet all the other requirements established by the Department.

(B) Upon receipt of the completed application, the Director shall immediately transmit copies of the same to all the member departments and agencies constituting the Development Review Committee, which departments and agencies shall expeditiously make recommendations on the change request. Failure of any member department or agency to reply within forty-five (45) days of receipt of the application shall constitute concurrence with the requested change. The Director shall then approve or disapprove the application, and submit the same to the Legislature with his reasons for approval or disapproval, within sixty (60) days of its submission to him.

(C) If the application has been approved by the Director, the property the subject of the application shall be rezoned to either Single Family Residential (R-1) or Multi-Family Residential (R-2) as the case may be, unless within forty-five (45) days of its submission to the Legislature, the Legislature, by statute, amends or rejects the same. If the application has been disapproved by the Director, the property the subject of the application shall not be rezoned unless within forty-five (45) days of its submission to the Legislature, the Legislature, by statute, overrules the Director and approves the change of zone.

SOURCE: Added by P.L. 21-82

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Part 4

Recording--Submission to the Legislature

§61645. Recording.

§61646. Inspection.

§61647. Submission to the Legislature.

§61648. Failure to Submit.

§61645. **Recording.** Upon the approval of any Zoning Map or amendment thereto, a copy of same shall be recorded in the Department of Land Management.

SOURCE: GC §17625.

§61646. **Inspection.** Any Zoning Map or amendment thereto recorded pursuant to this Part shall be open to public inspection during normal government business hours.

SOURCE: GC §17626.

§61647. **Submission to the Legislature.** The Zoning Map or any amendments thereto adopted by the Commission and approved by the Governor shall be submitted to the next portion of the next regular session of the Legislature convening after the said approval. The Zoning Map or any amendments thereto shall remain in effect unless amended or repealed by statute.

SOURCE: GC §17627.

§61648 **Failure to Submit.** The Zoning Map or any amendments thereto not submitted to the Legislature in accordance with this Part shall become automatically inoperative and void at midnight of the last day of the session to which it should have been submitted.

SOURCE: GC §17628.

Part 5

Fees

§61660. **Filing Fees for Appeals--Variances--Zone Changes.**

§61660. Filing Fees for Appeals--Variances--Zone Changes.
Before accepting for filing any application hereafter mentioned, the Commission shall charge and collect the following filing fees:

(a) For appeals	\$10.00
(b) For variances	\$15.00
(c) For changes of Zones	\$10.00

SOURCE: GC §17650 as amended by P.L. 10-156.

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Part 6

Penalty for Violation

§61670. Penalty.

§61670. Penalty. Any person, firm, corporation or officer thereof, violating any of the provisions of this Chapter shall be guilty of a petty misdemeanor. Such person, firm or corporation shall be deemed guilty for each day during any portion of which any violation is committed, continued, or permitted and shall be punishable as herein provided.

SOURCE: GC §17700 as amended by P.L. 13-187:25.

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DIV. 2 - REGULATION OF REAL PROPERTY USES

CH. 61 - ZONING LAW
ART. 6 - ADMIN. & ENFORCEMENT - 1993 [P.L. 21-148]

CHAPTER 62

Subdivision Law

- Article**
- 1. General Provisions.**
 - 2. Procedure for Subdividing land.**
 - 3. Lot Parcelling and Agricultural Subdivisions.**
 - 4. Requirements for Plans and Maps.**
 - 5. Improvements.**
 - 6. Variances and Appeals.**
 - 7. Penalties, Amendments, Interpretation and Separability.**

Article 1

General Provisions.

- §62101. Title.
- §62102. Purpose and Intent.
- §62103. Compliance with Master Plan.
- §62104. Exemptions: Decedents' Estates: Parental Division of Property.
- §62105. Definitions.
- §62106. Authority of the Commission.
- §62107. Commission Approval.
- §62108. General Requirements for Subdivisions.
- §62109. Subdivision Located Without the Territorial Confines of Guam.
- §62110. Subdivision Application, Verification of.
- §62111. Government Subdivisions.

§62101. Title. This Chapter shall be known *The Subdivision Law*.

SOURCE: GC §18000.

§62102. Purpose and Intent. The purpose of this Chapter and of any rules, regulations, specifications and standards

adopted, pursuant thereto, is to control and regulate the development and/or subdivision of any land for any purpose whatsoever. Such control and regulations is determined to be necessary to provide for the orderly growth and harmonious development of the territory; to insure adequate traffic circulation through coordinated street, road and highway systems; to achieve individual property lots of maximum utility and livability; to secure adequate provisions for water supply, drainage, sanitary sewerage and other health requirements; to permit the conveyance of land by accurate legal description; and to provide logical procedures for the achievement of this purpose.

SOURCE: GC §18001 as amended by P.L. 12-90.

§62103. Compliance With Master Plan. Development and/or subdivision of all land and roads shall conform to that land use or road location delineated in the latest revision of the Territorial Master Plan, initially approved in April 1967.

(a) Construction on land designated for future road or public purposes, contrary to the use indicated in the Master Plan, shall not be authorized, irrespective of land ownership.

(b) Specifications for construction, repair, and/or reconstruction of roads shall conform to Department of Public Works Standards, and shall follow requirements delineated for that zone in which the subdivision or construction is located.

SOURCE: GC §18001.1 enacted by P.L. 12-90.

§62104. Exemptions: Decedents' Estates: Parental Division of Property. (a) Article 5 of this Chapter shall not apply to land which is an asset of the estate of decedent, provided, however, that, before the distribution of any such land by the court, the Territorial Planner or Commission may enter his or its appearance and require street and utility easements on said land to insure lot divisions consistent with the general plan and with the provisions of §62501.

(b) Article 5 of this Chapter shall also not apply to land which has been owned in fee simple for a period of not less than five (5) years by a person who divides said land among his living children or their descendants by way of *inter vivos* gift; provided, however, that such land shall be deeded to said children or descendants in fee simple and said deeds shall contain alienation clauses to the effect that the children or descendants shall not give, sell or lease such lots for a period of at least five (5) years, and further provided that before the map be filed for record, the Territorial Planner or the Commission shall require street and utility easements on said land to insure lot division consistent with the general plan and that the minimum size of each of each lot shall be no less than ten thousand (10,000) square feet. The deed transferring the property may provide that the children descendants may mortgage the property for the purpose of constructing a residence on the property.

SOURCE: GC §18001.5 amended by P.L. 11-125; P.L. 13-153:1; subdivision (b) amended by P.L. 15-131:5.

§62105. Definitions. The following words and phrases, when used herein, shall have the meaning respectively hereto ascribed to them, except where a different meaning may be clearly indicated by the context:

(a) *Agricultural Subdivision* shall mean a subdivision having no lots, parcels or sites smaller than twenty thousand (20,000) square feet and in which all lots, parcels or sites are used principally for agriculture, single family resident sites or as an agriculture-homesite combination; except that the term *Agricultural Subdivision* shall include a subdivision resulting from a distribution by the court pursuant to §62104(a) or (b) of this Chapter with no lots parcels or sites smaller than ten thousand (10,000) square feet and in which all lots, parcels or sites are used principally for agriculture, single family sites or as an agricultural homestead combination.

(b) *Commission* shall mean the Territorial Land Use Commission.

(c) *Easement* shall mean a grant by the owner of land for a specified use or uses of said land to a person or persons, to the public generally, or to the government of Guam.

(d) *Engineer* shall mean a person who is registered pursuant to Title XLIII, Government Code of Guam, as an Engineer, and holds a current certificate of registration issued by the Board of Engineering and Architectural Examiners or a person exempted under the provisions of said Title XLIII.

(e) *Improvements* shall mean any beneficial or valuable site additions or alterations to a subdivision property including street grading and surfacing, water service, sanitary sewers, facilities provided for drainage and site grading.

(f) *Non-Access Reservation* shall mean the limiting of access between a right-of-way and the adjacent land. (A non-access reservation shall be provided only when required by the Commission and the right of access to and from such land across the right-of-way boundary shall be dedicated to the government of Guam.)

(g) *Plan, General* shall mean the general plan or plans for guiding the physical development of the territory of Guam as adopted by the Commission and approved by the Governor.

(h) *Plan, Precise* shall mean the detailed plan or plans for guiding and controlling the physical development of specific projects as adopted by the Commission and approved by the Governor.

(i) *Planning Division* shall mean the Planning Division of the Department of Land Management.

(j) *Record Map* shall mean the final subdivision map designed to be placed on record in the Land Records of the Department of Land Management.

(k) *Reservation* shall mean an area of land which the subdivider reserves free and clear of all structures for a future specified purpose.

(l) *Resubdivision* shall mean the resubdividing of land in a subdivision or lot parcelling subdivision or portions thereof so as to create a new or different subdivision of such land other than is presently on record, and shall include modifications to lot lines, the creation of one or more additional lots or any other action of land division which is not consistent with the recorded subdivision or lot parcelling subdivision map.

(m) *Reversion to Acreage* shall mean the voiding of a previous subdivision in order to revert the platted lots contained therein back to the original parcel or parcels which existed prior to the subdivision.

(n) *Right-of-Way* shall include the entire width between property lines of a highway, street or alley.

(o) *Sanitation Division* shall mean the Sanitation Division of the Department of Public Health and Social Services.

(p) *Subdivide* shall mean the act of creating a subdivision.

(q) *Subdivider* shall mean any individual, firm, association, syndicate, corporation, trust or any other legal entity proceeding to effect a subdivision of land for himself or another.

(r) *Subdivision* shall mean the division of any parcel of land into six (6) or more lots. Subdivision shall include resubdivision and reversion to acreage and, where appropriate to context, relates to the process of subdividing or to the land subdivided regardless of the method used to accomplish such action, whether by sale, design, rent, lease, deed of gift, grant in gift or any other method of transferring title whether for remuneration or not and whether immediate or future.

(s) *Subdivision, Lot Parcelling* shall mean the division of a lot legally existing on the effect date of this Chapter into no more than five (5) parcels. Lot parcelling of a lot shall include

all methods of such action whether by sale, design, rent, lease, deed of gift, grant in gift or any other method of transferring title whether for remuneration or not and whether immediate or future.

(t) *Surveyor* shall mean a person who is registered pursuant to Title XLIII, Government Code of Guam, as a land surveyor, and holds a current certificate of registration issued by the Board of Engineering and Architectural Examiners or a person exempted under the provisions of said Title XLIII.

(u) *Tentative Map* shall mean a preliminary subdivision map of the purpose of showing the design of a proposed subdivision and the existing conditions in and around it.

(v) *Territorial Planner* shall mean the Chief of Planning Division, Department of Land Management, Government of Guam.

(w) *Territorial Surveyor* shall mean the person designated as the Territorial Surveyor by the Director of Land Management.

SOURCE: GC §18002. Subsection (a) amended by P.L. 13-153:2, P.L. 14-145:9; and P.L. 15-57:8.

§62106. Authority of the Commission. The Commission shall have jurisdiction and cognizance of all matters relating to subdividing and subsequent development of land within the territory. The Commission shall prescribe and adopt such rules and regulations, which shall include, but not be limited to, specifications and standards for development of subdivisions, as are, in its judgment, necessary to effectuate the purposes and intent of this Chapter. Such rules and regulations may provide for delegation of functions of review and inspection of proposed, tentative and final plans and maps, and of subdivisions, to other agencies and departments of the government. Such rules and regulations shall become effective upon approval by the Governor.

SOURCE: GC §18003.

§62107. Commission Approval. No subdivision map presented for filing as a record in the Department of Land Management shall be recorded without the prior approval of the Commission. The Commission shall not approve the record map of a subdivision unless such map conforms to all the requirements of this Chapter and any applicable rules, regulations, specifications or standards adopted by the Commission. No subdividers shall subdivide any land except in accordance with this Chapter, or sell, lease or assign, or offer for sale, any subdivision or a proposed subdivision or any part thereof, or any lot, parcel to site therein until the record map has been officially recorded.

SOURCE: GC §18004.

§62108. General Requirements for Subdivisions. In all subdivisions presented for recording under this Chapter the subdivider shall:

(a) Not subdivide or develop land for any purpose contrary to the provisions of the Zoning law, Chapter 61 of this Title of the Guam Code Annotated.

(b) Cause every lot to abut a roadway right-of-way having a minimum width of forty (40) feet; *provided*, however, that in agricultural zones and in parental subdivisions, every lot shall abut a roadway right-of-way having a minimum width of twenty (20) feet..

(c) Except as may be provided for pursuant to §56111, Title 5, Guam Code Annotated, provide for the installation of power, water and telephone lines, fire hydrants, roads and highways within the subdivision in accord with any general or precise plan approved by the Commission.

(d) Where an established framework of local streets exists, provide for the uniformity of street widths and alignment

thereto with the streets of the subdivision, and for the continuation of existing street names.

(e) Provide for adequate light, air privacy on all lots regardless of land use, and design the location of streets to prevent excessive grading and scarring of the landscape.

(f) Provide sufficient drainage of the land to provide reasonable protection against flooding.

(g) Provide that streets within residential areas shall not be planned for through traffic in order to insure privacy and safety.

(h) In cases where public access is not already provided, dedicate land for public access by right-of-way for pedestrian travel from a public highway or public street to abutting lands below the high-water mark on any coastal shoreline, and to dedicate land for public access by right-of-way from a public highway or public street to abutting public lands in the hills and jungle so such lands shall be accessible for hiking, hunting, fruit-picking and other recreational purposes.

The right-of-way shall be clearly designated on the final map of the subdivision or development upon the dedication of land for a right-of-way as required by this Subparagraph and acceptance by the Territory, the Territory shall thereafter assume the cost of improvements for and the maintenance of the right-of-way, and the subdivider shall accordingly be relieved from such costs.

SOURCE: GC §18005. Subsection (b) amended by P.L. 10-157; (h) added by P.L. 13-69:2. Subsection (b) amended by P.L. 21-130:10.

§62109. Subdivision Located Without the Territorial Confines of Guam. No person subject to the licensing provisions of Title LXI (Real Estate Law) of the Government Code of Guam shall sell or lease nor offer to sell or lease any interest in a subdivision located without the territorial confines of Guam unless the subdivision plan has been submitted to and

approved by the Real Estate Commissioner. The Commissioner shall not approve any plan for a subdivision located without the territorial confines of Guam until he has issued a public report on the subject property. Such public report may be issued by the Commissioner based on facts disclosed from the state in which the property is located or based on an independent investigation on the part of the Commissioner. Approval of a subdivision located without the territorial confines of Guam by the Commissioner shall not relieve any person from any further requirement for registration or regulation of such transaction provided elsewhere under the laws of Guam.

SOURCE: GC §18006 enacted by P.L. 13-191:1.

§62110. Subdivision Application, Verification of. Any subdivision application provided for by this Chapter shall not be accepted or approved by the Commissioner unless it shall be certified under penalty of perjury or verified before a notary public or other officer qualified to administer oaths. Such certification or verification shall extend to the documents and supplemental materials as well as to the statements contained in the application itself.

SOURCE: GC §18007 enacted by P.L. 13-191:1.

§62111. Government subdivisions. In any subdivision of government of Guam land, including land of autonomous agencies, in which there are more applicants for lots within the subdivision than there are lots, the Director of Land Management shall conduct a public lottery, under the direction of the Attorney General, among those applicants holding the same priorities to determine which applicants of equal priority obtain the lots.

SOURCE: Added by P.L. 21-14:17.

Article 2

Procedure for Subdividing Land

- §62201. Application to Establish Subdivision.
- §62202. Fees.
- §62203. Review of Tentative Plans.
- §62204. Action by Commission.
- §62205. Submission of Final Plans.
- §62206. Final Plans Approval and Recordation.
- §62207. Reversion to Acreage, Maps, and Plats.
- §62208. Building Permits.
- §62209. Revocation of Tentative Plans.

§62201. Application to Establish Subdivision. A subdivider desiring to subdivide or develop land pursuant to this Chapter shall make a written application therefor on a form prescribed by the Commission. The application shall be filed with the Territorial Planner and shall be accompanied by tentative subdivision plans prepared in accordance with §62401 of this Chapter.

SOURCE: GC §18100.

§62202. Fees. The subdivider shall at the time of filing tentative subdivision plans pay a uniform check fee of ten dollars (\$10.00) plus one dollar (\$1.00) for each final lot shown on the subdivision. Such fees shall not be returned in the event the application is not approved.

SOURCE: GC §18101.

§62203. Review of Tentative Plans. The Territorial Planner shall within three (3) days after receipt of such application transmit copies of the tentative plans to departments and agencies of the government to which have been delegated responsibility for technical review. Such agencies and departments shall review the plans and transmit their written findings and

recommendations to the Territorial Planner within fifteen (15) days after receipt of such plans.

SOURCE: GC §18102.

§62204. Action by Commission. After review, the tentative subdivision plans shall be transmitted to the Commission at its next regularly scheduled meeting by the Territorial Planner, together with all findings and recommendations. The Commission shall thereafter approve, conditionally approve, or disapprove the plans. When a tentative plan is disapproved, it may not thereafter be reconsidered unless modified and a new application filed.

SOURCE: GC §18103.

§62205. Submission of Final Plans. Within one year after approval of tentative subdivision plans, the subdivider shall file with the Territorial Planner the final plans prepared in accordance with §62402 of this Chapter. The final plans shall be accompanied by a written application for approval thereof in a form prescribed by the Commission.

SOURCE: GC §18104.

§62206. Final Plans Approval and Recordation. The Territorial Planner shall review final plan documents as submitted for conformity to the approved tentative plans. At the next regularly scheduled Commission meeting no less than two (2) days following receipt of final plans, the Territorial Planner shall present the plans to the Commission for its action. Final plans submitted in strict compliance with approved tentative plans shall be approved. Final plans which are not in strict compliance with approved tentative plans shall, within fifteen (15) days, be approved or a written determination made specifying work necessary for subdivision completion prior to final Commission approval. After approval by the Commission of the final plan map, the subdivider shall record said map in accordance with §§60315-60319 of this Title 21 of the Guam Code Annotated.

SOURCE: GC §18105.

§62207. Reversion to Acreage, Maps and Plats. When a reversion to acreage is made, no tentative plans shall be required. The subdivider shall prepare a final map showing the existing subdivision and the original parcel or parcels which shall result from the reversion. No engineering plans shall be required. Upon approval of the final map the map may be completed and submitted as a record plat. No as-built surveys shall be required. The plat shall be clearly marked reversion to acreage and any variance from the requirements of a subdivision record plat shall be as determined by the Commission. The fee or other interest in any subdivision improvements, easements or road rights of way within the perimeter of the subdivision which has been dedicated to the government may be quitclaimed to the subdivider at the discretion of the government.

SOURCE: GC §18106.

§62208. Building Permits. The Director of Public Works or his designated building official shall issue no building or construction permits for any development within the subdivision or lot parcelling until the tentative plans have been approved, nor issue individual building permits until the record map has been recorded. The Territorial Planner shall notify the Director of Public Works in writing of the approval of the final plans and of the recordation of the record map immediately after such approval is given and after such recording is completed.

SOURCE: GC §18017.

§62209. Revocation of Tentative Plans. The Commission shall not consider or approve final plans for a subdivision which are submitted after one year, or after any extension of time granted by the Commission during such year, following approval of tentative plans.

SOURCE: GC §18108.

Article 3

Lot Parcelling and Agricultural Subdivisions

- §62301. General.
- §62302. Application to Establish Lot Parcelling or Agricultural Subdivisions.
- §62303. Lot Parcelling Approval.
- §62304. Parcelling Map Recordation.
- §62305. Survey Required for Parcelling Map.
- §62306. Resubdivisions.

§62301. General. The requirements of Article 2 and Article 5 of this Chapter shall not apply to lot parcelling subdivisions and agricultural subdivisions.

SOURCE: GC §18200.

§62302. Application to Establish Lot Parcelling or Agricultural Subdivisions. A subdivider desiring to parcel lots or subdivide land for agricultural purposes shall make a written application therefor on a form prescribed by the Commission. The application shall be filed with the Territorial Planner and shall be accompanied by the original and two (2) copies of a survey map prepared in accordance with §62305 of this Chapter.

SOURCE: GC §18201.

§62303. Lot Parcelling Approval. Within fifteen (15) days following receipt of an application to establish a lot parcelling or agricultural subdivision, the Territorial Planner, shall approve, conditionally approve, or disapprove the application, or shall submit the application to the Commission for its action. The Territorial Planner or Commission may as conditions of approval require street and utility easement reservations and require modifications to the map to insure lot divisions consistent with the general plan and with provisions of §62501 of this Chapter. The Territorial Planner or Commission shall

disapprove the subdivision if adopted standards of subdivision cannot be maintained. The applicant may appeal any decision of the Territorial Planner to the next regularly scheduled meeting of the Commission. There shall be no fees required for lot parcelling or agricultural subdivisions for the checking of plans or maps.

SOURCE: GC §18202.

§62304. Parcelling Map Recordation. Upon final approval of a lot parcelling or agricultural subdivision map by the Territorial Planner or Commission, the subdivider shall record the map in conformity to §60315-60319 of this Title, which map shall not be effective until recorded.

SOURCE: GC §18203.

§62305. Survey Required for Parcelling Map. The lot parcelling map shall be prepared by a surveyor and shall show all survey and mathematical data necessary to locate and retrace all lines thereon, including bearings and distances of straight lines and radii, arc and tangent lengths for all curves. Any area reserved for utility easements, access easements, and future street areas, and other public improvements, shall be clearly delimited and designated. The survey map shall be endorsed as to its accuracy and for its conformity to standard surveying practice by the Territorial Surveyor.

SOURCE: GC §18204.

§62306. Resubdivisions. Resubdivisions of regular or lot parcelling subdivision shall be initiated and acted upon subject to the procedures of this Article, provided, however, that resubdivisions involving six (6) or more lots or resubdivisions requiring subdivisions improvements shall be initiated and acted upon as a new subdivision in accordance with the provisions of Article 2 of this Chapter.

SOURCE: GC §18205.

Article 4

Requirements for Plans and Maps

§62401. Form of Tentative Plans.

§62402. Form of Final Plans.

§62401. Form of Tentative Plans. Tentative plans will include six (6) copies of a subdivision map, two (2) copies of a statement of intent by subdivider, and two (2) copies of subdivision improvement plans.

(a) The subdivider shall cause the tentative subdivision map to be prepared by an engineer or surveyor. The map shall be clearly and legibly drawn on one or more sheets having dimensions of twenty-two inches (22") by twenty-nine inches (29"). The scale of the map shall be as prescribed by the Commission and the map shall generally include:

(1) The tract number as issued by the Territorial Planner.

(2) The name and address of the owner or owners of record, of the subdivider and of the person preparing the map.

(3) Date, north arrow and scale.

(4) A key map locating the subdivision in relation to surrounding areas.

(5) The exact length and bearing of the exterior boundaries of the subdivision which data shall be referenced to the Guam Geodetic Triangulation Control Net or such alternative system of triangulation control as the Territorial Surveyor may direct.

(6) The accurate placement and outline of structures existing of the site.

(7) The location, names, and existing widths of adjacent street rights of way.

(8) The location and dimensions of all known existing easements and reservations.

(9) The location of existing utilities, sewers, drainage ditches and other drainage facilities located in, or adjacent to, the proposed subdivision.

(10) The lot numbers and lines of all adjacent parcels of land.

(11) The location, width and direction of flow of all water courses within the subdivision area.

(12) Topography with contour intervals of two feet (2') where the grounds slope is five percent (5%) or less or contour intervals of five feet (5') where the ground slope is more than five percent (5%).

(13) The location and widths of all existing or proposed streets in the subdivision.

(14) The approximate lot layout and approximate lot dimensions of each lot.

(15) Areas intended to be reserved for public use.

(b) The statement of the subdivider shall include a resume of the improvements proposed to be made in the subdivision, the existing zone district or districts applicable to the property, proposed use or uses of the subdivision lots and, in the absence of zoning, the proposed setback requirements for individual property development.

(c) Subdivision improvement plans shall include:

(1) Street construction plans including, but not limited to, planned grading, street centerline gradients and typical road cross-sections specifying material and depths.

(2) Water and sewer line plans showing pipe sizes, routing, gradients, pressure regulation and point of origin.

(3) A drainage plan showing methods and facilities for collection and disposal of storm waters. The storm drainage disposal area or channel must have a demonstrated ability to accept additional water in view of capacity of area or channel and of capacity of existing improvements confining the channel.

The tentative plan shall be prepared in sufficient detail for analysis by the Commission as to sufficiency and most suitable location. The Commission may require the submission of detailed construction drawings as subdivision work is initiated to permit detailed analysis of construction conformity to law and the rules and regulations of the Commission, and to facilitate improvement inspections.

SOURCE: GC §18300.

§62402. Form of Final Plans. The final plan submitted for approval shall include a map of the subdivision and a final survey of improvements as installed.

(a) The map of the subdivision shall be prepared by an engineer or surveyor in accordance with the following:

(1) The final map shall be clearly and legibly drawn in opaque black ink on good quality tracing paper or cloth acceptable to the Territorial Planner. Signatures shall be in opaque black ink. The size of the each sheet shall be twenty-two by twenty-nine inches (22" x 29"). A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of one inch (1"). The scale of the map shall be as prescribed by the Commission and shall show all details clearly, with enough sheets used to accomplish this purpose. The map shall be so made and shall be in such condition when filed that good, legible prints can be made therefrom.

(2) The map shall contain the tract number in letters no less than one-half inch (1/2") in height, north directional point, map scale, and date of final survey.

(3) The map shall show all survey and mathematical information and data necessary to locate all monuments, and to locate and retrace any and all interior and exterior boundary lines appearing thereon including bearings and distances of straight lines, radii, arc and tangent lengths of all curves. The final map shall particularly define, designate and delineate all road and alley rights-of-way and easements and other parcels offered for dedication for public use.

(4) The following certificates shall be placed on the first sheet of the map in a form prescribed by the Commission:

(A) Dedication of streets, easements and other parcels of land intended for public use by the owner.

(B) Acknowledgment of dedication for certification by a Notary Public.

(C) Acceptance of dedication to be signed by the Governor.

(D) Certification by the surveyor making the map (record plat) that the map is correct and accurate and that the monuments described thereon have been so located.

(E) Limited access dedication where a nonaccess reservation is used to restrict access. The map shall be lettered "vehicular access rights dedicated to the government of Guam" along the thoroughfare adjacent to the lots affected.

(F) Endorsement of Territorial Surveyor.

(G) Approval by the Commission.

(H) Certificate of recordation.

In addition, the map shall be accompanied by statements concerning any proposed deed restrictions or covenants.

(b) As part of the final plan, the subdivider shall submit a copy of an as-built drawing shall show, but not be limited to a showing of, the precise placement, sizing and characteristics of water lines, drainage measures, streets, street curbs and similar constructed utilities. The as-built drawing shall be to specifications satisfactory to the Commission.

(c) Acceptance of Dedication to be Signed by the Governor. The Governor shall not withhold acceptance of the dedication of any right-of-way in any agricultural subdivision provided the subdivision shall have had *de facto* existence at the time of this Law and the right-of-way is at least twenty (20) feet wide; provided, however, that the owners of the properties within said subdivision shall organize themselves for the creation of improvement districts for the construction, or reconstruction, of needed public facilities in accordance with the provisions of the Improvement District Law (Chapter 69 of this Title), as amended; and provided further that the acceptance of the dedication herein authorized shall become effective only after the Governor of Guam shall have given his approval of the final report by Executive Order as required §69122 of the this Title 21 GCA.

SOURCE: GC 18301. Subdivision (c) added by P.L. 13-68, enacted July 26, 1976.

Article 5

Improvements

- §62501. Required Improvements.
- §62502. Utilities Extensions - Planned Areas.
- §62503. Utilities Extensions - Unplanned Areas.
- §62504. Time Allowed for Completion of Improvements.

§62501. Required Improvements. The subdivider shall provide the following improvements and improvement areas within time limits specified by the Commission:

(a) **Streets, Alleys and Sidewalks - Urban areas.** Where general plans have been or are hereafter duly adopted and show an area as planned for development into urban use, the following street, alley and sidewalk improvements shall be required:

All streets and alleys within the subdivision shall be graded and drained the full width of the right-of-way. The roadbed portion of the right-of-way shall be improved with a stabilized coral base and surfaced with light bituminous surface treatment having a minimum width of twenty-two feet (22'). The roadway centerline gradient and right of way cross-section including drainage ditches, travelled roadway design and paving and shoulders shall be in conformity to criteria established by the Commission.

Permanent sidewalks having a minimum width of four feet (4') shall be laid out for all streets and shall be dedicated to the government of Guam. The Commission shall establish criteria relating to width and construction of such sidewalks, and all such sidewalks shall be in conformity thereto.

(b) **Streets and Alleys - Unplanned Areas.** Where at the time of a subdivision a general plan has not been adopted or

where the general plan designates the area as agricultural, the following street and alley improvements will be required:

All streets and alleys within the subdivision shall be graded and drained the full width of the right-of-way. The roadbed portion of the right-of-way shall be improved with a stabilized coral base. The roadway centerline gradient and right-of-way cross-section including drainage ditches, travelled roadway and shoulders shall be in conformity to criteria established by the Commission.

(c) **Storm Water Drainage.** Storm drainage facilities shall be provided in all subdivisions in accordance with plans prepared by the subdivider conforming to criteria established by the Commission. These facilities shall be designed to dispose of normal storm waters falling on the subdivision without hazard of flooding, inconvenience of ponding, and the erosion of public or private lands.

(d) **Domestic Water.** Potable domestic water shall be piped onto each lot within the subdivision. Water pipes shall be new and so sized to supply normal household pressures.

(e) **Sanitary Sewage Disposal.** When sanitary sewers are provided in a subdivision, they shall be in conformity to plans prepared by the subdivider satisfactory to the Commission. When sewers are placed within a subdivision, the minimum permissible lot size shall be as determined by the applied zoning district, or in the absence of zoning, shall be not less than seven thousand (7,000) square feet. In subdivisions where sanitary sewers are not provided, the minimum permissible lot size shall be determined by the slope and characteristics of the subdivision soil and subsoil but in no event shall be less than is established by the applied zoning district, or in the absence of zoning, seven thousand (7,000) square feet. Determination of lot size shall be made on the basis of soil percolation tests made in conformity to standards adopted by the Commission. Lot sizes, including area and minimum widths and depths

shall be related to the ability of the subdivision lands to accept the anticipated septic tank effluent whereby no sanitary problem will be created. The Commission shall establish criteria relating lot sizes and shapes to tested rates of seepage, and all lots created after the enactment of this Chapter shall conform thereto.

(f) **Survey Monuments.** Permanent concrete monuments shall be installed at all points of direction changed in the subdivision perimeter and in the exterior lines of blocks.

SOURCE: GC §18400 enacted 1952. Subsection (a) amended by P.L. 11-134.

§62502. Utilities Extensions - Planned Areas. Where general plans have been duly adopted and show an area as planned for development into urban uses, the following development criteria will apply for subdivisions within the area so delineated:

(a) **Road extensions.** Where roads must be extended from existing roads in order to gain suitable access to a subdivision. The subdivider shall negotiate with the property owners involved and acquire rights-of-way to width and alignment approved by the Commission. The subdivider shall improve such access road or roads the same as he improves the interior subdivision roads.

(b) Power, water mains, and fire hydrants may be installed by the Public Utility Agency in accordance with §21208.3, Government Code of Guam.

(c) The subdivider shall provide easements for all utility extensions to the satisfaction of the Commission, and acceptable to the Public Utility Agency.

SOURCE: GC §18401.

§62503. Utilities Extension - Unplanned Areas. In areas where general plans have not been adopted but where water, electrical facilities and roads exist within or adjacent to a

planned subdivision area, the criteria of §62502 will be applicable. In unplanned areas where water service, electric service or public roads are not immediately available, the government shall not supply any utility or road extension to make the site suitable for development.

SOURCE: GC §18402.

§62504. Time Allowed for Completion of Improvements.
Upon approval of the tentative subdivision plan by the Commission, the subdivider shall complete within one (1) year all of the improvements required, except that the Commission, for good cause shown, may authorize an extension of time, not to exceed twelve (12) months, for such completion. Within such time, the subdivider must either:

(a) Complete the required improvements and, upon acceptance thereof by the government, file his final plans; or

(b) Furnish bond acceptable to the Commission for the completion of improvements, the bond to be in penal sum of one hundred fifteen percent (115%) of total work costs as verified by the Director of Public Works. On approval of the bond, the final plans may be filed.

SOURCE: GC §18403.

Article 6

Variances and Appeals

- §62601. Petition for Variances.
- §62602. Variance Subdivisions.
- §62603. Unit Development.
- §62604. Judicial Review.

§62601. Petition for Variances. The Commission, on its own initiative, or upon the petition of any subdivider stating fully the grounds of the application and all the facts relied upon by the subdivider, may grant variances to the regulations of the Commission. Such petition shall be filed with the tentative plan of the subdivision. In the event the Commission shall find the following facts with respect to the petition for a variance, it may grant a variance under such terms and conditions as it may prescribe:

(a) That there are special circumstances or conditions affecting said property.

(b) That the variance is necessary for the preservation and enjoyment of a substantial property right of the subdivider.

(c) That the granting of the variance will not be materially detrimental to the public welfare or injurious to other property in the area in which said property is situated.

(d) That the variance, if granted, will conform with the intent and purpose of the general or precise plans for the territory, and of this Chapter.

SOURCE: GC §18500.

§62602. Variance Subdivisions. The Commission shall have the authority to review any prior division of parcels of land, whether for the purpose of lot parcelling or the establishment of a subdivision, presented to the Department of Land Management for recording as a subdivision under the provisions of

this Chapter. The Commission may require the subdivider or owner to modify the arrangement, to improve access rights of way and easements, or to modify the size and shapes of lots and other improvements as a condition precedent to record the presentation as a subdivision. The decision of the Commission shall be final.

SOURCE: GC §18501.

§62603. Unit Development. The standards and requirements of this Chapter may be modified by the Commission in the case of a plan and program for a new town, a complete community, or a neighborhood unit, which in the judgment of the Commission provides adequate public spaces and improvements for the circulation, recreation, light, air, and service needs of the tract when fully developed and populated, and which also provide such deed restrictions or other legal provisions as will assure conformity to and achievement of the plan.

SOURCE: GC §18502.

§62604. Judicial Review. (a) Any order of the Commission shall become effective when notice thereof is delivered to the party or parties affected and, unless proceedings for judicial review are instituted as provided for in Subsection (b) of this Section, shall become final at the expiration of thirty (30) days thereafter.

(b) If the decision of the Commission is not in accordance with law or is not supported by substantial evidence, the same may be set aside through an action instituted in the Superior Court brought by the party affected thereby. The subdivider shall not subdivide any land, or sell, lease, or offer for sale, any subdivision or proposed subdivision or any part thereof, or any lot, parcel or site therein, or commence or continue construction of any improvement relating thereto during the pendency of such action.

(c) Review by the court shall be limited to the record procured before the Commission and, if the decision of the Commission is not according to law or supported by substantial evidence, the court shall return this matter to the Commission for further action in accordance with the evidence.

SOURCE: GC §18503. *Island* changed to *Superior* Court pursuant to P.L. 12-85.

**Guam Territorial Seashore Protection
Act of 1974**

- § 13410. Short title
- § 13411. Findings
- § 13412. Definitions
- § 13413. Commission creation, membership and compensation
- § 13414. Conflict of interest
- § 13415. Powers and duties
- § 13416. Commission and responsibilities
- § 13417. Interim permit control
- § 13418. Penalties
- § 13419. Severability
- § 13420. Authorization for appropriation

§ 13410. This Chapter may be cited as the Guam Territorial Seashore Protection Act of 1974.

§ 13411. the people of the territory of Guam hereby find and declare that the Guam Territorial Seashore Reserve is a distinct and valuable natural resource belong to all the people of Guam and existing as a delicately balanced ecosystem; that the permanent protection of the natural, scenic, and historical resources of the seashore reserve is a paramount concern to the present and future residents of this island; that in order to promote the public safety, health, and welfare, and to protect public and private property, wildlife, marinelife, and other ocean resources, and the natural environment, it is necessary to preserve the ecological balance of the seashore reserve and prevent its deterioration and destruction; that it is the policy of this territory to preserve and protect the resources of the seashore reserve for the enjoyment of the current and succeeding generations, and that to protect the seashore reserve, it is necessary:

(a) To study the seashore reserve to determine the ecological planning principles and assumptions needed to ensure conservation of its resources;

(b) To prepare, based upon such study and in full consultation with all affected governmental agencies and departments, private interests and the general public, a comprehensive coordinated, enforceable plan for the orderly, long-range conservation, management and development of the seashore reserve;

(c) To ensure that any development which occurs in the seashore reserve during the study and planning period will be consistent with the objectives of this Chapter;

(d) That the Board of Directors, Territorial Seashore Protection Commission, is hereby charged with the responsibility of implementing the provisions of this Chapter.

§ 13412. Definitions. (a) 'Commission' means Guam Territorial Seashore Protection Commission.

(b) 'Board' means the Board of Directors of the Commission.

(c) 'Seashore reserve' means that land and water area of the territory of Guam extending seaward to the ten fathom contour, including all islands within the territory's jurisdiction, and extending inland from the mean high water line for a distance on a horizontal plane of one hundred meters. [Amended by P.L. 12-209, effective January 16, 1975.]

(d) 'Development' means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision of land and any other division of land including lot splits; change in the intensity of use of water, ecology related thereto, or of access thereto; construction or reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility, and the removal of major vegetation.

(e) 'Improved residential property' means a detached, noncommercial residential dwelling, the construction of which was begun before September 1, 1972, together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Commission shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

(f) 'Person' includes any individual, organization, partnership, and corporation, including any utility and any agency of federal, territorial, and local government.

(g) 'Plan' means the Guam Seashore Reserve Plan.

(h) 'Sea' means the Pacific Ocean or the Philippine Sea.

§ 13413. Commission creation, membership and compensation.

(a) The Commission is hereby created and shall consist of seven (7) members to be appointed by the Governor with the advice and consent of the Legislature.

(b) Commission members will be appointed within sixty (60) days after the enactment of this Chapter. Members shall hold office for a term of two (2) years, and may be reappointed for one (1) additional term.

(c) Commission members shall serve without compensation except that each member shall be paid a per diem of Fifty Dollars (\$50) for each day's attendance at a meeting of the Commission. Each member shall also be allowed actual expenses incurred in the discharge of his duties.

§ 13414. Conflict of interest. (a) No member of the Commission or employee of the Commission shall participate, in any official capacity whatsoever, in any proceeding, hearing, application, request for ruling or other official determination, judicial or otherwise, in which any of the following has a financial interest; the member or employee himself; his spouse; his child; his partner, any organization in which he is then serving or has, within two (2) years prior to his selection or appointment to or employment by the Commission, served in the capacity of officer, director, trustee, partner, employer or employee; any organization within which he is negotiating for or has any arrangement or understanding concerning prospective partnership or employment.

(b) In any case within the coverage of this section, the prohibitions herein contained shall not apply if the person concerned advises the Board in advance of the nature and circumstances thereof, including full public disclosure of the facts which may potentially give rise to a violation of this article, and obtains from the Board a written determination that the contemplated action will not adversely affect the integrity of the Commission. Any such determination shall require the affirmative vote of two-thirds of the members of the Board.

(c) Any person who violates any provision of this section shall, upon conviction, and for each such offense, be subject to a fine or not more than Ten Thousand Dollars (\$10,000) or imprisonment for not more than two (2) years, or both.

§ 13415. Powers and duties. The Board may:

(a) Accept grants, contributions, and appropriations;

(b) Employ and fix the compensation, in accordance with law, of such professional, clerical and other assistants as may be necessary;

(c) (1) Through coordination and assistance with other government departments and agencies, acquire lands, waters, and interests therein with the boundaries of the seashore reserve, by donation, purchase with donated or appropriated funds, by exchange for government land, or transfer. All property owned by the territory of Guam within the seashore reserve is hereby dedicated for the purpose of this Chapter.

(2) With respect to improved residential property acquired for the purposes of this Chapter, which is beneficially owned by a natural person and which the Board determines can be continued in that use for a limited period of time without undue interference with the administration, development, or public use of the coastal reserve, the owner thereof may on the date of its acquisition by the Commission retain a right of use and occupancy of the property for noncommercial residential purposes for a term, as the owner may elect, ending either (a) at the death of the owner or his spouse, whichever occurs later, or (b) not more than twenty-five (25) years from the date of acquisition. Any right so retained may during its existence be transferred or assigned. The Commission shall have paid to such owner the fair market value of the property on the date of such acquisition, less the fair market value on such date of the right retained

by the owner.

(3) The Board may terminate a right of use and occupancy retained pursuant to this subsection upon a determination that such use and occupancy is being exercised in a manner not consistent with the purposes of this Chapter, and upon tender to the holder of the right an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination;

(d) Contract for any professional services if such work or services cannot satisfactorily be performed by its employee;

(e) Be sued and sue to obtain any remedy to restrain violations of this Chapter. Upon the request of the Commission, the Attorney General shall provide necessary legal representation;

(f) Adopt any regulations or take any action it deems reasonable and necessary to carry out the provisions of this Chapter, but no regulations shall be adopted without a prior public hearing.

§ 13416. Commission responsibilities. The Commission shall:

(a) Elect a chairman.

(b) Appoint an Administrator who shall not be a member of the Commission and who shall have the responsibility for the administration of this Act under the supervision of the Commission.

(c) Prepare, adopt and submit to the Legislature for implementation the Guam Seashore Reserve Plan.

(1) The plan shall be based on detailed studies of all the factors that significantly affect the seashore reserve.

(2) The plan shall be consistent with all of the following objectives:

(a) The maintenance, restoration, and enhancement of the overall quality of the seashore reserve environment, including, but not limited to, its amenities and aesthetic values.

(b) The continued existence of optimum populations of all species of living organism.

(c) The orderly, balanced utilization and preservations, consistent with sound conservation principles, of all living and non-living seashore reserve resources.

(d) Avoidance of irreversible and irretrievable commitments of seashore reserve resources.

(e) Public access for maximum visual and physical use and enjoyment of the seashore reserve by the public.

(3) The plan shall consist of such maps, text and statements of policies and objectives as the Commission determines are necessary.

(4) The plan shall contain at least the following specific components:

(a) A precise, comprehensive definition of the public interest

in the seashore reserve.

(b) Ecological planning principles and assumptions to be used in determining the suitability and extent of allowable development.

(c) A component which includes the following elements:

(1) A land-use element.

(2) A conservation for the preservation and management of the scenic and other natural resources of the seashore reserve.

(3) A public access for maximum visual and physical use and enjoyment of the coastal reserve by the public.

(4) A recreation element.

(5) A population element for the establishment of maximum desirable population densities.

(6) An educational or scientific use element.

(d) Reservations of land or water in the seashore for certain uses, or the prohibition of certain uses in specific areas.

(e) Recommendations for the governmental policies and powers required to implement the planning including the organization and authority of the governmental agency or agencies which should assume permanent responsibility for its implementation.

(d) Publish objectives, guidelines, and criteria for the collection of data, the conduct of studies, and the preparation of recommendations for the plan within six (6) months after its first meeting.

(e) Prepare its definitive conclusions and recommendations, including recommendations for areas that should be reserved for specific uses or within which specific uses should be prohibited, which it shall, after public hearing, adopt and submit to the Legislature no later than January, 1976.

(f) On or before December 1, 1975, adopt the coastal reserve plan and submit it to the Legislature for its adoption and implementation. [Amended by P.L. 12-210, effective January 23, 1975.]

§ 13417. Interim permit control

(a) General provisions.

(1) On or after June 1, 1974 any person wishing to perform any development within the seashore reserve shall obtain a permit authorizing such development from the Commission, and, if required by law, from any other governmental department or agency. No permit shall be issued without the affirmative vote of a majority of the Board members. [Amended by P.L. 12-210, effective January 23, 1975.]

[EDITOR'S NOTE: P.L. 12-210, purported to amend § 13416(F)(1) as regards the date for seeking a construction permit from the Commission. Legislative intent being clear, the Editor has reflected the Amendment in § 13417(a)(1) accordingly.]

(2) No permit shall be issued unless the Board has first found:

(a) That the development will not have any substantial adverse environmental or ecological effect, and

(b) That the development is consistent with the purpose and objectives of this Chapter. The applicant shall have the burden of proof on all issues.

(3) All permits shall be subject to reasonable terms and conditions in order to ensure that:

(a) Access to beaches, recreation and historical areas, and natural reserves is increased to the maximum extent possible by appropriate dedication.

(b) There is no substantial interference with or detracting from the line of sight toward the sea from the territorial highway nearest the coast.

(c) Adequate and properly located public recreation areas and wildlife preserves are reserved.

(d) Provisions are made for solid and liquid waste treatment, disposition, and management which will minimize adverse effects upon coastal reserve resources.

(e) Alterations to existing land forms and vegetation, and construction of structures shall cause minimum danger of floods, landslides, erosion or siltation.

(4) If prior to the effective date of this Chapter, a building permit has been issued, no person who has obtained a vested right thereunder shall be required to secure a permit under this section, provided that no substantial changes may be made in any such development, except in accordance with the provisions of this Chapter. Any such person shall be deemed to have such vested rights if, prior to April 1, 1973 he has in good faith and in reliance upon the building permit diligently commenced construction and performed substantial work and materials necessary thereof.

(5) Notwithstanding any provisions in this section to the contrary, no permit shall be required for the following types of development:

(a) Repairs and improvements not in excess of Seven Thousand Five Hundred Dollars (\$7,500) to existing single-family residences; provided that the Agency shall specify by regulation those classes of development which involve a risk of adverse environmental effect and may require that a permit be obtained.

(b) Maintenance dredging of existing navigation channels or moving dredged material from such channels to a disposal area outside the coastal reserve, pursuant to a permit from the United States Army Corps of Engineers.

(b) Permit procedure.

(1) The Board shall prescribe the procedures for permit applications and may require a reasonable filing fee and the reimbursement of expenses.

(2) The Board shall give written public hearing. Such hearing shall be set no less than twenty-one (21) nor more than ninety (90) days after the date on which the application is filed.

(3) The Board shall act upon an application for permit within sixty (60) days after the conclusion of the hearing.

(4) Any person including an applicant for a permit, aggrieved by the decision or action of the Board shall have a right to judicial review of such decision or action by filing a petition for a writ of mandamus, pursuant to § 1084 et. seq. of Civil Procedure Code of Guam within sixty (60) days after such decision is made.

(5) Any person may maintain an action for declaratory and equitable relief to restrain violations of this Chapter. No bond shall be required for an action under this subsection.

(6) Any person may maintain an action for the recovery of civil penalties provided in § 13418.

(7) The provision of this Section shall be in addition to any other remedies available at law.

(8) Any person who prevails in a civil action brought to enjoin a violation of this Chapter or to recover civil penalties shall be awarded his costs, including reasonable attorneys fees.

§ 13418. Penalties. (a) Any person who violates any provisions of this Chapter shall be subject to a civil fine not to exceed Ten Thousand Dollars (\$10,000).

(b) In addition to any other penalties, any person who performs any development in violation of this Chapter shall be subject to a civil fine not to exceed Five Hundred Dollars (\$500) per day for each day in which such violation persists.

§ 13419. Severability. If any provision of this Chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

§ 13420. Authorization for appropriation. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Chapter. [Chapter V-A, §§ 13410-13420, added by P.L. 12-108, effective March 11, 1974.]

Public Law 13-52
Thirteenth Guam Legislature
(Bill 413)

AN ACT

An Act to repeal and reenact Section 13413 of the Government Code of Guam (P.L. 12-108) relative to the composition of the Guam Territorial Seashore Protection Commission.

Be it enacted by the People of the Territory of Guam:

Section I. Section 13413 of the Government of Code of Guam (P.L. 12-108) is hereby repealed and a new Section 13413 is hereby enacted to read as follows:

"Section 13413. Commission Creation. Membership and Compensation.

(a) There is hereby created a Guam Territorial Seashore Protection Commission (hereinafter referred to as the 'Commission'), consisting of the seven members of the Territorial Planning Commission and the members shall hold office so long as they remain members of the Territorial Planning Commission.

(b) Commission members shall serve without compensation except that each member shall be paid a per diem of Twenty-Five Dollars (\$25.00) for each day's attendance at a meeting of the Commission. Each member shall be allowed actual expenses incurred in the discharge of his duties."

Approved July 15, 1975.

Public Law 13-154
Thirteenth Guam Legislature
(Bill 839)

AN ACT

An Act to add a new Subsection (g) to Section 31003 and to repeal and reenact Subparagraph (c) of Section 13412 of the Government Code relative to emergency repairs of buildings.

Statement of Legislative Findings: The Legislature finds that Typhoon

Pamela has destroyed or damaged hundreds of buildings within the Territory of Guam. While governmental regulation of construction by means of building permits is normally a desirable function of government, the Legislature finds that in this typhoon-caused emergency, the speedy repair of buildings out-weighs any possible disadvantage in the temporary suspension of construction regulations.

Be it enacted by the People of the Territory of Guam:

Section 1. A new Subsection (g) is added to Section 31003 of the Government Code to read:

"(g) If at any time Guam or any part of it shall be declared a disaster area by the President of the United States, no person shall be required to make application or give notice to the Building Official in order to make such repairs as may be necessary to restore a dwelling immediately prior to the incident which resulted in the disaster declaration and, provided further, such dwelling was made uninhabitable as a result of the incident which resulted in a disaster declaration. This subparagraph shall not preclude the government from exercising its police power to condemn or require vacation of any structure when it is determined that the continued occupancy or use of such a structure poses a threat to the public health, safety or welfare. The authority given by this subparagraph to make emergency repairs in the event of a declaration of disaster shall be valid only for a period of ninety (90) days subsequent to the issuance of the declaration of disaster by the President of the United States."

Section 2, Subparagraph (c) of Section 13412 of the Government Code is repealed and reenacted to read:

"(c) 'Seashore Reserve' means that land and water area of Guam extending seaward to the ten fathom contour, including all islands within the Government's jurisdiction except Cabras Island and those Villages wherein residences have been constructed along the shoreline prior to the effective date of the Seashore Act, and extending inland to the nearer of the following points:

- (1) From the mean high water line for a distance on a horizontal plane of ten (10) meters.
- (2) From the mean high water line to the inland edge of the nearest public right-of-way."

Section 3. Section 1 of this Act shall be retroactively effective to the date of issuance of the declaration of Guam as a typhoon disaster area by the President of the United States.

Overridden

July 7, 1976.

CHAPTER V-B

Ocean Shores: Territory Beach Areas

- § 13450. Legislative findings
- § 13451. Legislative policy
- § 13452. Construction and interpretation
- § 13453. Definitions
- § 13454. Ownership of Guam ocean shore
- § 13455. Vesting of public rights in same
- § 13456. Acquisition of same
- § 13457. Guam ocean shore not to be alienated
- § 13458. Title and rights of territory unimpaired
- § 13459. Liability of property owners of ocean shore
- § 13460. Landowner declaration of control of same

§ 13450. Legislative findings. The Legislature declares that:

(a) The traditional pattern of land ownership of land abutting the beaches and ocean shores of Guam is that a strip of dry land between the mean high watermark as can be physically established from the latest tide elevation data published by the U.S. Coast and Geodetic Survey, and privately-owned land is owned by the government for general use of the inhabitants of the island, being open and available to all users, both for recreational purposes and as a means of livelihood for thrownet fishermen;

(b) The shore side boundaries of privately-owned real properties which were surveyed before World War II did not extend to the mean high watermark, as can be testified to respecting the privately-owned land along Agana Bay in the Organized villages of Asan, Piti and Agat;

(c) Since World War II, an increasing amount of the government-owned land abounding the sea has been alienated and lost to private ownership;

(d) Although fee title to the ocean shore may have vested in private individuals, the Legislature recognized that over the years the public has made frequent and uninterrupted use of such ocean shore and recognizes, further, that where such uses has been legally sufficient to create rights or easements in the public through dedication, prescription, grant, or otherwise, that it is in the public interest to protect and preserve such public rights or easements as a permanent part of Guam's recreational resources;

(e) The indiscriminate building of structures on the ocean shores of Guam creates a menace to the well-being of the people of the territory by increasing the pollution of tidal waters, and such construction, in addition, deprives the people of Guam of their right to untrammelled use of beach areas above the mean high watermark;

(f) Such construction destroys the natural beauty of Guam's ocean shores, one of the territory's greatest natural resources; and

(g) Finally, in spite of the enactment of certain laws and the adoption of numerous resolutions for the protection and preservation of the beach areas of Guam, the Executive Branch of the government, which has the responsibility for enforcing these laws and implementing the resolutions adopted, has failed to adequately preserve and protect that strip of said land above the mean high watermark which belongs to the people of Guam.

§ 13451. Legislative Policy. The Legislature of Guam hereby declares as the public policy of the territory of Guam that it is the public right to have unrestricted access to the ocean shores of Guam for common use by all the people of Guam, and therefore that strip of public land above the high mean watermark must be preserved and protected for all generations to assure free access to the beaches of the territory to the maximum extent, to preserve the natural beauty of Guam's beaches, and to alleviate the health problems caused by construction near tidal areas. It is, therefore, the purpose of this Chapter to forever preserve and maintain the sovereignty of the territory heretofore legally existing over the ocean shore of the territory so that the public may have the free and uninterrupted use thereof; to protect, settle and confirm the public rights to the use of the ocean shore heretofore acquired by public dedication, prescription, or otherwise and to authorize the reacquisition of the ocean shore where a portion thereof has been lost to private ownership and no public rights exist therein as a result of dedication, prescription, or otherwise.

§ 13452. Construction and interpretation. The Legislative findings and policy set forth in § § 13450 and 13451 shall govern in the interpretation of any provision in this Chapter.

§ 13453. Definitions: 'ocean shore', 'territory recreational area'. As used in this Chapter, unless the context requires otherwise:

(1) 'Ocean shore' means the land between the mean low waterline and a series of lines connecting angle points located at a distance of twenty-five (25) feet inland from the two (2) feet contour line as established and described by the U.S. Coast and Geodetic Survey. The angle points shall be so selected as to secure maximum parallelism of the twenty-five (25) feet setback line with two (20) feet contour.

(2) 'Territory beach area' means a land or water area, or combination thereof, under the jurisdiction of the Department of Parks and Recreation, used by the public for recreational and fishing purposes.

§ 13454. Ownership of Guam ocean shore. Ownership of the part of the ocean shore of Guam between mean high tide and extreme low tide, excepting such portions as may have been disposed of by the territory prior to January 1, 1972, is vested in the territory beach area.

§ 13455. Vesting of public rights in Guam ocean shore. All public rights or easements in any part of the ocean shore of Guam legally acquired through express dedication, implied dedication, prescription, grant, or otherwise are confirmed and declared vested exclusively in the territory beach area. No land subject to rights vested pursuant to this section shall, after the effective date of this Act, be registered pursuant to the provisions of Article I, Chapter IV, Title IV, Part IV, Division Second of the Civil Code of Guam, unless the registration is in the name of the government of Guam or clearly sets forth the existence of rights in the government of Guam.

§ 13456. Acquisition of Guam ocean shore. The Governor is hereby authorized and directed to acquire ownership of or interests in any part of the ocean shore of Guam where such lands are held in private ownership; provided, however, the Governor shall not acquire ownership of or interests in any such ocean shore if it is unregistered and frequent and uninterrupted use of the ocean shore by the public has been legally sufficient to create rights and easements in the public which are confirmed and vested pursuant to § 13455 of this Chapter, and provided further that any interest in such ocean shore acquired by the Governor which is less than full ownership thereof shall be sufficient to permit the Department of Parks and Recreation to administer the interest acquired as a territory beach area. Such acquisition from private owners shall either be by condemnation, exchange, or negotiated purchase, except that the price for such negotiated purchases shall not exceed the most recent appraised value of such property for real property taxes under Chapter IV, Title XX, Government Code of Guam, and if by exchange with government-owned property, only if the government-owned property to be exchanged has been included in the inventory of government land, or amendments thereto, provided under § 13505.1 of the Government Code of Guam.

§ 13457. Guam ocean shore not to be alienated: judicial confirmation of public rights in ocean shore. No portion of the ocean shore of Guam or any interest therein vested by § § 13454 and 13455 of this Chapter or hereafter acquired by the territory of Guam or any political subdivision thereof shall be alienated by any agencies, departments, commissions or corporations of the territory except as expressly provided by law; provided, however, the restriction on alienation shall not apply to a judicial sale of such land resulting from a condemnation action brought by the United States of America or to an exchange of said land made pursuant to § 13525(c) of this Code. The Department of Parks and Recreation, when necessary shall undertake appropriate court proceedings to protect, settle and confirm all public rights and easements vested in the territory pursuant to § § 13455 of this Chapter.

§ 13458. Title and rights of territory unimpaired. Nothing contained in this Chapter shall be construed to relinquish, impair or limit the sovereign title

or rights of the territory of Guam in its shores as the same may exist before or after the effective date of this Chapter.

§ 13459. Liability of property owners of ocean shore. The owner or person in control of any property subject to a public easement declared a territory beach area by § 13455 of this Chapter or acquired as ocean shore for a territory recreational area pursuant to § 13456 of this Chapter shall not be liable for any injury to another person or damage to property of another, resulting from a condition of the property within either area, unless the injury or damage results from a condition that he created and that he knew of or in the exercise of reasonable care, should have known was likely to cause injury to persons or damage to property.

§ 13460. Landowner declaration of continuing control of land along ocean shore: effect: failure to life.

(a) In any court proceedings involving prescriptive rights of the public over registered property abutting, adjacent or contiguous to the ocean shore, an instrument executed and filed as provided by Subsection (b) of this section shall be an act and declaration admissible as evidence of the intent of the owner or person in control of property to exercise dominion and control over his property.

(b) The declaration shall describe the property and shall be signed and acknowledged. It shall state that the public is granted permission to use the property, or a specifically described portion of the property, and that the public use may be for certain purposes which shall also be described. The declaration shall be filed in the Department of Parks and Recreation.

(c) Failure of the owner or person in control of property to execute and file the declaration as provided in Subsection (b) of this section shall not imply an intent to relinquish dominion and control over his property. [§§ 13450-13460 added by P.L. 12-19, effective April 24, 1973; Chapter V-B of TITLE XIV renumbered from Chapter V-A and renamed "Ocean Shores: Territory Beach Area", by P.L. 12-209, effective January 23, 1975.]

Agricultural Preserves

ARTICLE I

General Provisions

- § 12600[12500]. Citation of Chapter.
- § 12601[12501]. Definitions.
- § 12603[12503]. Inclusion within agricultural preserve: 'Agricultural Land'.

ARTICLE II

Agricultural Preserves

- § 12604[12504]. Establishment of preserves.
- § 12605[12505]. Rules governing administration and establishment of preserves.
- § 12606[12506]. Alteration of boundaries: notice to owners.
- § 12607[12507]. Submission of proposal to the Territorial Planning Commission: reports.
- § 12608[12508]. Removal of land from preserve: notice.
- § 12609[12509]. Filing of map: keeping current.
- § 12610[12510]. Utility facilities as compatible uses.

ARTICLE III

Contracts

- § 12611[12511]. Authority of department to contract.
- § 12612[12512]. Other owners of prime agricultural land to whom contract to be offered.
- § 12613[12513]. Land on which the department may contract.
- § 12614[12514]. Contracts.
- § 12615[12515]. Term of contract.
- § 12616[12516]. Term of twenty (20) years or more.
- § 12617[12517]. Notice of nonrenewal.
- § 12618[12518]. Termination of contract.
- § 12619[12519]. Information furnished by landowner.
- § 12620[12520]. Recording of contract.
- § 12621[12521]. Enforcement of contract.

ARTICLE IV

Cancellation

- § 12622[12522]. Purpose.
- § 12623[12523]. Request by landowner.
- § 12624[12524]. Conditions for approval.
- § 12625[12525]. Assessment of land: determination of cancellation fee: payment of deferred taxes; waiver of payment: distribution of deferred taxes.
- § 12626[12526]. Recording of certificate of cancellation.
- § 12627[12527]. Public Hearing.
- § 12628[12528]. Same: protest by other owners within the preserve.

ARTICLE V

Eminent Domain

- § 12629[12529]. Public improvements within preserve.
- § 12630[12530]. Voiding of contract by exercise of eminent domain.

ARTICLE I

General Provisions

§ 12600[12500]. Citation of Chapter. This Chapter shall be known as the Guam Land Conservation Act.

§ 12601[12501]. Definitions. As used in this Chapter, unless otherwise apparent from the context:

- (a) 'Agricultural commodity' means any and all plant and animal products produced in this territory for commercial purposes.
- (b) 'Agricultural use' means use of land for the purpose of producing an agricultural commodity for commercial purposes.
- (c) 'Prime agricultural land' means any of the following:
 - (1) Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one (1) animal unit per acre as defined by the United States Department of Agriculture.
 - (2) Land planted with fruit or nut-bearing trees, vines, bushes or crops

(2) Land planted with fruit or nut-bearing trees, vines, bushes or crops which have a non-bearing period of less than five (5) years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than Two Hundred Dollars (\$200) per acre.

(3) Land which has returned from the production of unprocessed agricultural plant products an annual gross value of not less than Two Hundred Dollars (\$200) per acre for three (3) of the previous five (5) years.

(d) 'Agricultural preserve' means an area devoted to either agricultural use, recreational use as defined in Subdivision (h) or open space use as defined in the Subdivision (i) or any combination of such uses, and compatible uses as designated by the development.

(e) 'Compatible use' is any use determined by the department or by this Act to be compatible with the agricultural, recreational, or open space use unless the department finds after notice and hearing that such use is not compatible with the agricultural, recreational or open space use to which the land is restricted by contract pursuant to this Chapter.

(f) 'Department' means the Department of Agriculture.

(g) 'Director' means the Director of the Department of Agriculture.

(h) 'Recreational use' is the use of land by the public, with or without charge, for any of the following: walking, hiking, picnicking, camping, swimming, boating, fishing, hunting, or other outdoor games or sports for which facilities are provided for public participation. Any fee charged for the recreational use of land as defined in this subdivision shall be in a reasonable amount and shall not have the effect of unduly limiting its use by the public.

(i) 'Open space use' is the use or maintenance of land in such a manner as to preserve its natural characteristics, beauty, or openness for the benefit and enjoyment of the public, to provide essential habitat for wildlife.

§ 12603[12503]. Inclusion within agricultural preserve: 'Agricultural land'. Notwithstanding any provisions of this Chapter to the contrary, the following may be included within an agricultural preserve pursuant to this Chapter:

(a) Land devoted to recreational use;

(b) A wildlife habitat area which is a land or water area designated by the department as an area of great importance for the protection or enhancement of the wildlife resources of the territory;

(c) A submerged area which is any land determined by the department to be submerged or subject to tidal action and found by the department to be submerged or subject to tidal action and found by the department to be of great value to the territory as an open space.

When such land is included within an agricultural preserve, the department may contract with the owner for the purpose of restricting the land to recreational or open space use and uses compatible there within the same manner as provided

in this Chapter for land devoted to agricultural use. For the purposes of this section, where the term 'agricultural land' is used in this Chapter it shall be deemed to include land devoted to recreational use and land within a wildlife habitat area or a submerged area, and where the term 'agricultural use' is used in this Chapter it shall be deemed to include recreational and open space use.

ARTICLE II

Agricultural Preserves

§ 12604[12504]. Establishment of preserves. Beginning January 1, 1974, the department, after a public hearing may establish agricultural preserves. No later than thirty (30) days prior to any such hearing the department shall publish a newspaper of general circulation within the territory, a notice, which shall include a legal description, or the assessor's parcel number, of the land which is proposed to be included within the preserve. Such preserves shall be established for the purpose of defining the boundaries of those areas within which the department will be willing to enter into contracts pursuant to this act. An agricultural preserve shall consist of no less than ten (10) hectares; provided, that in order to meet this requirement, two (2) or more parcels may be combined if they are contiguous or if they are in common ownership.

The department may establish agricultural preserves of less than ten (10) hectares if it finds that smaller preserves are necessary due to the unique characteristics of the agricultural enterprises in the area, and that the establishment of preserves of less than ten (10) hectares is consistent with the general plans of the department.

An agricultural preserve may contain land other than agricultural land, but the use of any land within the preserve and not under contract shall within two (2) years of the effective date of any contract on land within the preserve restricted by zoning or other suitable means in such a way as not to be compatible with the agricultural use of the land, the use of which is limited by contract in accordance with this Chapter.

Failure on the part of the department to restrict the use of land within a preserve but not subject to contract shall not be sufficient reason to cancel or otherwise invalidate a contract.

§ 12605[12505]. Rules governing administration and establishment of preserves. For the purposes of this Chapter, the department shall adopt rules governing the administration of agricultural preserves including procedures for initiating, filing and processing requests to establish agricultural preserves. Such rules shall be applied uniformly throughout the preserve, shall enumerate those uses which are to be considered to be compatible uses, and may require the payment of a reasonable application fee. The same procedure that is required to

establish an agricultural preserve shall be used to disestablish or to enlarge or diminish the size of an agricultural preserve.

§ 12606[12506]. Alteration of boundaries: notice to owners. In the event any proposal to establish or to alter the boundary of an agricultural preserve will remove land under contract from such a preserve, notice of the proposed alteration or disestablishment and the date of the hearing shall be furnished by the board or council to the owner of the land by certified mail directed to him at his latest address known to the department. Such notice shall also be furnished by known to the department. Such notice shall also be furnished by first-class mail to each owner of land in that preserve which has a common boundary with the land to be removed from the preserve.

§ 12607[12507]. Submission of proposal to the Territorial Planning Commission: report. Any proposal to establish an agricultural preserve shall be submitted to the Territorial Planning. Within thirty (30) days after receiving such a proposal, the Territorial Planning Commission shall submit a report thereon to the department; provided, however, that the department may extend the time allowed for an additional period not to exceed thirty (30) days.

The report shall include a statement that the preserve is consistent, or inconsistent, with general plans, and the department shall make a finding to such effect. Final action upon the establishment of an agricultural preserve may not be taken by the department until the report required by this section is received from the Territorial Planning Commission, or until the required thirty (30) days have elapsed and any extension thereof granted by the department has elapsed.

§ 12608[12508]. Removal of land from preserve: notice. The effect of removal of land under contract from an agricultural preserve shall be the equivalent of notice of nonrenewal by the department and the department shall, at least sixty (60) days prior to the next renewal date following the removal, serve a notice of nonrenewal as provided by § 12617[12517]. Such notice of nonrenewal shall be recorded as provided in § 12620[12520].

§ 12609[12509]. Filing of map: keeping current. Whenever an agricultural preserve is established and so long as it shall be in effect, a map of such agricultural preserve shall be filed and kept current by the Department of Agriculture with the Department of Land Management.

§ 12610[12510]. Utility facilities as compatible use. Notwithstanding any determination of compatible uses by the department pursuant to this Chapter, unless the department after notice and hearing makes a finding to the contrary, the erection, construction, alteration, or maintenance of electric, water, or communication utility facilities are hereby determined to be compatible uses within any agricultural preserve. No land occupied by electric, water, or

communication utility facilities shall be excluded from an agricultural preserve by reason of such use.

ARTICLE III

Contracts

§ 12611[12511]. Authority of department to contract. The department may, by contract, limit the use of agricultural land for the purpose of preserving such land pursuant and subject to the conditions set forth in the contract and in this Chapter. A contract may provide for restrictions, terms, and conditions, including payments and fees, more restrictive than or in addition to those required in this Chapter.

§ 12612[12512]. Other owners of prime agricultural land to whom contract to be offered. If such a contract is made with any landowner, the department shall offer such a contract under similar terms to every other owner of agricultural land within the agricultural preserve in question.

However, except as required by other provisions of this Chapter, the provisions of this section shall not be construed as requiring that all contracts affecting land within a preserve be identical, so long as such differences as exists are related to differences in location and characteristics of the land, pursuant to uniform rules adopted by the department.

§ 12613[12513]. Land on which the department may contract. The department may not contract with respect to any land pursuant to this Chapter unless the land: (a) is devoted to agricultural use; (b) is located within an area designated as an agricultural preserve.

§ 12614[12514]. Contracts. Every such contract shall:

(a) Provide for the exclusion of uses other than agricultural and other than those compatible with agricultural use, for the duration of the contract.

(b) Be binding upon, and inure to the benefit of all successors in interest of the owner. Whenever land under a contract is divided, the owner of any parcel may exercise, independent of any other owner of a portion of the divided land, any of the rights of the owner of a portion of the divided land, and any of the rights of the owner in the original contract, including the right to give notice of nonrenewal and to petition for cancellation. The effect of any such action by the owner of a parcel created by the division of land under contract shall not apply to the owners of the remaining parcels and shall have no effect on the contract as it applies to the remaining parcels of the divided land.

§ 12615[12515]. Term of contract. Each contract shall be for an initial term of no less than ten (100 years. Each contract shall provide that on the anniversary date of the contract, or such other annual date as specified by the contract, a year shall be added automatically to the initial term unless notice of nonrenewal is given as provided in § 12617[12517].

§ 12616[12516]. Term of twenty (20) years or more. Notwithstanding the provisions of § 12515, if the initial term of the contract is for twenty (20) years or more the contract may provide that on the anniversary date of the contract or such other annual date as specified by the contract beginning with the anniversary date on which the contract will have an unexpired term of nine (9) years, a year shall be added automatically to the initial term unless notice of nonrenewal is given as provided by § 12617[12517].

§ 12617[12517]. Notice of nonrenewal. If either the landowner or the department desires in any year not to renew the contract, that party shall serve written notice of nonrenewal of the contract upon the other party in advance of the annual renewal date of the contract. Unless such written notice is served by the landowner at least ninety (90) days prior to the renewal date or by the department at least sixty (60) days prior to the renewal date, the contract shall be considered renewed as provided in § 12615[12515] or § 12616[12516].

Upon receipt by the owner of a notice from the department of nonrenewal, the owner may make a written protest of the notice of nonrenewal. The department may, at any time prior to the renewal date, withdraw the notice of nonrenewal. Upon request by the owner, the department may authorize the owner to serve a notice of nonrenewal on a portion of the land under a contract.

§ 12618[12518]. Termination of contract. If the department or the landowner serves notice of intent in any year not to renew the contract, the existing contract shall remain in effect for the balance of the period remaining since the original execution or the last renewal of the contract, as the case may be.

§ 12619[12519]. Information furnished by landowner. The landowner shall furnish the department with such information as it shall require in order to enable it to determine the eligibility of the land involved.

§ 12620[12520]. Recording of contract. No later than twenty (20) days after the department enters into a contract with a landowner pursuant to this Chapter, the department shall record with the Department of Land Management a copy of the contract, which shall describe the land subject thereto, together with a reference to the map showing the location of the agricultural preserve in which the property lies. From and after the time such recordation such contract shall

impart such notice thereof to all persons as is afforded by the recording laws of this territory.

§ 12621[12521]. Enforcement of contract. The territory or landowner may bring any action in court necessary to enforce any contract including but not limited to, an action to enforce the contract by specific performance or injunction.

ARTICLE IV

Cancellation

§ 12622[12522]. Purpose. It is hereby declared that the purpose of this Article is to provide relief from the provisions of contracts entered into pursuant to this Chapter only when the continued dedication of land under such contracts to agricultural use is neither necessary nor desirable for the purposes of this Chapter.

§ 12623[12523]. Request by landowner. A contract may not be canceled except pursuant to a request by the landowner, and as provided by this Article.

§ 12624[12524]. Conditions of approval. The landowner may petition the department for cancellation of any contract as to all or any part of the subject land. The department may approve the cancellation of a contract only if it finds:

(a) That the cancellation is not inconsistent with the purposes of this Chapter, and

(b) That cancellation is in the public interest.

The existence of an opportunity for another use of land involved shall not be sufficient reason for the cancellation of a contract. A potential alternative use of the land may be considered only if there is no proximate, noncontracted land suitable for the use to which it is proposed the contracted land be put.

The uneconomic character of an existing agricultural use shall likewise not be sufficient reason for cancellation of the contract. The uneconomic character of the existing use may be considered only if there is no other reasonable or comparable agricultural use to which the land may be put.

§ 12625[12525]. Assessment of land: determination of cancellation fee: payment of deferred taxes: waiver of payment: distribution of deferred taxes.

(a) Prior to any action of the department giving tentative approval to the cancellation of any contract, the assessor shall determine the full cash value of the land in accordance with § 19312, 19312.1 and 1931.2 of the Government Code as though it were free of the contractual restriction imposed pursuant to § 19312.4 of the Government Code. The assessor shall then determine the amount

of deferred taxes and certify same to the department as the cancellation valuation of the land for the purpose of determining the cancellation fee.

(b) Prior to giving tentative approval to the cancellation of any contract, the department shall determine and certify to the landowner the amount of the cancellation fee which he must pay the government of Guam, as deferred taxes upon cancellation. That fee shall be an amount equal to fifty percent (50%) of the cancellation valuation of the property.

(c) If it finds that it is in the public interest to do so the department may waive any such payment or any portion thereof, or may make such payment or a portion thereof contingent upon the future use made of the land and its economic return to the landowner for a period of time not to exceed the unexpired period of the contract, had it not been canceled, provided:

(1) The cancellation is caused by an involuntary transfer or change in the use which may be made of the land and the land is not immediately suitable, nor will be immediately used, for a purpose which produces a greater economic return to the owner;

(2) The department has determined it is in the best interests of the program to conserve agricultural land use that such payment be either deferred or not required.

(d) When deferred taxes required by this section are collected, they shall be transmitted by the territorial treasurer to the General Fund.

§ 12626[12526]. Recording of certificate of cancellation. Upon tentative approval of the cancellation petition, the Department of Agriculture shall record in the Department of Land Management a certificate which shall set forth the name of the owner of such land at the time the contract was canceled with the amount of the cancellation fee certified by the department as being due pursuant to this Article, the contingency of any waiver or deferment of payments, and a legal description of the property. From the date of recording of such certificate the contract shall be finally canceled and, to the extent the cancellation fee has not yet been paid, a lien shall be created and attached against the real property described therein and any other real property owned by the person named therein as the owner. Such lien shall have the force, effect and priority of a judgement lien. Nothing in this section or § 12625[12525] shall preclude the department from requiring payment in full of the cancellation fee prior to the cancellation becoming effective.

In no case shall the cancellation of a contract be final until the notice of cancellation is actually recorded as provided in this section. Notwithstanding any other provisions of law, any payments required by § 12625[12525] shall not create nor impose a lien or charge on the land as to which a contract is canceled except as herein provided.

Upon the payment of the cancellation fee or any portion thereof the Department of Agriculture shall record with the Department of Land Management a written certificate of the release in whole or in part of the lien.

§ 12627[12527]. Public hearing. No contract may be canceled until after the department has given notice of, and has held, a public hearing on the matter. Notice of the hearing shall be published in a newspaper of general circulation for ten (10) days prior to such hearing, and shall be mailed to each and every owner of land under contract, and any portion of which is situated within the same agricultural preserve and within on (1) mile of the exterior boundary of the land upon which the contract is proposed to be canceled.

§ 12628[12528]. Same: protest by other owners within the preserve. The owner of any property located in the agricultural preserve may protest such cancellation to the department conducting the hearing.

ARTICLE V

Eminent Domain or other Acquisition

§ 12629[12529]. Public improvements within preserve. (a) It is the policy of the territory to avoid, whenever practicable, the location of any territorial public improvements and any improvements of public utilities, and the acquisition of land therefor, in agricultural preserves.

(b) It is further the policy of the territory that whenever it is necessary to locate such improvement within an agricultural preserve, such improvement shall, whenever practicable, be located upon land other than land under a contract pursuant to this Chapter.

(c) It is further the policy of the territory that any agency or entity proposing to locate such an improvement shall, in considering the relative costs of parcels of land and development of improvements, given consideration to the value to the public of land, and particularly prime agricultural land within an agricultural preserve.

§ 12630[12530]. Voiding of contract by exercise of eminent domain. When any action in eminent domain for the condemnation of the fee title of an entire parcel of land subject to a contract is filed or when such land is acquired in lieu of eminent domain for a public improvement by a public agency or whenever there is any such action or acquisition by the Federal government or power of the Federal government, such contract shall be deemed null and void as to the land actually being condemned or acquired as of the date the action is filed and for the purposes of establishing the value of such land, the contract shall be deemed never to have existed.

Upon termination of such a proceeding, the contract shall be null and void for all land actually taken or acquired.

When such an action to condemn or acquire less than all of a parcel of

land subject to a contract is commenced, the contract shall be deemed null and void as to the land actually condemned or acquired and shall be disregarded in the valuation process only as to the land actually being taken unless the remaining land subject to contract will be adversely affected by the condemnation, in which case the value of that damage shall be computed without regard to the contract.

When such an action to condemn or acquire an interest which is less than the fee title of an entire parcel or any portion thereof, of land subject to a contract is commenced, the contract shall be deemed null and void as to such interest and for the purpose of establishing the value of such interest only shall be deemed never to have existed, unless the remaining interests in any of the land subject to the contract will be adversely affected, in which case the value of that damage shall be computed without regard to the contract.

The land actually taken shall be removed from the contract. Under no circumstances shall land be removed that is not actually taken, except that when only a portion of the land or less than a fee interest in the land is taken or acquired, the contract may be canceled with respect to the remaining portion or interest upon petition of either party and pursuant to the provisions of Article IV.

For the purposes of this section, a finding by the department that no authorized use may be made of the land if the contract is continued on the remaining portion or interest in the land may satisfy the requirements of Subdivisions (a) and (b) of § 12622[12522]. [Added by P.L. 12-225, effective February 4, 1975; Sections renumbered from § § 12500-12530 to § § 12600-12630 and Chapter VI changed to Chapter VII by the Editor.]

TITLE XXVII

Parks and Recreation

CHAPTER I

Parks and Recreation

- § 26000. Definitions
- § 26001. Department: Purpose
- § 26002. Same: Divisions
- § 26003. Director: Duties
- § 26004. Commission: Purposes
- § 26005. Same: Composition: Compensation: Meetings
- § 26006. Same: Duties
- § 26007. Guam Territorial Park System
- § 26008. Same: Description
- § 26009. Same: Classification
- § 26010. Community Parks and Recreation Facilities: Control
- § 26011. Parks Division: Duties
- § 26012. Parks Fund: Establishment: Management
- § 26013. Same: Revenues from Concessions and Uses
- § 26014. Same: Donations: Proviso
- § 26015. Voluntary Improvements
- § 26016. Damage to Property
- § 26017. Recreation Division: Powers and Duties
- § 26018. Community Recreation Programs
- § 26019. Compliance with Federal Programs

§ 26000. Definitions. As used in this Chapter, unless otherwise indicated by the context:

- (a) 'Department' means the Department of Parks and Recreation.
- (b) 'Director' means the Director of the Department of Parks and Recreation.
- (c) 'Commission' means the Parks and Recreation Commission.

§ 26001. Department: Purpose. The Department shall be responsible for the accomplishment of the provisions of this Chapter and Chapter XIII, Title XIV of this Code.

§ 26002. Same: Divisions. The Department is divided into three divisions, to be known as the Parks Division, the Recreation Division, and the

§ 26003. Director: Duties. The Director shall have the following duties:

(a) To establish rules and regulations to accomplish the purpose of the Department;

(b) To administer the Department through such organizational units which he may establish;

(c) To attend ex-officio all meetings of the Commission;

(d) To prescribe the duties of assistance, deputies, agents and other persons employed by the Department;

(e) To determine which properties constitute the Guam Territorial Park System and to classify such properties, pursuant to § 26007 and § 26009;

(f) To manage the Parks Fund pursuant to § 26012; and

(g) To be State Liaison Officer for the Bureau of Outdoor Recreation.

[Amended by P.L. 16-62 and further Amended by P.L. 20-151]

§ 26004. Commission: Purposes. The Commission is hereby established for the purpose of appointing, removing, and advising the Director.

§ 26005. Same: Composition: Compensation: Meetings. The Commission shall consist of seven (7) members, two (2) of whom shall be youth members in their first terms on the Board who are between the ages of eighteen (18) and twenty-two (22), when appointed, who shall be appointed by the Governor with the consent of the Legislature. The Governor shall appoint commission members within 30 days of the effective date of this section. Members shall serve for four (4) years, provided that of the members first appointed, three (3), including one (1) youth member, shall serve for two (2) years. Commission members shall serve without pay but shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties. Commission meetings shall be public.

§ 26006. Same: Duties. The Commission shall have the following duties:

(a) To appoint, within 15 days of the effective date of this section or within 15 days of the creation of a vacancy in such office, the Director, who shall serve at its pleasure, the affirmative vote of not less than four (4) members being necessary to appoint or remove him;

(b) To advise the Director on such matters relative to the Department as he shall bring before it, at meetings called by him;

(c) To meet at the request of any of its members to discuss such matters relative to the Department as it deems appropriate and to make recommendations to the Director thereon; and

(d) To make a report to the Governor and the Legislature not later than July 1 of each year delineating the activities of the Department during the preceding fiscal year, and outlining the plans of the Department for the coming

fiscal year.

§ 26007. Guam Territorial Park System. There is hereby created the Guam Territorial Park System. The Director of Parks and Recreation shall inventory all lands belonging to the government of Guam and determine which lands shall be included therein. A detailed list shall be forwarded to the Speaker of the Legislature and the Legislature, the Bureau of Planning, the Department of Agriculture, and the Department of Land Management. The Legislature shall, after public hearing and report by the appropriate standing committee, approve or disapprove those lands to be included within the Territorial Park System, as designated under §26009.1 within thirty (30) legislative days following receipt of such a list. Failure to so act shall be deemed consent by the Legislature. The list shall be added to or deleted from the aforementioned process as deemed necessary. [Amended by P.L. 16-62]

§ 26008. Same: Description. The Territorial Surveyor shall provide the Director with maps of record for all property within the Guam Territorial Park System not later than eighteen (18) months after request by the Director. The Department of Land Management shall similarly provide recorded document numbers for all such property.

§ 26009. Same: Classification. The Director shall classify, and may subsequently reclassify, each area of the Guam Territorial Park System according to (a) through (e) below, unless an area is listed in the Guam Register of Historic Places pursuant to § 13985.19(a) of this Code, in which case such area shall be classified according to (e) below:

(a) 'Natural Preserves', which are to remain unimproved;
(b) 'Conservation Reserves', which may be improved for the purpose of making them accessible to the public in a manner consistent with the perpetuation of their natural features as well as modification through sound forestry and wildlife practices that will enhance and protect the natural resources; [Amended by P.L. 16-62]

(c) 'Territorial Parks' or 'Community Parks', which may be improved for the purpose of providing public recreational facilities in a manner consistent with the preservation of their natural features;

(d) 'Territorial Recreational Facilities' or 'Community Recreation facilities', which may be improved for the purpose of providing public recreation facilities; and

(e) 'Historical and Pre-Historic Objects and Sites', which shall be administered according to Chapter XIII, Title XIV of this Code.

§ 26010. Community Parks and Recreation Facilities: Control. The control, management, development and maintenance of areas classified as 'Community Parks' and 'Community Recreation Facilities' shall be vested in the

Commissioner of the municipality or village in which such area is located.

§ 26011. Parks Division: Duties. The Parks Division shall have the following duties:

(a) To control, manage, develop and maintain all areas of the Guam Territorial Park System except as provided in § 26010; and

(b) To keep a listing of all areas of the Guam Territorial Park System according to classification, with current, accurate descriptions thereof as determined by the Director in accordance with § 26007.

§ 26012. Parks Fund: Establishment: Management. There is hereby established separate and apart from any other government fund a Parks Fund. Monies therein shall be only as appropriated by the Legislature for the development or improvement of the Guam Territorial Park System. The Fund shall be managed by the Director, who may invest any of the monies there in such bank deposits, bonds or securities authorized by Chapter III, Title V of this Code, provided, that such monies shall be invested so as to be available for use within thirty (30) days of the effective date of any legislative appropriation made thereof. The Department certifying officer shall be the certifying officer for the Fund.

§ 26013. Same: Revenues from Concessions and Uses. The Director may grant permits to individuals or groups to establish concessions or otherwise use any part of the Guam Territorial Park System, the fees for which shall be deposited in the Parks Fund; provided, that any person or group granted such a permit must give bond in such amount as, in the opinion of the Director, is necessary to insure that any damage to the System caused by such person or group, including littering, can be rectified.

§ 26014. Same: Donations: Provide. Money or the proceeds of any property donated, granted or bequeathed generally for the benefit of the Guam Territorial Park System shall be deposited into the Parks Fund; provided, however, that money or property donated, granted or bequeathed for specific purposes, concerning the System or any part thereof shall be held in trust by the Director, and may be used for such purposes only upon authorization by the Legislature.

§ 26015. Voluntary Improvements. The Director may grant permits to any individuals or group to improve, without expense to the government, any part of the Guam Territorial Park System.

§ 26016. Damage to Property. Any person who injures or damages any property within the Guam Territorial Park System, or who removes, destroys, or defaces any tree, shrub, plant, or other attraction of any nature on or in such property is guilty of a misdemeanor, punishable by a fine not to exceed Five

Hundred Dollars (\$500.00) per violation.

§ 26017. Recreation Division: Powers and Duties. The Recreation Division shall be responsible for:

(a) Initiating, promoting and supervising recreational programs on areas within the Guam Territorial Park System, except as provided in § 26018, and, with the consent of the Department of Education, initiating, promoting and supervising recreational programs on properties under the control of the Department of Education;

(b) Providing equipment necessary to accomplish (a) above;

(c) Formulating a comprehensive recreation policy and a long range plan relative to the development of new recreation facilities and programs within the territory; such policy and plan to be developed in cooperation with other federal and territorial agencies, interested organizations and citizens, and to be submitted to the Legislature within on (1) year of the effective date of this section; and

(d) Performing such other duties and functions pertaining to the promotion of public recreation as may from time to time be prescribed by the Director.

§ 26018. Community Recreation Programs. The initiation, promotion, and supervision of recreation programs in Community parks and Recreation Facilities, and the supplying of equipment therefor, is the responsibility of the Commissioners of the municipality or village in which such Park or Recreation Facility is located.

§ 26019. Compliance with Federal Programs. The Department may serve as the agency for compliance with the terms of any Federal program, as determined by the Governor, which concerns the implementation or development of plans for the conservation or utilization of water and related land resources. [Chapter I of Title XXVII added in 1952; Repealed and reenacted by P.L. 12-209, effective January 23, 1975.]

Public Law 14-12
Fourteenth Guam Legislature
(Bill 28)

AN ACT

An Act to amend Section 26007 and to add a new Section 26009.1 all of Chapter V of Title XXVII (Public Law 12-209) of the Government Code relative to the listing of Parks and Recreation areas of the Guam Territorial Park System.

Be it enacted by the People of the Territory of Guam:

Section 1. Section 26007 (Public Law 12-209) of the Government Code is hereby amended to read as follows:

"Section 26007. Guam Territorial Park System. There is hereby created the Guam Territorial Park System. The Director of Parks and Recreation shall inventory all properties belonging to the government of Guam and determine which properties shall be included therein. A detailed list shall be forwarded to the Speaker of the Legislature and the Legislature shall, after public hearing and report by the appropriate standing committee, approve or disapprove those properties to be included within the Territorial Park System, as designated under Section 26009.1, within thirty (30) legislative days following receipt of such a list and failure to so act shall be deemed consent by the Legislature. The list shall be added to or deleted as deemed necessary."

Section 2. A new Section 26009.1 is hereby added to the Government Code to read as follows:

"Section 26009.1. Reserved properties. Pursuant to Sections 26007 and 26009 of this Chapter, the below described properties are reserved for public parks according to their respective classifications in numerical order:

- (a) Natural Preserves;
- (b) Conservation Reserves;
- (c) Territorial Parks or Community Parks;
- (d) Territorial Recreation Facilities
or Community Recreation
Facilities; and
- (e) Historical and Pre-Historic Objects and Sites."

Section 3. This is an urgency measure.

Approved April 5, 1977.

CHAPTER XIII

Historical Objects and Sites

Part I

- § 13985. Purpose
- § 13985.1. Definitions
- § 13985.2. Historic preservation and restoration
- § 13985.3. Administration
- § 13985.4. Acquisitions and gifts
- § 13985.5. Condemnation
- § 13985.6. Interest acquired
- § 13985.7. Operation of parties
- § 13985.8. Conveyance of properties
- § 13985.9. Contracts
- § 13985.10. Entry upon private land
- § 13985.11. Excavation and removal of prehistoric and historic remains or objects on private lands
- § 13985.12. Court actions
- § 13985.13. Guam Museum as a depository for certain specimens and objects
- § 13985.14. Designation of historic sites

§ 13985. Purpose. Whereas the Legislature has determined that the historic, archaeological, architectural, and cultural heritage of Guam is among her most important environmental assets and furthermore that the rapid social and economic development of contemporary society threatens to destroy the remaining vestiges of this Spanish-Chamorro heritage, it is declared to be the public policy and in the public interest of this territory to engage in a comprehensive program of historic preservation, undertaken at all levels of the government of this territory, and to promote the use and conservation of such property for education, inspiration, pleasure, and enrichment of the residents of this territory.

§ 13985.1. Definitions. When used in this Chapter 'department' means the 'Department of Parks and Recreation'.

(1) 'Historic preservation' means the research, protection, restoration, and rehabilitation of sites, buildings, structures, and objects significant in the history, architecture, archaeology, or culture of Guam.

(2) 'Historic property' means any building, structure, object, area, or site that is significant in the history, architecture, archaeology, or culture of Guam or the nation. [Amended by P.L. 12-209, effective January 23, 1975.]

§ 13985.2. The Department in cooperation with the Territorial Planning Commission and the Territorial Seashore Protection Commission shall establish a comprehensive program for historic preservation, restoration, and presentation, which shall include but not be limited to the following:

(1) Plans to acquire, restore, and preserve historic areas, buildings, and site significant to Guam's past;

(2) Establish and maintain the Guam Register of Historic Places;

(3) Establish regulations on the uses of such areas;

(4) Develop a territory wide survey of historic areas, buildings, and sites with a phased preservation and restoration development plan and accompanying budget and land use recommendations;

(5) Provide for matching grants-in-aid to private agencies for projects which will fulfill the purposes of this Chapter;

(6) Seek assistance for the territorial historic preservation and restoration program by applying for technical assistance and funds from the federal government and private agencies and foundations for the purposes of this Chapter;

(7) Employ sufficient professional and technical staff for the purposes of this Chapter;

(8) Advise and cooperate with other public and private agencies engaged in similar work;

(9) Submit an annual report and budget to the Governor and the Legislature by February 1st of each year, with recommendations for programs of historic preservation and restoration.

[Amended by P.L. 20-151].

§ 13985.3. Administration. All territorial projects and programs relating to historic preservation and restoration shall come under the authority of the Department.

§ 13985.4. Acquisition and gifts. For the purpose of protecting or preserving any historic property, the Department may acquire, preserve, restore, hold, maintain, operate, or dispose of such properties, together with such adjacent or associated lands as may be necessary for their protection, preservation, maintenance, or operation. Such property may be real or personal in nature, and in the case of real property, the acquisition may include the fee or any lesser interest therein. Property may be acquired by gift, grant, bequest, devise, lease, purchase, condemnation, or otherwise. Property may be acquired by the Department, using such funds as may be appropriated for such purpose.

The Department may receive gifts and grants from public and private sources to be used for the purposes of this Chapter.

§ 13985.5. Condemnation. In the event that a property which has been found by the Department to be important for public ownership or assistance is in danger of being sold, used, or neglected to such an extent that its historical or

cultural importance will be destroyed or seriously impaired, or that the property is otherwise in danger of destruction or serious impairment, the Department in cooperation with the Department of Land Management may acquire the historical property or any interest therein by condemnation under the laws of this territory. All condemnation proceedings shall be instituted and prosecuted in the name of the territory.

§ 13985.6. Interest acquired. In the case of real property, the interested acquired shall be limited to that estate, agency, interest, or term deemed by the Department to be reasonably necessary for the continued protection or preservation of the property. The Department may acquire the fee simple title, but where it finds that a lesser interest, including any development right, negative or affirmative easement in gross, or appurtenant covenant, lease, or other contractual right of or to any real property, to be the most practical and economical method of protecting and preserving historical property, the lesser interest may be acquired.

§ 13985.7. Operation of properties. Any historic property acquired, whether in fee or otherwise, may be used, maintained, improved, restored, or operated by the Department for any public purpose within its powers and not inconsistent with the purpose of the continued preservation of the property. Such historic property shall not be subject to condemnation unless such method of acquisition is first approved by the Governor.

§ 13985.8. Conveyance of properties. In appropriate cases, the Department of Land Management with the concurrence of the Department may acquire or dispose of the fee or lesser interest to any historic property, including adjacent and associated lands, for the specific purpose of conveying or leasing the property back to its original owner or to any such other person, firm, association, corporation, or other organization under such covenants, deed restrictions, lease, or other contractual arrangements as will limit the future use of the property in such a way as to insure its preservation. In all cases where property is conveyed, it shall be subjected by covenant or otherwise to such rights of access, public visitation, and other conditions or restrictions of operation, maintenance, restoration, and repair as the Department may prescribe, or to such conditions as may be agreed upon between the Department and the grantee or lessee to accomplish the purposes of this section.

§ 13985.9. Contracts. The Department may enter into and carry out contracts with the Federal government or any agency thereof under which the Federal government or agency grants financial or other assistance to the Department to further the purposes of this Chapter. The Department may agree to and comply with any reasonable conditions not inconsistent with territorial law which are imposed on such grants. Such grant funds or other assistance may be

accepted from the Federal government or agency and expended whether or not pursuant to a contract. The Department may further enter into and carry out contracts with any private party to further the purpose of this Chapter.

§ 13985.10. Entry upon private land. The Department is authorized to enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof; provided that no member, employee or agent of the Department may enter any private building or structure without the express consent of the owner or occupant thereof.

§ 13985.11. Excavation and removal of prehistoric and historic remains or objects on private lands.

(a) Before any prehistoric remains or objects are excavated or removed from private lands by the Department, the Department or its designated representatives may, for the purpose of examining the remains or objects, enter upon the land and make investigations. The entry shall not constitute a cause of action in favor of the owner of the land, except for damages resulting from willful acts or negligence on the part of the Department or its designated representatives.

(b) Removal of any prehistoric or historic remains or objects from private lands shall be made in the presence of the owner as witness. Whenever any prehistoric or historic remains or objects are excavated or removed from private lands by the Department or its designated representatives, the owner of such lands shall be compensated for the loss of such remains or objects at a sum mutually agreed upon by the Department and the owner, or if no agreement is reached, the amount of compensation shall be determined by trial in the Superior Court and measured by the fair market value of such remains, assessed as of the date of its removal by the Department or its designated representatives, and established by the testimony of experts qualified in the appraisal of such remains or objects.

§ 13985.12. Court actions. Where any violation of this Chapter occurs, or is likely to occur, which will result in unauthorized or improper demolition, alteration, or transfer of historic property, the Attorney General, any agency of the territory, any person, partnership, corporation, association, organization, or other legal entity may maintain an action in the Superior Court for declaratory and equitable relief against the territory, any person, partnership, corporation, association, organization, or other legal entity for the protection of a historic property and the public trust therein. Any party who prevails in an action brought under the provisions of this section shall be awarded his costs, including reasonable attorney fees.

§ 13985.13. Guam Museum as a depository for certain specimens and objects. Any specimen and object of natural history and of botanical, ethnological, or archaeological value or interest, and any book, treaties, or

pamphlet relating to natural history, botany, ethnology, or archaeology now in the possession of the University of Guam, or any territorial department, bureau, or board, or which may hereafter come into the possession of the university or the department, bureau, or board, if and when the same is no longer needed for scientific investigation, for study, or for any other purpose by the university or the department, bureau, or board may, at the request of the museum be transferred and delivered by and with the consent of such department, bureau, or board having possession of to the museum or exchanged with the museum, and whereupon, in any such case, the title thereto shall become vested in the museum, provided, that the specimens and objects so transferred to the museum are made available at all reasonable times by the museum for study and examination by the officials of the university or such department, bureau, or board.

§ 13985.14. Designation of historic sites. The Department shall designate particular places as places of historic interest, and take such action, including the erection of signs or markers, as may be appropriate for public recognition and appreciation of such sites.

PART II

Conservation of Archaeological Resources

- § 13985.15. Declaration of legislative intent
- § 13985.16. Definitions
- § 13985.17. Archaeological resources on government land
- § 13985.18. Archaeological investigation, recording, and salvage; appropriations
- § 13985.19. Prehistoric and historic sites and remains
- § 13985.20. Permits to examine ruins, excavate, and gather objects on public lands
- § 13985.21. Monuments: reservation of land; relinquishment of private claims
- § 13985.22. Excavation and removal of prehistoric and historic remains on private lands
- § 13985.23. Cooperation of other governmental units
- § 13985.24. Field investigations on private lands
- § 13985.25. Penalties
- § 13985.26. Prehistoric or historic objects; public property
- § 13985.27. Reproductions of prehistorical or historical objects; representation as originals; penalties
- § 13985.28. Removal and trespass

§ 13985.15. Declaration of legislative intent. The Legislature declares that the public has an interest in the preservation and protection of the territory's archaeological resources; that the public has a right to the knowledge to be

derived and gained from a scientific study of these resources, and that therefore it is the purpose of this part to provide that activities for the preservation, excavation, study, and exhibition of the territory's archaeological resources to be undertaken in a coordinated and organized manner for the general welfare of the public as a whole.

§ 13985.16. Definitions. As used in this part:

(1) 'Field investigation' means the study of the traces of human culture at any land or water site by means of surveying, digging, sampling, excavating, or removing surface or subsurface objects, or going on a site with that intent.

(2) 'Site' means any aboriginal mound, homesite, earthwork, village location, burial ground, historic or prehistoric ruin, quarry, cave, or other location which is or may be the source of important archaeological data.

(3) 'Specimens' mean all relics, artifacts, remains, objects, or any other evidence of a historical, prehistorical, archaeological, or anthropological nature, which may be found on or below the surface of the earth, and which have scientific or historic value as objects of antiquity, as aboriginal relics or as archaeological samples.

§ 13985.17. Archaeological resources on government land. The territory reserves to itself the exclusive right and privilege of field departments, or institutions in order to protect and preserve archaeological and scientific information and objects. All new information and objects deriving from government lands shall remain the property of the territory and be utilized for scientific or public educational purposes.

§ 13985.18. Archaeological investigation, recording, and salvage; appropriations. Whenever any public construction or improvement of any nature whatsoever is undertaken by any government agency on lands which are controlled or owned by the territory and which are sites of historic or prehistoric interest and value, or locations of prehistoric or historic remains, one per cent of the appropriation for such public construction or improvements, or so much thereof as may be necessary, shall be expended by the department for the archaeological investigation, recording, and salvage of such sites or remains when it is deemed necessary by the department.

§ 13985.19. Prehistoric and historic sites and remains.

(a) The Department shall locate, identify, and preserve in the Guam Register of Historic Places information regarding prehistoric and historic sites, locations, and remains. The Department of Land Management shall clearly designate on its records and cadastral maps of the territory, the location of all prehistoric and historic sites, or locations and remains.

(b) Before any public construction or improvement of any nature whatsoever is undertaken by the territory, or any governmental agency or officer, the head of

such agency or such officer shall first examine the Department's records and cadastral map of the area to be affected by such public construction or improvement to determine whether any site listed upon the Guam Register of Historic Places is present. If so designated, the proposed public construction or improvement shall not be commenced, or, in the event it has already begun, continued, until the head of such agency or such other officer shall have advised the Department of the proposed public construction or improvement and shall have secured the concurrence of the Department or, as hereafter provided, shall have secured the written approval of the Governor.

If the concurrence of the Department is not obtained within ninety days after the filing of a request therefor with the Department or after the filing of a notice of objections by the Department with the agency or officer seeking to proceed with any project, such agency or officer may apply to the Governor for permission to proceed notwithstanding the nonconcurrence of the Department and the Governor may take such action as he deems best in overruling or sustaining the Department.

(c) Before any construction, alteration, or improvement of any nature whatsoever is undertaken or commenced on a designated private prehistoric or historic site listed on the Guam Register of Historic Places by any person, he shall give to the Department three (3) months notice of intention to construct, alter, or improve the site.

After the expiration of the three-month notification period, the Department shall either commence condemnation proceedings for the purchase of the site or remains, permit the owner to proceed with his construction, alteration, or improvement, or undertake or permit the recording and salvaging of any historical information deemed necessary to preserve Spanish-Chamorro history, by any qualified agency for this purpose.

Any person who violates the provisions of the first paragraph of this subsection shall be fined not more than One Thousand Dollars (\$1,000) or imprisoned not more than ninety (90) days or both.

(d) Inclusion of any historic site structure, building or object on the Guam Register of Historic Places shall be by the majority affirmative vote of the Guam Historic Preservation Review Board. [Amended by P.L. 20-151]

§ 13985.20. Permits to examine ruins, excavate, and gather objects on public lands. Permits for the examination of ruins, excavation of archaeological sites, and the gathering of objects of antiquity upon lands owned or controlled by the territory may be granted by the Department to persons or institutions which they deem properly qualified to conduct such examination, excavation, or gathering, subject to such rules and regulations as the Department may prescribe; provided, that the examinations, excavations, and gatherings are undertaken for the benefit of public museums, universities, colleges, or other recognized public scientific or educational institutions, with a view to increasing the knowledge of such objects and that the gatherings may be made for permanent preservation in public

museums if so deemed by the Department.

§ 13985.21. Territorial Monuments. Upon the recommendation of the Historic Preservation Review Board, the Governor may declare by executive order historic landmarks, structures or objects located on lands owned or controlled by the government to be territorial monuments. [Amended by P.L. 20-151]

§ 13985.22. Excavation and removal of prehistoric and historic remains on private lands. Before any prehistoric or historic remains are excavated or removed from private lands by the Department, the department or its designated investigators shall first secure the written approval of the owner of such lands. Whenever the value of the private prehistoric or historic remains by the Department, the owner of the site, shall be compensated for the loss, at a monetary sum mutually agreed upon by the Department and the owner or at a monetary sum set by the court.

§ 13985.23. Cooperation of other governmental units. All agencies, departments, institutions, and commissions, shall cooperate fully with the Department in the preservation, protection, excavation, and evaluation of specimens and sites and to that end:

(1) When any agency finds or is made aware by an appropriate historical or archaeological authority that its operation in connection with any territory, territory assisted, territory licensed, or contracted project, activity, or program adversely affects or may adversely affect scientific, historical, or archaeological data, such agency shall notify the Department and shall provide the Department with appropriate information concerning the project, program, or activity. The provisions of this section shall be made known to contractors by the territorial agencies doing the contracting. [Amended by P.L. 20-151, Repealed subsection (2) and (3) of §13985.23.]

§ 13985.24. Field investigations on privately owned lands. It is the declared intention of the Legislature that field investigations on privately owned lands should be discouraged except in accordance with both the provisions and spirit of this Chapter; and persons having knowledge of the location of archaeological sites are encouraged to communicate such information to the Department.

§ 13985.25. Vandalism and unlawful taking of historic properties and sites. It shall be unlawful for any person to take, appropriate, evacuate, injure, or destroy any prehistoric or historic ruin or monument or object of antiquity situated on lands owned or controlled by the territory without the permission of the Department. Any person, firm or contractor who violates this section shall be fined not more than Five Thousand Dollars (\$5,000) or imprisoned not more than sixty (60) days, or both.

Any prehistorical and historical objects and remains which have been taken

without a permit shall be seized, deposited, and preserved in public museums by the Department. [Amended by P.L. 20-151]

§ 13985.26. Prehistoric or historic objects; public property. The Department shall, subject to the provisions of this Chapter, determine the disposition of such prehistoric or historic remains or objects wheresoever located within the territory which are the property of the territory. Any person who disturbs remains or objects of the prehistoric or historic significance or removes such remains or objects from its site with the intent to convert the object to his own use or for the use of others shall be fined not more than One Thousand Dollars (\$1,000) or imprisoned not more than ninety (90) days, or both.

When a private landowner or lessee in the territory discovers remains or objects which may be of historic significance on his property, he shall report the location of such remains or objects, without disturbing the remains or objects, to the Department. Such private landowner shall be compensated, in accordance with § 13985.11 for any prehistoric or historic remains or objects excavated or removed from his lands by the Department.

§ 13985.27. Reproduction of prehistorical or historical objects; representation as originals; penalties. It shall be unlawful to reproduce or forge a prehistorical or historical object with the intent to represent it as an original. Any person who violates this section shall be fined not more than One Thousand Dollars (\$1,000) or imprisoned not more than ninety (90) days, or both.

§ 13985.28. Removal and trespass. It shall be deemed an act of trespass for any person, natural or corporate, to remove artifacts and antiquities of the kind described herein from the private land of any owner thereof without his permission being first obtained, and any person so doing shall be guilty of a misdemeanor punishable by a fine not exceeding Five Hundred Dollars (\$500) or by imprisonment for a period not to exceed six (6) months, or both.

Part III

Protection and Recovery of Underwater Historic Property and Sites

- § 13985.29. Declaration of legislative intent
- § 13985.30. Definitions
- § 13985.31. Title to underwater historic property
- § 13985.32. Custody of underwater historic property
- § 13985.33. Salvage research
- § 13985.34. Permits
- § 13985.35. Penalties

§ 13985.29. Declaration of legislative intent. The Legislature declares that the public has an interest in the protection and salvage of underwater historic properties situated under the navigable waters and territorial seas of the territory; that the public has a right to the knowledge to be derived and gained from a scientific study of these materials; and that therefore it is the purpose of this part to provide that activities for the protection, recovery, study and exhibition of underwater historic properties be undertaken in a coordinated and organized manner for the general welfare of the public as a whole.

§ 13985.30. Definitions. As used in this part, 'underwater historic property' means any shipwreck, vessel, cargo, tackle, or underwater archaeological specimen, including any found at refuse sites or submerged sites of former habitation, that has remained unclaimed for more than ten (10) years on the bottoms of any waters.

§ 13985.31. Title to underwater historic property. Subject to any statute of the United States and any vested riparian rights, the title to all bottoms of navigable water within Guam's boundaries and the title to any underwater historic property lying on or under such bottoms is declared to be in the territory, and such bottoms and underwater historic properties shall be subject to the exclusive dominion and control of the territory.

§ 13985.32. Custody on underwater historic property. The custodian of underwater historic properties as defined in § 13985.29 and § 13985.30 shall be the Department which shall administer the preservation and protection of these properties as hereinafter directed by this part. The Department is empowered to prescribe such rules and regulations as may be necessary to preserve, protect, and recover any or all underwater historic properties.

§ 13985.33. Salvage research. The Department shall establish a center responsible for salvage research in areas designated by the Department as endangered by the lease, sale, or use of public or private lands.

§ 13985.34. Permits. Any qualified persons, firm, or corporation desiring to conduct any type of exploration or recovery operations, in the course of which any underwater historic property or part thereof may be removed, displaced, or destroyed, shall first make application to the Department for a permit to conduct such operations. If the Department finds that the granting of such permit is in the best interest of the territory, it may grant such applicant a permit for such a period of time and under such conditions as the Department deems to be in the interest of the territory. Such permit may provide for the fair compensation to the permittee in terms of a percentage of the reasonable cash value of the objects recovered or a fair share of the objects recovered or a fair share of the objects recovered, such fair compensation or share to be determined by the Department.

Superior title to all objects recovered shall be retained by the territory unless or until they are released to the permittee by the Department. All exploration and recovery operations undertaken pursuant to a permit exploration and recovery operations undertaken pursuant to a permit issued under this section shall be carried out under the general supervision of the Department and in accordance with the rules and regulations prescribed under § 13985.32 and in such manner that the maximum amount of historic, scientific, archaeological, and educational information may be recovered and preserved in addition to the physical recovery of items. Permits may be renewed upon or prior to expiration upon such terms as the Department may specify. Holders of permits shall be responsible for obtaining permission of any federal agencies having jurisdiction prior to conducting any salvaging operations.

§ 13985.35. Penalties. Any person violating the provisions of this part or any rules and regulations duly established thereunder shall be guilty of a misdemeanor punishable by a fine not exceeding Five Hundred Dollars (\$500) or by imprisonment for a period not exceed six (6) months, or both, and, in addition, shall forfeit to the territory any artifacts or objects collected.

Part IV

Guam Institute of Spanish-Chamorro Culture

- § 13985.36. Statement of purpose
- § 13985.37. Establishment of Guam Institute of Spanish-Chamorro Culture: board of trustees
- § 13985.38. Powers and duties
- § 13985.39. Development of support programs
- § 13985.40. Annual report

§ 13985.36. Statement of purpose. The purpose of this part is to create a nonprofit corporation for historic and cultural preservation, research, restoration, presentation, museum activities, and support programs; and in cooperation with and in assistance to the Department and other territorial agencies to receive sites, buildings, and objects significant in Guam's history and culture, to preserve and administer them for public benefits; to accept, hold and administer gifts, securities, grants, scholarships, endowments, private bequests, or other property of whatsoever character for a comprehensive historic and cultural preservation and museum's program.

This corporation shall be the depository of all resources which are made available or offered of desirable land, historical collections, and donations made

by groups and persons as gifts to the territory to help insure the Spanish-Chamorro heritage.

§ 13985.37. Establishment of the Guam Institute of Spanish-Chamorro Culture; board of trustees. There is created an educational, nonprofit corporation to be known as the Guam Institute of Spanish-Chamorro Culture which shall be headed by a board of trustees.

The board shall consist of eleven (11) members of which the following shall serve as ex-officio voting members of the board:

- (1) President of the University of Guam,
- (2) Director of the Micronesia Area Research Center,
- (3) Director of the Central Planning Commission,
- (4) Director of Parks and Recreation,
- (5) Attorney General.

The remaining members shall be chosen by the members of the Institute from its membership at any regular meeting of the Institute except that the initial members of the board shall be appointed by the Governor. Each member of the board other than ex-officio members shall serve for a term of five (5) years from the expiration of his predecessor's term, except that the members first appointed shall serve for terms of from one (1) to five (5) years as designated by the Governor at the time of appointment.

A vacancy in the board shall be filled for the balance of the unexpired term as prescribed in the rules and regulations of the Institute. The chairman of the board shall be elected by majority vote of the members of the board. No compensation shall be paid to members of the board of trustees for their services as such members, but they may be reimbursed for travel and actual and reasonable expenses necessarily incurred by them in attending board meetings and performing other official duties on behalf of the Institute at the direction of the board.

Membership shall be open to any resident of Guam upon payment of such reasonable fees as the board of trustees may prescribe. [Amended by P.L. 12-209, effective January 23, 1975.]

§ 13985.38. Powers and duties. The Guam Institute of Spanish-Chamorro Culture shall have the following powers and duties:

- (1) To have succession until dissolved by act of the Legislature, in which event title to the properties of the Institute, both real and personal, shall, insofar as consistent with consistent with the existing contractual obligations and subject to all other legally enforceable claims or demands by or against the Institute, pass to and become vested in the territory;
- (2) To sue or be sued in its corporate name;
- (3) To adopt, alter, and use a corporate seal;
- (4) To adopt a constitution and to make such by laws, rules, and regulations, not inconsistent with the laws of the territory, as it deems necessary for the

administration of its functions, bylaws, rules, and regulations governing visitation to historic properties, museums, and other facilities under its control, administration of corporate funds, and the organization and procedure of the board of trustees;

(5) To select and employ a director to serve on a full-time basis who shall be a native-born resident who by reason of education or extensive experience is generally recognized as being professionally qualified in the field of Spanish-Chamorro culture, who shall receive a salary of Twenty-Five Thousand Dollars (\$25,000) per year. The director shall execute the powers and duties of the Institute under the direction of the board of trustees and shall select necessary, additional staff subject to Title V of the Government Code, within available appropriations;

(6) To administer and direct the operations of the Guam Museum. The Institute director shall serve as the museum director and shall hire necessary additional staff subject to Title V of the Government Code. The Institute shall submit in its first annual report recommendations as to the responsibility and role which the museum should assume with respect to the preservation and furtherance of the historic, archaeological, architectural, and cultural heritage of Guam and as to organization and administrative arrangements which should be provided for by law or otherwise;

(7) To accept, hold, and administer funds and properties from private or governmental agencies for the purposes for which the Institute is created and in accordance with such conditions as the transferring agency or the Legislature may prescribe;

(8) To accept, hold, and administer gifts and bequests of money, securities, or other personal property of whatever character, in trust, for the purposes for which the Institute is created. Unless otherwise restricted by the terms of the bequest or gift, the Institute is authorized to sell, exchange, or otherwise dispose of, and to invest or reinvest in such investments as it may determine from time to time the moneys, securities, or other property given or bequeathed to it. The principal of such corporate funds, together with the income therefrom and all other revenues received by it from any source whatsoever, shall be placed in such depositories as the Institute shall determine and shall be subject to expenditure by the Institute for its corporate purposes;

(9) To acquire by gift, devise, purchase, and to hold in trust real property for the territory and for the people of Guam unless otherwise restricted by the terms of the gift or devise, to encumber, convey, or otherwise dispose of any real property, or any estate or interest therein with the exception that no designated historic site or monument may be encumbered, conveyed, or disposed of without legislative approval, as may be necessary and proper in carrying into effect the purposes of the Institute;

(10) To conduct research, studies, and investigations in the fields of history and the humanities, and to make, publish, and distribute the results thereof;

(11) To coordinate and correlate activities and projects of the Institute with the work of the University of Guam, the Department, and other territorial agencies to further the purposes of this Chapter;

(12) To stimulate, guide and promote the Spanish-Chamorro culture which includes the arts, music, festivities, customs, traditions and mores of the Spanish-Chamorro heritage;

(13) To assist in coordinating the plans, programs and activities of individuals, associations, corporations, and agencies concerned with the preservation and furtherance of Spanish-Chamorro culture;

(14) To review the work of the Department and to collaborate with it on its functions under this Chapter, pertaining to historical objects and sites, and to review such surveys and historic preservation plans as may be required, and to approve properties for nomination to the National Register as provided for in the Historic Preservation Act of 1966, Public Law 89-665.

(15) To establish within the Institute, a review board for the Guam Register of Historic Places, which meets the requirements of Public Law 89-665, to evaluate and nominate historical properties to the National Register of Historic Places pursuant to Public Law 89-665, and to order and enter historical and archaeological sites into the Guam Register of Historic Places on the basis of their value to Guam's heritage. The review board shall be appointed by the board of trustees of the Institute and no more than two (2) members of the board of trustees shall be appointed to the review board. Trustee-members of the review board may be reimbursed at the same rate as other members of the review board for official duties performed while serving on the review board. Until such time as the review board is established in accordance with this subsection, the Guam Review Board for Historic Preservation which was created by Executive Order 72-37 shall discharge the responsibilities of this subsection;

(16) To enter into contracts and execute all instruments necessary and appropriate to carry out the purposes of the foundation;

(17) To approve all designations of particular places as place of historical interest;

(18) To establish and maintain an inventory, and certification and evaluation system for portable artifacts significant to Guam's cultural heritage; and

(19) To maintain a living war memorial commemorating the sacrifices of our heroic dead of World War II.

§ 13985.39. Development of support programs. The Institute shall develop a continuing comprehensive museum and museums activities support program in furtherance of its responsibility under § 13985.37 which shall include, but not be limited to:

(1) Providing matching grants-in-aid to governmental or private agencies for projects which fulfill the purposes of this part;

(2) Providing technical assistance and staff development and training opportunities; and

(3) Assisting in the training of competent museum personnel and in the development of employment and career opportunities in museum and related fields.

§ 13985.40. Annual report. The Institute shall submit an annual report to the Governor and the Legislature. The report shall include, but not be limited to, the total number and amount of gifts received, payroll disbursements, contracts entered into, progress and accomplishments made during the year, and recommendations for legislative and administrative action for the preservation and furtherance of the goals and purpose of this Act.

Part V

Preservation Procedures to Guide Territorial Agencies

§ 13985.41. Declaration of legislative intent.

§ 13985.42. Responsibilities of territorial agencies

§ 13985.41. Declaration of legislative intent. The Legislature declares it to be the public policy of this territory to provide leadership in preserving, restoring, and maintaining the historic, architectural, archaeological, and cultural environment of this territory and that therefore it is the purpose of this part to provide that the instrumentalities of the territory administer the historic properties under their control in a spirit of stewardship and trusteeship for future generation and conduct their activities, plans, and programs in a manner consistent with preservation and enhancement of historic properties and sites.

§ 13985.42. Responsibilities of territorial agencies. All agencies, departments, bureaus, and commissions of the territory, shall:

(1) Consult the Guam Historic Preservation Officer before demolishing, altering, or transferring any property under their jurisdiction that is potentially of historical, architectural, archaeological or cultural significance, including, but not limited to, any property listed on the territorial register. [Amended by P.L. 20-151]

(2) Initiate measures and procedures to provide for the maintenance, through preservation, rehabilitation, or restoration, of properties under their ownership that are listed on the territorial or national register; such measures and procedures shall comply with applicable standards prescribed by the Department.

(3) Develop plans for the maintenance, through preservation, rehabilitation, or restoration, of historic properties under their ownership in a manner compatible with preservation objectives and which do not result in an unreasonable economic burden to public interest.

(4) Institute procedures to assure that their plans, programs codes and regulations contribute to the preservation and enhancement of sites, structures, and objects of historical, architectural, archaeological, or cultural significance

(5) Submit annually procedures required pursuant to Paragraphs (2), (3) and (4) to the Department and the Institute for review and comment.

(6) Determine whether their existence is no longer necessary in view of the Institute's responsibilities and if so, to report same to the Institute.

§ 13985.43. Treatment of human remains Human remains shall receive respect and consideration when discovered. Disturbance of burials shall be avoided when possible, but when necessary shall be at the expense of the developers, using procedures and standards acceptable to the Guam Historic Preservation Officer. Anthropological review of human remains shall be at a minimal level and only for the time authorized by the Guam Historic Preservation Officer prior to reburial. [Amended by P.L. 20-151 to include § 13985.43]

CHAPTER IV
Game and Fish, Forestry, and Conservation

ARTICLE I
Game and Fish

- § 12300. Definitions.**
- § 12301. Authority of Department.**
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- § 12303. Taking fish with explosives.**
- § 12304. Use of explosives unlawful.**
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- § 12308.2 Destruction of Coral Unlawful**
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- § 12311. Taking of fish.**
- § 12312. Unprotected wild animals.**
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- § 12320. Use of artificial light prohibited.**
- § 12321. Regulations.**
- § 12322. Illegal Use of certain Vessels and Devices.**
- § 12323. Penalty.**
- § 12324. Wildlife Conservation Fund.**

§ 12300. Definitions. As used in this Article:

(a) 'Angling' means fishing in a manner which lures the fish to swallow a hook in an attempt to pierce the body of the fish internally;

(b) 'Firearm' means any weapon, the operating force of which is an explosive. This definition includes pistols, revolvers, rifles, shotguns, machine guns, automatic rifles, noxious gas projectors, mortars, bombs, cannons and submachine guns. The specific mention of certain weapons does not exclude from the definition other weapons operated by explosives;

(c) 'Fish' means any aquatic life of whatever nature, including, but not limited to, oysters, clams, mollusks, mussels, crustaceans and shell fish.

(d) 'Fish Weir' means an apparatus for catching fish, consisting of a pocket or trap, with one or more wings or leaders or both, and remaining in a fixed location. Any reference to 'Fish Weir' in this Article includes any part or component thereof, including any pole, support, net, brush, wire, mesh, rope or other item or material. For the purposes of this Article, there are two (2) types of fish weirs:

(1) 'Main Weir' means the central pocket or trap of any fish weir and its leader (main entrance); and

(2) 'Auxiliary Weir' means any supplementary trap or pocket and its leader or wings which are attached to the leader or wings of a main weir;

(e) 'Games' means all native or introduced species of wild birds or wild animals;

(f) 'Snagging' means fishing in a manner with jerking motions with hooks and line in an attempt to pierce the body of the fish externally;

(g) 'Take' means hunt, pursue, catch, capture, angle, seize, kill, trap, wound, shoot in any way or by any agency or device: every attempt to do such acts or to assist any other person in the doing of or the attempt to do such acts.

(h) 'Traditional Fishing Methods' means subsistence-level cultural fishing practices in which the catch is not marketed, but rather is shared within the family or community for purposes of home consumption. Traditional methods most commonly include, but are not necessarily limited to:

(1) 'cast net' (talaya),

(2) 'drag net/seine' (chinchulon mahala),

(3) 'surround net' (chinchulon umesugon),

(4) 'trap net' (chinchulon managam),

(5) 'butterfly net' (chinchulon ababang), and

(6) 'lalago'

(i) 'Vehicle' includes every description of carriage or other contrivance used, or capable of being used, as means of transportation on, below or above the land, including boat trailers, but does not include aircraft;

(j) 'Vessel' includes every description of watercraft or other contrivance used, or capable of being used, as means of transportation in water; and

(k) 'Waters of Guam' means that area of shore and waters seaward of the mean high water mark line (mark). [Repealed and Replaced by P.L. 16-39]

§ 12301. Authority of Department. The control and regulation of fish and game in and about Guam and the administration of this Article shall be vested in the Department.

§ 12302. Chief Conservation Officer: deputies. The provisions of this Article shall be enforced by the Director who shall be ex officio the Chief Conservation Officer, and suitable employees of the Department whom he may appoint as Deputy Conservation Officers, as well as by peace officers defined in § 851, Chapter V, Title II, Part II of the Penal Code of Guam. Officers acting hereunder shall have the powers of peace officers to carry arms and to make arrests for violations.

§ 12303. Taking fish with explosives. It shall be unlawful to take any fish using dynamite or any other explosive.

§ 12304. Use of explosives unlawful. It shall be unlawful for any person to throw, drop, or explode any dynamite or other explosive, or cause to be thrown, dropped or exploded any dynamite or other explosive in any waters of the Territory of Guam whether done for the purpose of taking fish or not, except as may be authorized pursuant to regulations. [See United States v. Borja, 191 Fed. Sup. 563 (1961)]

§ 12305. Taking fish by means of poisonous or intoxicating substance unlawful. It shall be unlawful for any persons to take any fish by means of any substance which has a poisonous or intoxicating effect upon fish.

§ 12306. Use of poison or intoxicating substance unlawful. It shall be unlawful for any person to deposit, throw, drop or discharge, or cause to be deposited, thrown, dropped or discharged in any manner in the waters of Guam any substance which has a poisonous or intoxicating effect upon fish whether done for the purpose of taking fish or not.

§ 12306.1 Use of Electrical Devices. It shall be unlawful to take fish by means of any device which operates by shocking with an electric current (either AC or DC). [Added by P.L. 16-39]

§ 12307. Possession of dynamite, explosive, poisonous or intoxicating substance. It shall be unlawful for any fisherman, or person in the habit of fishing, or person who is in the water or close by the shore where fish can be taken, to possess, in the absence of satisfactory cause for possession of the same, any dynamite or other explosive, or any substance which has a poisonous or intoxicating effect upon fish.

§ 12307.1. Possession of electric shocking Devices. It shall be unlawful for any fisherman, person in the habit of fishing, or person who is in the water or close by the shore where fish can be taken, to possess, in the absence of satisfactory cause, any device capable of emitting an electric discharge into the water. [Added by P.L. 16-39]

§ 12308. Fishing equipment and methods. The use of nets, flails, hooks and other devices and methods which may result in the taking of, or damage to, fish in violation of regulations governing fishing shall be unlawful. [Repealed and Reenacted by P.L. 16-39]

§ 12308.1 Fishing with Gill nets (Tekin). (a) It shall be unlawful to abandon or discard a gill net in the waters of Guam. (b) It shall be unlawful to leave a gill net, whether attended or unattended, in the waters of Guam for more than six (6) consecutive hours. For the purposes of this Section, the six (6) hour consecutive period continues to run if the gill net is not moved at least fifty (50) yards within a six (6) hour period from the time of its initial placement in the waters of guam. (c) It shall be unlawful to use a gill net with a length greater than one thousand (1,000) feet. [Added by P.L. 16-39]

§ 12308.2 It shall be unlawful to wilfully destroy coral growth for purposes of flushing fish from their habitat or for clearing an area for net fishing. [Added by P.L. 16-39]

§ 12309. Illegally taken fish. It shall be unlawful for any person knowingly to take, buy, sell, transport or possess any fish, or any part thereof, contrary to the provisions of this Article or to regulations made under § 12321.

§ 12310. Fish weirs. (a) It shall be unlawful for any person to place or maintain a fish weir in the waters of Guam unless he holds a valid license from the Director. The Director may, in his discretion, issue such a license imposing such conditions on the face thereof as are necessary so as not to unjustly restrict the fishing of others nor result in the violation of provisions of this Article and supporting regulations.

(b) Limitations and Prohibitions.

(1) Main Weir: No wing exceed three hundred (300) feet in length. No leader shall exceed five hundred (500) feet in length.

(2) Auxiliary Weir: No wing shall exceed one hundred fifty (150) feet in length. No leader shall exceed two hundred fifty (250) feet in length.

(3) The mesh of the netting used in the construction of fish weirs, main or auxiliary, shall be such as to permit the passage of objects or organisms measuring less than one (1) inch in diameter or one (1) inch square.

(4) No permit shall be issued authorizing more than one (1) main weir and two (2) auxiliary weirs for the area covered by such permit.

(5) The area covered by a single permit shall be contiguous, but this shall not construed to authorize installations of fish weirs anywhere within such area if otherwise prohibited.

(6) No person shall place, install, construct, maintain or operate any fish weir, including any part or component of a fish weir, except as authorized by a permit issued under this Article.

(c) Location of Fish Weirs. No fish or any part or component thereof shall be located within one hundred (100) feet of the mean high water mark, one hundred fifty (150) feet of any boat channel, six hundred (600) feet of a sewage outlet opening, or two hundred (200) feet from the fish weir of another permittee, or outside the area covered by the permit. No permit will be issued for the location of a fish weir at any other site determined by the Director to be detrimental to the best interest of the public or responsible fisheries management.

(d) Application for Permit. Any applicant for a permit to place and operate one or more fish weirs in the waters of Guam shall submit complete and signed applications for the placement and operation thereof to the Director in a form prescribed by him. The application shall show (1) the name and address of the applicant; (2) the area requested to be covered by the permit; and (3) the number of fish weirs (pocket or traps) applied for.

(e) Investigation. Upon receipt of a complete and signed application. The Director shall promptly cause an investigation of all aspects of the application to be made.

(f) Issuance of Permit. When all the requirements set forth in this Section have been met, and the application has been approved by the Director, he shall issue a permit in a form

prescribed by him. The original copy shall be given to the permittee and a duplicate copy shall be retained in the Department of Agriculture.

A fee of Twenty-Five Dollars (\$25) shall be paid for each fish weir pocket or trap before the permit is issued. A permit shall be valid for one (1) year from the date of issuance unless otherwise revoked. No permit may be transferred except upon approval by the Director. Upon approval or transfer of a permit, the permittee shall write his signature, and the transferee shall write his signature and address in the appropriate space provided upon the permit. The Director shall then affix his signature of approval.

(g) Installation and Operation of Fish Weir. At least one (1) fish weir must be constructed and placed in operation within sixty (60) days from the date of issuance of the permit, and sixty (60) days after any subsequent removal or destruction during the term of the permit. No owner of a fish weir shall leave a fish weir in the water unattended for a period of fifteen (15) days or more.

(h) Submission of Monthly Catch Records Report. Each permittee shall be required to submit monthly catch records to the Department of Agriculture, Division of Aquatic and Wildlife Resources, commencing thirty (30) days after the weir is placed in operation and every subsequent thirty-day period until its removal.

(i) Removal of Fish Weirs. The owner of a fish weir must remove such fish weirs from the water within thirty (30) days after notice of expiration of his permit unless such permit is renewed.

(j) Revocation of Permit. The Director may revoke a permit for any violation of this regulation upon the completion of a hearing held for such purposes. Notice of the hearing shall be given to the permittee ten (10) days in advance and shall state the violations charged, and the date, time and place of the hearing. Any order of revocation entered pursuant to such hearing shall be effective thirty (30) days after notice of the order of revocation to the permittee by which time he shall surrender his permit to the Director and remove his fish weir from the water.

(k) Disturbance of Fish Weirs. It shall be unlawful for any person not authorized by the owner to remove fish from the fish weir. It shall be unlawful for any person other than the owner to remove, damage or otherwise willfully disrupt the operation of a fish weir operating under a lawful permit. It shall also be unlawful to use gill nets within one hundred (100) feet of a fish weir operating under a lawful permit. [Repealed and Reenacted by P.L. 16-39]

§ 12311. Taking of fish. Fish may be taken by lawful means at any time except as prohibited by regulation made under § 12321, provided, however, that it shall be unlawful for any person to place or maintain a drag net (Chenculu or Tekin) within Agana Boat Basin proper and further provided that angling and cast-net (talaya) fishing are the only approved methods of fishing within the Agana Boat Basin proper and within 50 (fifty) feet of the western edge of the Agana Boat Basin channel on conditions as follows:

(a) When angling, not more than three (3) hooks shall be attached to the mainline and no snagging methods shall be used.

(b) The use of the cast-net (Talaya) is provided within the Agana Boat Basin proper. Within the channel, it may be used during the hours of 3:00 a.m. and 7:00 a.m. However, the cast-net (talaya) is not permitted to be within the channels (or Basin/ proper) from any boat, whether stationary or in motion. [Amended by P.L. 15-66.]

§ 12312. Unprotected wild animals. The following wild animals may be taken in the daytime: (a) Wild dogs.

(b) Wild cats.

(c) Reptiles.

(d) Rats. [Amended by P.L. 8-43, effective July 30, 1965.]

§ 12313. Unprotected wild birds. The following wild birds may be taken in the daytime:

(a) Black drongos;

(b) Rock doves (domestic pigeons);

(c) Black-headed mannikin;

(d) European tree sparrow;

[Repealed and Reenacted by P.L. 16-39]

§ 12314. Protection of wild birds. It shall be unlawful for any person to take, buy, sell, transport or possess any wild bird, or any part thereof, or wild bird eggs, except as authorized in this Article or as authorized by regulations made under § 12321.

§ 12315. Protection of wild animals. It shall be unlawful for any person to take, buy, sell, or transport or possess any wild animal, or any part thereof, except as authorized in this Article or as authorized by regulations made under § 12321.

§ 12316. License to take certain wild animals. Any owner or tenant of land or property that is being damaged or destroyed or is in danger of being damaged or destroyed by any protected wild animal or bird may apply to the Director for a license to take such wild animal or bird. The Director, upon satisfactory evidence of such damage or destruction, actual or threatened, may issue a revocable license for the taking of such wild animal or bird. It shall be unlawful for any person to violate the conditions of any license issued under the provisions of this section.

§ 12317. Special License. The Director may issue, free of charge, to any qualified person, a license to take and transport fish or game, at any time, for scientific or educational purposes. Such a license shall be valid at the discretion of the Director and shall show upon its face the period of its validity.

§ 12318. Importation: harboring. (a) It shall be unlawful for any person to import any game without first obtaining a license issued by the Director. The Director may, in his discretion, issue such a license imposing such conditions on the face thereof as are necessary for the control of such game. (b) It shall be unlawful to harbor or maintain any protected game in captivity without first obtaining a license issued by the Director. The Director may, in his

discretion, issue such a license imposing such conditions on the face thereof as are necessary for the control of such game. (c) It shall be unlawful for any person to violate the conditions of any license issued under the provisions of this section.

§ 12319. Possession of loaded rifle, shotguns, or other firearm in vehicle: definition: exception. (a) It shall be unlawful for any person to possess a loaded rifle, shotgun, or other firearm in any vehicle which is standing on, or along, or is being driven on or along any highway or other way open to the public. (b) A rifle, shotgun, or other firearm shall be deemed to be loaded, for the purpose of this section, when there is an unexpended cartridge or shell in the firing chamber or in the magazine. [Amended by P.L. 8-43, effective July 30, 1965.]

§ 12320. Use of artificial light prohibited. It shall be unlawful for any person to take any game with a spot light or any other artificial light of any kind. To be found with any spot light or any other artificial light of any kind and with any rifle, shotgun, or other firearm, after sunset, in any wooded section or other place where any game may reasonable be expected, shall be prima facie evidence of violation of this section.

§ 12321. Regulations. Regulations implementing this Article shall be formulated, approved, and issued in accordance with the procedure set forth in § 12007, which regulations may include but shall not be limited to the following:

- (a) To fix, close, terminate, shorten or divide open season or make open seasons conditional;
- (b) To prescribe the time of day when taking is permitted;
- (c) To regulate bag or creel limits and possession limits;
- (d) To regulate buying, selling or transporting fish and game;
- (e) To regulate the size and type of any devices used for taking and regulate any method of taking;
- (f) To regulate or restrict the places where taking is permitted;
- (g) To provide for the issuance of annual hunting and fishing licenses under this Article;
- (h) To set a fee for any license issued; however, in no event shall such fee exceed the sum of Five Hundred Dollars (\$500); and
- (i) To otherwise implement or carry out the purposes of this Article. [Amended by P.L. 16-39,]

§ 12322. Illegal Use of Nets, Vessels including Engines, Motors and All Vessel Accessories, Traps, Firearms, Electrical Devices, Vehicles, Seizure, Forfeiture Proceeding; Sale or Destruction. Any net, vessel, including engines, motors and all vessel accessories, traps, firearms, electrical devices and vehicles used for taking or transporting fish or game taken in violation of the provisions of this Article is a public nuisance. Every person authorized to make an arrest for such violation shall seize and keep such net, vessel, including engines, motors and all vessel accessories, trap, firearm, electrical device or vehicle and report the seizure to the Department of Agriculture.

The Department of Agriculture shall commence proceeding in the Superior Court by petitioning the court for a judgment forfeiting the article or articles seized. Upon filing of such petition, the clerk of court shall fix a time for a hearing and cause notices to be posted for fourteen (14) days in at least two (2) public places in the place where the court is held and in the Commissioner's Office of the village wherein the person from whom the article or articles were seized resides, setting forth the substance of the petition and the time and place fixed for its hearing. Upon proof that the article or articles seized were used in violation of this Article, the court shall order the article or articles forfeited. Any article so forfeited shall be sold, used or destroyed by the Department of Agriculture. The proceeds from all such sales shall be paid into the Wildlife Conservation Fund. [Repealed and Reenacted by P.L. 16-39]

§ 12323. Penalty. Any person violating any provisions of this Article and supporting regulations shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than Fifty Dollars (\$50), nor more than Five Hundred Dollars (\$500) or by both imprisonment of not more than ninety (90) days or by both such fine and imprisonment. Provided that a person violating § 12303, 12304, 12305, 12306, or 12307 of this Article is guilty of a felony punishable by imprisonment for not more than Five (5) years, or by a fine of not less than Five Hundred Dollars (\$500), nor more than Five Thousand Dollars (\$5,000), or by both. [Repealed and Reenacted by P.L. 16-39]

§ 12324. Wildlife Conservation Fund. (a) There is hereby established a fund to be known as the "Wildlife Conservation Fund" which shall be maintained separate and apart from any other funds of the Government of Guam and independent records and accounts shall be maintained in connection therewith. All license fees collected under this Article shall be deposited in this fund. (b) The Wildlife Conservation Fund shall be used exclusively for the purposes of the administration of this Article. Said fund shall be examined and reported upon by the Director of Administration as required by law. [Added by P.L. 7-46, effective July 8, 1963.]

[Original § 12300-12310, as added by P.L. 3-103, effective August 1, 1956, repealed by P.L. 6-87, effective March 12, 1962, New § 12300-12323 added by P.L. 6-87, effective March 12, 1962, and amended as noted herein.] ["Director of Finance" changed to "Administration" by editor.]

ARTICLE V

Live Coral and Fishing Nets

- § 12380. Taking of live coral: unlawful.**
- § 12381. Harvesting of coral.**
- § 12382. Commercial permits.**
- § 12383. Penalties.**
- § 12384. Enforcement.**
- § 12385. Mesh size of fishing nets, minimum size.**

§ 12380. Taking of live coral: unlawful. It shall be unlawful to remove live coral from that area surrounding the Island of Guam extending from the shore of the island outwards to the ten fathom contour, except in accordance with this Article.

§ 12381. Harvesting of coral. (a) The commercial harvesting of coral may be conducted by obtaining a license from the Director of Agriculture and the payment of a fee as established by the Director.

(b) For purposes other than the sale of coral, live coral may be taken only by obtaining a license from the Department of Agriculture, such license being limited in time to a maximum of five(5) days at any given time and to a specific location from which the coral is to be taken, and for such license a fee may be charged. The Director may restrict the amount of coral to be taken under any license and may impose such other restrictions as may be necessary to insure the conservation of our coral fields.

§ 12382. Commercial permits. (a) Permits for the Commercial taking of coral may be issued by the Director of Agriculture upon the following conditions:

1. The permit must state the individual or individuals who will be taking the coral:
2. The permit must state the time, date and location from which the coral is to be taken:
3. The Director may limit each permit to a specified amount of coral to be taken, taking into account the location from which the coral is to be taken, the amount of living coral remaining and the likelihood of damage caused to the reef area by the taking of the coral.

(b) The Director of Agriculture may, by regulation, Establish a fee schedule based upon the amount of value of the coral to be taken commercially; establish areas on Guam where no coral can be taken, limited coral may be taken or unlimited coral may be taken, and impose any other restrictions necessary for the conservation of our coral reserves, all subject to the permits as required by this Article.

§ 12383. Penalties. Any violation of this Article or the regulations and permits issued pursuant to it shall be a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment of not more than six(6) months or by both such fine and imprisonment for each offense.

§ 12384. Enforcement. This Act shall be enforced primarily by the Director of Agriculture and the Conservation Officers as authorized by § 12302 of this Title and secondarily by Peace Officers defined in § 851 of the Penal Code of Guam. [§ 12380-12384 added by P.L. 12-186, effective November 20, 1974.]

§ 12385. Mesh size of fishing nets: net, minimum size. It shall be unlawful for any person to use net (other than small scoop nets) with a stretched mesh of less than 1½ inch, provided however that:

(a) Persons catching live fish for aquarium purposes may obtain permits from the Director of Agriculture for the use of small mesh nets to capture aquarium type fish only. For purposes of this regulation, the manahac (Rabbitfish), ti'ao (juvenile goatfish), i'e (juvenile carangid), and aguas (juvenile mullet), are not considered aquarium type fishes. A small hand net is defined as a framed net, usually with a handle attached and the greatest frame opening not exceeding twelve (12) inches.

(b) Persons engaging in tuna fishing may apply for permits from the Director of Agriculture to capture live bait fish such as minnow (*Spratelloides*), ginyo (*Atherinidae*), fadya (*Engraulidae*), and other suitable bait fish; but will not include the aguas, ti'ao, i'e, and manahak.

(c) That the above provisions stipulated in Subsections (a) and (b) are not applicable in any areas designated as conservation areas where the taking of all seasonal fishes are prohibited.

This restriction shall not apply to traditional methods when used for the taking of such seasonal juveniles such as rabbitfish (manahak), skipjack (i'e), goatfish (ti'ao), herring (menis) and mullet (aguas). [Repealed and Reenacted by P.L. 16-39]

§ 12386. Fishing Area Restrictions. The following areas shall be subject to the following restrictions: (a) No net fishing shall be permitted in the following area:

(1) Luminao Barrier Reef, on the Philippine Sea side from Cabras Island to the extreme Western tip of the Glass Breakwater. [Added by P.L. 16-39]

§ 12387. The use of poisons, electrical devices and mesh nets for scientific purposes:

(a) The Department of Agriculture shall have the authority to issue permits for the use of poison, electrical devices or small mesh nets for the purpose of bona fide scientific research.

(b) Limitations and Prohibitions:

(1) Each person employing a restricted device or compound shall be required to have a permit in his possession; and

(2) The permit shall specify (i) the name of the permittee, (ii) the device or compound for which the permit was issued, (iii) the area in which the device or compound is to be used, and (iv) the duration of the permit, which will, in no case, exceed one (1) week, at which time it may be renewed.

(c) Application for Permits. Any applicant of a permit for the use of a restricted device or compound in the waters of Guam shall submit complete and signed applications for the use thereof to the Director of Agriculture (hereinafter referred to as Director) in a form prescribed by him. The applications shall show:

(1) The name and address of the applicant;

(2) The device or compound that is to be used;

- (3) The area requested to be covered by the permit;
- (4) The time span for which the permit is to be valid;
- (5) A brief description of the research project; and
- (6) The academic affiliation of the applicant.

(d) Investigation. Upon receipt of a complete and signed applications, the Director shall promptly cause an investigation of all aspects of the application to be made, the duration of which shall not exceed three (3) days.

(e) Issuance of Permit. When all the requirements set forth in this Section have been met and the application has been approved by the Director, he shall issue a permit in a form prescribed by him. The original copy shall be given to the permittee and a duplicate copy shall be retained by the director of Agriculture. The permit shall be non-transferable.

(f) A duly issued and valid permit shall exempt the holder thereof from violation of § 12306.1, 12307.1, and, when traditional methods are used, § 12385 of this code. [Added by P.L. 16-39]

§ 12388. Any violation of this Article shall be punished as prescribed in § 12322 and § 12323 of the Government Code. [Added by P.L. 16-39]

[Articles II, III, and IV Amended by P.L. 16-62 to read:]

ARTICLE VI

Forestry

§ 12390. Improving Resources: Responsibility. The Department of Agriculture shall be responsible to protect, develop and manage the Territory's public lands in a manner that will conserve the basic soil resources, and at the same time produce continuous yields of water, wooded fiber, forage, recreation and wildlife for the use and benefit of the greatest number of people of Guam. The Department shall also endeavor to encourage and assist private land owners to do the same with their land, and establish an urban and community forestry program with village commissioners, and civic groups. At the discretion of the Director, tree seeds and seedlings may be made available by the Department for planting on private and public lands, either on a free distribution basis or at a price determined by the Director. [Added by P.L. 16-62]

§ 12390.1 Unlicensed Tree-cutting on Public Lands Prohibited. The cutting, removal or mutilation of live trees (except tangantangan) on all government of Guam lands without a license is prohibited. All applicants for such license shall make a written request to the Director designating the kind, size and number of trees to cut or removed, and the use to be made thereof. When the Director is of the opinion that such cutting or removal will not materially injure the forest resources of Guam, he shall issue a license stating the conditions for cutting and planting of trees, and provisions for inspection of the operation.

§ 12390.2 Penalty. Any person who violates §12390.1 of this Article shall be subject to penalties as described in § 12393.7. [Added by P.L. 16-62]

ARTICLE VII

Conservation Reserves

§ 12391. Reserves. The Department, in cooperation with the Department of Parks and Recreation and other agencies of the government of Guam, shall control and manage land and water areas that have been set aside by the government of Guam as Conservation Reserves. Such control and management shall have as its objectives, the wise use of the soil, water, plants and animals of the reserves. Consistent with this objective, the Director, with the concurrence of the Director of the Department of Parks and Recreation, may establish and enforce rules for economic use. [Added by P.L. 16-62]

§ 12391.1 Same. The Director shall consult with and advise the Directors of Land Management, and Parks and Recreation with respect to the reservation of government land pursuant to § 26007 and § 26009 of the Government Code of Guam. [Added by P.L. 16-62]

ARTICLE VIII

Soil and Conservation

§ 12392. Conservation Program: Responsibility. The Department of Agriculture, in coordination with the Bureau of Planning, the Department of Land Management, Guam Environmental Protection Agency, and Public Utility Agency of Guam, shall be responsible for conserving, developing and utilizing the soil and water resources of Guam, and controlling and preventing soil erosion. [Added by P.L. 16-62]

§ 12392.1 Same: Authorization. In carrying out its responsibilities under this Article, the Department is authorized to:

- (a) develop plans for the conservation, development and utilization of soil and water resources, the control and prevention of erosion, and to publish and disseminate such plans for the land owners and occupiers of land in Guam;
- (b) conduct surveys, investigations and research, relating to soil and water conservation, the prevention and control of erosion, and to publish and disseminate information concerning such subjects;
- (c) conduct demonstrations relative to the conservation of soil and water resources;
- (d) prevent and control soil erosion and government land;
- (e) cooperate with other land owners and occupiers in the development of soil and water conservation programs; and

(f) construct, improve and maintain any structure necessary for carrying out the purposes of this Article. [Added by P.L. 16-62]

§ 12392.2 Compliance with Federal Programs. With the approval of the Governor, the Department shall serve as the appropriate agency for compliance with the terms of any federal programs concerning the conservation, development and utilization of water, forest, and related land resources as well as rural and wildland fire suppression. [Added by P.L. 16-62]

ARTICLE IX

Wildland Fire Protection

§ 12393. Definitions.

'Wild Areas' are those areas designated such by the Director and left undisturbed, except for occasional use or influence by man in their natural condition.

'Wildland Fires' are the intentional, accidental or natural burning of the vegetated wild areas. [Added by P.L. 16-62]

§ 12393.1 Responsible Agency. The Department shall take measures for the prevention, control and extinguishment of wildland fires on government of Guam and private lands. It shall also cooperate with the Department of Public Safety, other government of Guam agencies, and the appropriate federal government agencies in developing plans and programs as well as mutual aid agreements for assistance in the prevention and control of wildland fires. [Added by P.L. 16-62]

§ 12393.2 Powers and Duties. The Director shall be responsible for the development and implementation of organizational plans and consequential actions related to this Article. The Director shall designate qualified personnel as Fire Prevention Officers within the Department to:

- (a) zone the territorial lands under the Department's jurisdiction into fire districts;
- (b) take necessary measures for the prevention, control and extinguishment of wildland fires;

- (c) establish procedures, guidelines and conditions for the issuance of burning permits;

- (d) issue fire warning notices during dry periods or other seasons when fire hazards are great;

- (e) close government of Guam lands to public access during dry periods when necessary to reduce fire risk, except it shall be lawful for an owner, a lessor, his agents or other persons regularly engaged in agricultural land preparation, planting of crops or forest seedlings or harvesting, processing or moving farm or forest products to enter the closed area for essential residential or commercial purposes;

- (f) summon, when deemed necessary, additional firefighting assistance, equipment

or materials to assist in fire suppression;

(g) arrest, without warrant, any person committing in his presence any of the offenses prohibited by this Article;

(h) assume full responsibility for directing the control and extinguishment of any fire on, or threatening government of Guam natural preserves, conservation reserves or territorial parks; and

(j) conduct education work concerning the protection of forest and grasslands from fires. [Added by P.L. 16-62]

§ 12393.3 Fire Danger Periods. During periods of weather when the Director determines that the risk of fire is high, he shall establish a fire danger period by issuing a fire warning, which contains information setting forth the fact. This fire warning along with a designation of areas within which burning is prohibited shall be provided to the news media for presentation as a public service. Notices of the fact may also be posted in public buildings and on public lands. During such periods, no fires other than those within a closed, screened container shall be allowed. [Added by P.L. 16-62]

§ 12393.4 Burning Permit Officers. The Director, in cooperation with the Department of Public Safety, shall designate Burning Permit Officers to issue burning permits. The Burning Permits Officers shall be qualified fire prevention personnel from the Department of Agriculture or the ranking officer in charge at each Department of Public Safety Station. The Burning Permit Officer from the Department of Agriculture will be limited to issuing burning permits for wild areas only. [Added by P.L. 16-62]

§ 12393.5 Burning Permits. The Departments of Agriculture and Public Safety shall be responsible for the issuance of burning permits in wild areas. The issuance of permits shall be at the discretion of the issuing officer who shall take into account whether or not the issuance of such a permit is compatible with the safety. Permit holders shall not start fires during a heavy wind or without sufficient help present to control and extinguish the fires. Permit holders shall also maintain a constant watch over the fires until all fires have been extinguished. [Added by P.L. 16-62]

§ 12393.6 Offenses. Any person who discards burning materials or who wilfully, maliciously or negligently sets a fire that burns vegetation on land not owned, leased or controlled by him shall be guilty of incendiarism, which is subject to penalties as described in §12393.7. Setting fires, causing them to be set, or allowing them to escape, shall be Prima Facie evidence of willfulness, malice or negligence under this Section; provided that nothing herein contained shall apply to any person who, in good faith, sets a backfire to check an already burning fire or who with a burning permit sets a fire for forest management or land clearing purposes. [Added by P.L. 16-62]

§ 12393.7 Penalties. Any person who violates any provision of this Chapter shall be subject to any combination of the following:

(a) a misdemeanor, punishable by a fine of not more than One Thousand Dollars

(\$1,000); or

(b) a misdemeanor, punishable by imprisonment of not more than one (1) year; or

(c) a misdemeanor, punishable by service to the Alternative Community Service Program, but only with the consent of that person; or

(d) a civil fine of not more than Ten Thousand Dollars (\$10,000) and, in addition to any other penalties, a civil fine of not more than Five Hundred Dollars (\$500) per day for each day in which the violation persists; or

(e) in lieu of a civil fine, a person may be subject to service in the Alternative Community Service Program, but only with the consent of that person.

Any person who successfully completes service in the Alternative Community Service Program for a violation of this Chapter may have his official record expunged. [Added by P.L. 16-62]

§12393.8 Remedies.

(a) Any person may maintain an action for declaratory and equitable relief to restrain violations of this Chapter. No bond shall be required for an action under this Subsection.

(b) Any person may maintain an action for the recovery of civil penalties provided in § 12393.7.

(c) The provisions of this Section shall be, in addition to other remedies, available at law.

(d) Any person prevails in a civil action brought to enjoin a violation of this Chapter or to recover civil penalties shall be awarded his costs, including reasonable attorney fees. [Added by P.L. 16-62]

§ 12393.9 Expunge Record. Any person who successfully completes service in the Alternative Community Service Program for violations of this Chapter and is a first time offender may apply to the court for an order to expunge from all official records (other than the non-public records to be retained by the court solely for the purpose of use by the courts in determining whether or not, in subsequent proceedings, such person qualifies under Section) all recordation relating to his arrest, indictment or information, trial, finding of guilty and sentencing pursuant to § 12390.1, 12390.2, 12393.6, and 12393.7. If the court determines after hearing, that such person successfully completed service in the Alternative Community Service Program and was a first time offender, it shall enter such order. The effect of such order shall be to restore such person, in the contemplation of the law, to the status he occupied before such arrest or indictment or information. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge such arrest or indictment or information, or trial in response to any inquiry made of him for any purpose. [Added by P.L. 16-62]

§ 1393.10 Wildland Fire Enforcement Officer: Deputies. The provisions of this Article shall be enforced by the Director, who shall be ex-officio, the Wildland Fire Enforcement Officer, and suitable employees of the Department whom he may appoint as Deputy Wildland Fire Enforcement Officers, as well as by peace officers defined in 8 GCA § 5.55. The Wildland Fire Enforcement Officer and the Deputy Wildland Fire Enforcement Officers acting hereunder shall have the powers of peace officers to carry arms and to make arrests for violations. [Added by P.L. 16-62]

Bill No. 37S
 Enacted: June 18, 1979
 Governor's Action: DNS
 Riders: None
 Amended by: P.L. No. 15-97:4

Introduced by: E.M. Espaldon

AN ACT TO REPEAL SECTION 12325 OF PUBLIC LAW NO. 13-83 AND TO ADD A NEW ARTICLE II TO CHAPTER V OF TITLE XIII OF THE GOVERNMENT CODE TO PROVIDE FOR THE CONSERVATION OF RESIDENT ENDANGERED AND THREATENED SPECIES OF PLANTS AND WILDLIFE.

Section 1 Repeals §12325 and adds Article II to Chapter V of Title XIII GC entitled "The Endangered Species Act of Guam".

§12325 Title.
 §12325.1 Purposes.
 §12325.2 Definition.
 §12325.3 Policy.
 §12325.4 Authority.
 §12325.5 Prohibitions.
 §12325.6 Permits.
 §12325.7 Enforcement.
 §12325.8 Penalties.
 §12325.9 Severability.
 §12325.10 Citizen suits.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. Section 12325 of P.L. No. 13-83 is hereby repealed in its entirety and a new Article II is added to Chapter V of Title XIII of the Government Code to read:

"ARTICLE II

The Endangered Species Act of Guam

§12325. Title.

This Act shall be known as 'The Endangered Species Act of Guam'.

§12325.1. Purposes.

The purposes of this Act are to provide authorization whereby the ecosystem upon which resident endangered or threatened species depend, may be protected and conserved; to develop and provide a program for the conservation and management of such endangered and/or threatened species; and, to take such steps and measures as may be appropriate to achieve the purposes of the Endangered Species Act of 1973, U.S. P.L. No. 93-205 U.S. Congress, 28 December 1973.

§12325.2. Definition, for the Purposes of This Act.

(a) 'Agent, Employee or Officer' means any Department employee authorized by the Director to carry out any power granted by this Act.

(b) 'Conserve, Conserving and Conservation' mean the use of any and all populations of plants and wildlife declared threatened or endangered and to bring them to the point at which the measures provided pursuant to this Act, are no longer necessary. Such methods and procedures include, but are not limited to censuses, research, law enforcement, habitat acquisition and maintenance, propagation, live trapping, transplantation, regulated taking or confiscation.

(c) 'Department' means the Department of Agriculture, or in the case of changing functions, that agency designated by the government of Guam to be charged with the husbandry of the natural resources of plants and wildlife.

(d) 'Ecosystem' means all natural elements, physical and biological, of the habitat or site in which any plant or wildlife species is found and upon which it is dependent for its well-being.

(e) 'Endangered Species' means any species which is in danger of extinction on Guam and has been so designated pursuant to the provisions of this Article or that has been determined to be an endangered species pursuant to the U.S. Endangered Species Act of 1973.

(f) 'Resident Species' means any plant or wildlife species which spends any part of its life on Guam.

(g) 'Threatened Species' means any species of plant or wildlife which appears likely, within the foreseeable future, to become endangered and which has been so designated by the Department pursuant to this Chapter, or that has been determined to be a threatened species pursuant to the U.S. Endangered Species Act of 1973.

(h) 'Import' means to land on, bring into or introduce into, or attempt to land on, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the custom laws of Guam and the United States.

(i) 'Person' means an individual, corporation, partnership, trust, association or any other private entity, or any officer, employee, agent, department or instrumentality of the Federal government, of any state, territory, commonwealth or political subdivision thereof or of any foreign government.

(j) 'Plants' means any member of the plant kingdom, including seeds, roots, other parts thereof.

(k) 'Secretary' means, except as otherwise herein provided, the U.S. Secretary of the Interior or the U.S. Secretary of Commerce as program responsibilities are vested pursuant to the provisions of the U.S. Reorganization Plan Number 4 of 1970; except that with respect to the enforcement of the provisions of the U.S. P.L. No. 93-205 and the Convention on the International Trade in Endangered Species of Wild Fauna and Flora which pertain to the importation or exportation of terrestrial plants, the term means U.S. Secretary of Agriculture.

(l) 'Species' means any subspecies of plants or wildlife and any other group of plants or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature.

(m) 'Take' means to cut, collect, uproot, destroy, injure or possess threatened or endangered species of plants, or to attempt to engage in any such conduct or to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, snare or collect threatened or endangered species or wildlife.

(n) 'Wildlife' means any resident member of the animal kingdom including without limitation, reared in captivity or not, including any mammal, bird, amphibian, reptile, fish, crustacean, mollusk or other invertebrate; and, includes any parts thereof, except those species of the Class Insecta which have been declared as pests whose protection under the provisions of this Act would present an overwhelming and overriding risk to man, providing this is in conformance with the Federal Law.

§12325.3. Policy.

It is declared to be the policy of the government of Guam that all departments and agencies shall seek to conserve Guam's resident threatened and endangered species and that they shall utilize their authorities in furtherance of the purposes of this Act by taking such steps as are necessary to insure that action authorized, funded or carried out by them do not jeopardize the continued existence of Guam's threatened or endangered species or those mandated by the United States Government.

§12325.4. Authority.

(a) Regulatory power for the purposes of this Act shall be vested in the Department of Agriculture hereinafter referred to as the 'Department' which is responsible for the management and the conservation of plant and wildlife resources of the territory of Guam.

(b) The Department shall conduct all research, investigation and listing of resident threatened or endangered species of plants and wildlife; and all programs for the conservation, management, enhancement or protection of such species; and, upon its own recommendation or upon the petition of three persons, shall conduct a review of any listed or unlisted resident species proposed to be on the list published pursuant to the authority herein.

(c) Annually, the Department shall promulgate a list of endangered species. The list of endangered species shall be submitted to each village commissioner for review and comment prior to the hearing on adoption of the list held in accordance with the Administrative Adjudication Act. The list shall be adopted in accordance with the Administrative Adjudication Act and then be subject to approval by the Legislature, provided, however, that if the Legislature fails to act on the list of endangered species within twenty (20) legislative days following receipt thereof, then the list of endangered species shall be deemed

approved by the Legislature. No additions or deletions may be made to the list without conformance with the procedural requirements for adoption of the list. Each list shall be effective for not more than fourteen (14) months following approval by the Legislature. The Department shall promulgate such rules, regulations or orders in accordance with the Administrative Adjudication Act and any rules or regulations shall be subject to approval by the Legislature, provided, however, that if the Legislature fails to act on the rules or regulations within twenty (20) legislative days following receipt thereof, then the rules or regulations shall be deemed approved by the Legislature. The purpose of the rules, regulations or orders shall be to improve and enhance the welfare of endangered or threatened species after determining on the basis of the best scientific and commercial data available and upon consultation with interested persons, the public, and other appropriate agencies, as to whether or not any species is an endangered or threatened species because of, but not limited to, any of the following factors:

- (1) The present or threatened destruction, modification or curtailment of habitat or range;
- (2) Over-utilization for commercial, sporting, scientific or educational purposes.
- (3) Diseases or predation;
- (4) The inadequacy of existing regulatory mechanisms; or
- (5) Other natural or man-made factors affecting its continued existence.

(d) The Department shall establish priorities for the conservation and protection of resident threatened or endangered species of plants and wildlife and their associated ecosystems.

(e) The Department is authorized to enter into agreements with Federal or other public agencies, private agencies or any person for administration, research or the management of any area, including aquatic, established under this Section or utilized for the conservation, management, enhancement or protection of threatened or endangered resident species of plants and wildlife as defined herein.

(f) The Department shall acquire by purchase, donation or otherwise, lands, aquatic habitats or interests therein for the conservation of resident endangered species or threatened species needed to carry out the programs relating to the intent of this Act; and, to submit to the Governor of Guam plans, programs, remedies or recommendations which will carry out the purposes of this Act.

(g) The Department shall be authorized to conduct investigation to determine the status and requirements for survival of resident species of plants and wildlife.

§12325.5. Prohibitions.

With respect to any threatened or endangered species of plants or wildlife of Guam and the United States, it is unlawful, except as provided herein, for any person or organization, subject to the jurisdiction of Guam, to:

- (a) import or export any such species to or from Guam and its territory;
- (b) take any such species within Guam and its territory;
- (c) possess, process, sell or offer sale, deliver, carry, transport or ship, by any means whatsoever, any such species; provided that any person who has in his possession such plants or wildlife at the time this provision is enacted into law, may retain, process or otherwise dispose of those plants or wildlife already in his possession;
- (d) violate any regulation or rule pertaining to the conservation, protection, enhancement or management of any designated threatened or endangered species.

§12325.6. Permits.

The Department may permit, through licenses, stamps, certificates or agreements, under such terms and conditions as it may prescribe, Section 12325.5 notwithstanding an act for the enhancement, perpetuation, conservation or survival of the affected species in question, provided that such permits are not contrary to the U. S. Endangered Species Act of 1973.

§12325.7. Enforcement.

(a) Any authorized officer or agent empowered by the Department with police powers to serve and execute warrants; to arrest offenders; or, to issue citations throughout Guam; or any officer and agent of Guam Customs and Quarantine, or any police officer of Guam shall have the authority to enforce any of the provisions of this Act or any regulation, rule or order promulgated pursuant hereto.

(b) Any officer or agent authorized pursuant to paragraph (a) shall have the authority to conduct searches, as provided by law, and to seize any equipment, business records, merchandise of any threatened or endangered species of plants and/or wildlife hereunder; and, any of the foregoing so seized shall be held by the Department, pending disposition by court proceedings, or the Department, prior to the forfeiture, may direct the transfer of plants or wildlife so seized to a qualified zoological, botanical, educational or scientific institution for safekeeping, costs thereof to be paid by the defendant. Upon conviction of the person or persons from whom the seizure was made, the court shall declare the items seized forfeited to the government of Guam. Such items shall be destroyed, or be transferred, or be released into its normal habitat, if possible, by the Department as outlined herein.

(c) Upon proper oath or affirmation showing probable cause, the judges or magistrates of Guam courts, shall issue such warrants or other process as may be required for enforcement of this Act and any regulation, rule or order issued thereunder.

§12325.8. Penalties.

(a) Any person or persons who non-commercially knowingly violates any of the provisions of this Act or the provisions of any regulation, rule or order promulgated hereunder, shall be fined not more than Two Hundred Fifty Dollars (\$250).

(b) Any person or persons who knowingly violates, or who knowingly commits an act in the course of a commercial activity which violates any provision of this Act, or any provision of any permit, certificate, stamp, agreement, rule, regulation, order or other, issued to implement this Act, may be assessed a civil penalty by the court of not more than Five Thousand Dollars (\$5,000) for each violation or be imprisoned for not more than three (3) years or both. Each violation shall be a separate offense. No penalty may be assessed unless such person is given notice and opportunity for a court hearing with respect to such violation or violations.

(c) The Department shall suspend, for a period of one (1) year, any hunting licenses, fishing permits (including shells, corals, shellfish and other fish weirs) or other stamps, certificates, leases or agreements issued to any person or persons who are convicted of a violation of any provision of this Act or any regulation, rule or order issued hereunder.

(d) The government of Guam shall not be held liable for the payments of any compensation, reimbursement or damages in connection with the modifications, suspension or revocation of any leases, licenses, permits, stamps, certificates pursuant to the purposes of the Act.

(e) All guns, traps, nets and other equipment, vessels, vehicles, aircraft and other means of transportation used to aid the taking, possessing, selling, purchasing, offering for sale or purchase, transporting, delivering, receiving, carrying, shipping, exporting any plants or wildlife in violation of this Act, any regulation made pursuant thereto or any permit or certificate or agreement made or issued thereunder shall be subject to forfeiture to the government of Guam upon conviction of a criminal violation pursuant to Subsections 12325.4, 12325.5 and 12325.7."

(f) The Department may sell forfeited items, the resultant monies to be deposited in the Conservation Fund to promote the welfare of plants and wildlife.

§12325.9. Severability.

Should any section, subsection, paragraph, sentence, clause or phrase of this Act or any regulation, rule or order, promulgated pursuant thereby be held invalid for any reason by a competent court of jurisdiction, such decision shall not affect the validity of the remaining portions of this Act or regulation, rule or order promulgated pursuant thereto.

§12325.10. Citizen Suits.

(a) Any person may commence a civil suit on his behalf:

(1) to enjoin any person, including the government of Guam, or any other governmental instrumentality or agency (to the limits permitted by the eleventh amendment to the Constitution of the United States), who is alleged to be in violation of any provision of this Act, or regulation, rule or order issued under the authority thereof, or

(2) to compel the Department to apply the prohibitions set forth in or authorized pursuant to this Act with respect to the taking or causing deleterious effects which further jeopardize the continued existence of threatened or endangered species.

(b) The Superior Court shall have jurisdiction to enforce any such provision, regulation, rule or order, whichever the case. In any civil suit commenced under Subparagraph (2), the court shall compel the Department to apply the prohibition sought if the court finds that the allegation that an emergency exists is supported by substantial evidence.

(c) No action may be commenced under Subparagraph (a) or (b) of this Subsection:

(1) prior to sixty (60) days after written notice of violation has been given to the Department, or to any alleged violator of any such regulation, rule or order,

(2) if the Department has commenced action to impose a penalty pursuant to Subsections 12325.4, 12325.5 and 12325.7 of this Act.

(d) The court, in issuing any final order in any suit brought pursuant to this subsection, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(e) The injunctive relief provided herein shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of standard or limitation or seek any other relief (including relief against the government of Guam or its agencies)."

GOVERNMENT CODE

CHAPTER XII-B [XII-A] Confirmation of Public Rights

§ 13980. Legislative findings.

§ 13981. Researching and identifying public rights.

§ 13982. Confirming public rights.

§ 13980. Legislative findings. The Legislature finds that the traditional pattern of land ownership on Guam was that many areas of the island were completely open to public access and public's use of such land was totally unfettered. Examples of such areas are the dry sand area of Guam's beaches and the steep slope of Guam's mountains, both areas having been referred to as *Monte Sine Dueno*. Additionally, there are many areas of Guam over which the public, through frequent and uninterrupted use, has acquired rights which need to be confirmed, settled, and vested by means of asserting these rights in land registration cases.

§ 13981. Researching and identifying public rights. duty of Land Records Division of the Department. The Land Records Division of the Department is hereby directed to conduct an exhaustive study of the patterns of land ownership and of public land use on Guam in order to identify those areas where the public may be able to establish a legally sufficient claim for ownership or use thereof in a land registration proceeding instituted by either the Government of Guam on behalf of the public's right thereto or by a private citizen in derogation of the public's right thereof. The Division shall also conduct research and prepare reports with respect to such land as the Attorney General may request to assist the government's presentation in land registration cases in which the public's interest in land is being asserted.

§ 13982. Confirming public rights. duty of Attorney General. The Director shall report the findings of the Land Records Division to the Attorney General and it shall be the duty of the Attorney General to enter an appearance in or file on behalf of the public in land registration proceedings for any unregistered land over which the public has a claim as revealed by research and study of the Department. [§ 13980-13982 added by P.L. 12-61, effective November 27, 1973. Note: P.L. 12-61 declared the legislative intent that: "Notwithstanding any other provision of law to the contrary, the Land Transfer Board, the Governor of Guam and the Director of Land Management shall not sell, lease or exchange government-owned property without the prior approval of the Legislature. If the Legislature fails to act within twenty (20) Legislative days following receipt of such proposed sale, lease or exchange, it shall be deemed to have concurred. This section does not apply to Land Use Permits issued pursuant to Chapter VII of the Government Code of Guam."] [EDITORS NOTE: Chapter XII-A has been renumbered to Chapter XII-B to maintain numerical sequences.]

GUAM NATURAL RESOURCES BOARD

§ 13251. Guam Natural Resources Board. The Territorial Planning Commission shall serve ex-officio as the Guam Natural Resources Board. It shall be the function of the Board to study and evaluate any plans or proposals for the utilization of government land for natural resource development or exploitation. [Added by P.L. 10-116, effective March 14, 1970.]

§ 13252. Minerals: mining. All proposals for the use, lease, or purchase of government land for the purchase of commercial mining or removing therefrom any minerals, rocks or sand for processing shall be presented to the Guam Natural Resources Board. The Board shall determine if the proposal is consonant with the public interest and in keeping with proper conservation practices. The Board may recommend any such use, lease or sale of government land to the Governor including any such conditions that may be necessary such as bonds for compliance with the proposals presented. [Added by P.L. 10-116, effective March 14, 1970.]

§ 13253. Rules and Regulations. It shall be the duty of the Guam Natural Resources Board to formulate such rules, regulations and procedures as are necessary to effectuate the aims and intents of this Act and no government land shall be leased or sold for the purpose of commercial mining or removing therefrom any minerals, rocks or sand for processing until the rules, regulations and procedures herewith authorized shall have been adopted and promulgated pursuant to the provisions of the Administrative Adjudication Act; and provided, further, that such regulations and procedures shall include, among other provisions, the following: (1) a public hearing on the proposed lease or sale of government land must be conducted by the Board; (2) a notice for said hearing shall be published in a newspaper of general circulation at least ten (10) days before the day set for the hearing; and (3) the notice for hearing shall contain a summary description of the proposed mining operations. [Added by P.L. 10-116, effective March 14, 1970.]

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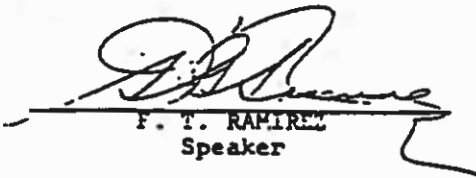
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TWELFTH GUAM LEGISLATURE
1974 (SECOND) Regular Session

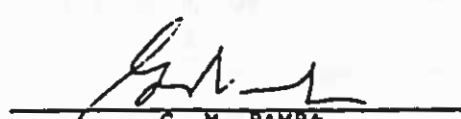
ATTORNEY GENERAL'S OFFICE

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Bill No. 675, "An Act relative to the establishment of the Guam Energy Office and authorizing an appropriation for such purposes", was on the 25th day of January, 1974, duly and regularly passed.


F. T. RAMIREZ
Speaker

ATTESTED:


G. M. BAMBA
Legislative Secretary

This Act was received by the Governor this 29th day
of January, 1974 at 4:25 o'clock P.M.


KEITH L. ANDREWS
Attorney General of Guam

APPROVED:


CARLOS G. CAMACHO
Governor of Guam

DATED: FEB 7 1974

3:35 p.m.

Public Law
12-100

TWELFTH GUAM LEGISLATURE
1974 (SECOND) Regular Session

Bill No. 675

Introduced by

Committee on
Resources, Develop-
ment and Agriculture
by request.

AN ACT RELATIVE TO THE ESTABLISHMENT
OF THE GUAM ENERGY OFFICE AND AUTHORI-
ZING AN APPROPRIATION FOR SUCH PURPOSES.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. This Act shall be known as the "Guam Energy
Office Act".

Section 2. Statement of policy and purpose. It is hereby
declared to be the public policy of the territory of Guam
that it is essential that there exists a Guam Energy Office
to mobilize local resources to work with the Federal Government
and the private sector in order to best allocate fuels avail-
able to the territory of Guam; and to determine which energy
conservation measures and practices best slow the rate of
the growth of energy consumption, assure adequate supplies of
energy and fuels for necessary uses, reduce energy, waste,
preserve natural resources and protect the environment.

Section 3. Guam Energy Office: establishment of. (a) There
is hereby established within the government of Guam as a
separate and independent office, the Guam Energy Office hereinafter referred to as the "Office".

(b) The office shall have an Administrator and Assistant
Administrator who shall be appointed by the Governor by and
with the advice and consent of the Legislature and such other
officers and employees as may be necessary to carry out its
functions under this Act provided, however, that all the
officers and employees of the office shall comprise of

1 existing personnel of the government of Guam who are temporarily
2 assigned or loaned to the office.

3 Section 4. Same: duties. The functions and responsibilities
4 of the office are as follows:

5 (1) To implement the "Emergency Petroleum Allocation Act
6 of 1973" and regulations adopted pursuant to said Act;

7 (2) To receive, hold, expend, or transfer Federal and
8 local funds, subject to applicable Federal and local rules;

9 (3) To enforce or delegate to the proper agency involved
10 the power to enforce laws enacted by the Federal Government,
11 or the government of Guam relative to petroleum products
12 price stabilization;

13 (4) To review present statutory authority, regulations,
14 procedures and programs in order to determine what changes
15 may be required to assure conformity with the policies and
16 purposes of this Act and to report its findings, with
17 recommendations for necessary changes to the Governor and to
18 the Legislature at the earliest possible date;

19 (5) To study and review energy conservation measures and
20 practices which reduce energy consumption thereby assuring
21 adequate supplies of energy and fuels for necessary uses and
22 to disseminate such information to the people of the territory
23 of Guam.

24 Section 5. Same: rules and regulations. The office
25 shall adopt reasonable rules and regulations governing its
26 operations, said rules and regulations to be promulgated in
27 accordance with the requirements set forth in the Administrative
28 Adjudication Law (Section 2400 et seq. of the Government Code
29 of Guam).

30 Section 6. There is hereby authorized to be appropriated
31 from any available funds in the Unappropriated Surplus of the
32 General Fund the sum of One Hundred Thousand Dollars (\$100,000)

1 for the operation of the Guam Energy Office for the fiscal year
2 ending June 30, 1974.

3 *Amended by P.L. 13-70*
4 Section 7. The Guam Energy Office shall cease to exist
5 when the purposes and objectives of this Act have been
6 accomplished, subject, however, to the further condition that the
7 office and powers granted it pursuant to this Act shall terminate
8 not later than one (1) year following the effective date of this
9 Act.

10 Section 8. The reporting date for the Ad Hoc Committee
11 which was created by Public Law 11-208 is hereby extended to
12 August 15, 1974.

13 Section 9. The reporting date for the Political Status
14 Commission which was created by Public Law 12-17 is hereby
extended to September 30, 1974.

GOVERNMENT OF GUAM
OFFICE OF THE GOVERNOR
AGANA, GUAM

EXECUTIVE ORDER NO. 78-37

GUAM LAND-USE POLICIES



WHEREAS, Public Law 12-200 requires as part of the Comprehensive Development Plan, a statement of specific policies for at least each of the following areas: social and human resource development, natural resource development, and utilization of environmental protection and quality, historical and cultural heritage preservation; and

WHEREAS, the Comprehensive Development Plan, as now completed by the Bureau of Planning embodies such specific policies; and

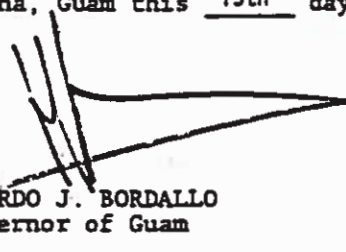
WHEREAS, prompt implementation of these policies is a desirable supplement to the land use districting system as established under Executive Order 78-23; and

WHEREAS, implementation of such policies at this time will facilitate federal approval of Guam's Coastal Management Program; and

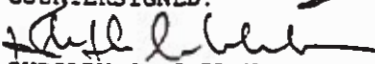
WHEREAS, future federal funding of Guam's Coastal Management Program is contingent upon such approval;

NOW, THEREFORE, I, RICARDO J. BORDALLO, Governor of Guam, by virtue of the authority vested in me by the Organic Act of Guam, as amended, do hereby order the following policies, as embodied in the Guam Comprehensive Development Plan, to be implemented by all agencies and instrumentalities of the Government of Guam within the scope of their authorities.

Signed and promulgated at Agana, Guam this 15th day of November, 1978.


RICARDO J. BORDALLO
Governor of Guam

COUNTERSIGNED:


RUDOLPH G. SABLAN
Lieutenant Governor

A. Governmental Processes Policy

More effective administration of natural resource related laws, programs, and policies shall be achieved through:

- . revision of unclear and outdated laws and regulations,
- . improved coordination among local agencies,
- . improved coordination between territorial and federal agencies,
- . educational and training programs for local government personnel, and refinement of supporting technical data.

B. Development Policies

1. Shore Area Development

Only those uses shall be located within the Seashore Reserve which: (1) enhance, are compatible with or do not generally detract from the surrounding coastal area's aesthetic and environmental quality and beach accessibility; or (2) can demonstrate dependence on such a location and the lack of feasible alternative sites.

2. Urban Development

Uses permitted only within Commercial, Multi-Family, Industrial, and Resort-Hotel zones; and uses requiring high levels of support facilities shall be concentrated within urban districts as outlined on the Land-Use Districting Map.

3. Rural Development

Rural districts shall be designated in which only low density residential and agricultural uses will be acceptable.

Minimum lot size for these uses should be one-half acre until adequate infrastructure, including functional sewerage, is provided.

4. Major Facility Siting

In evaluating the consistency of proposed major facilities with the goals, policies, and standards of the Comprehensive Development and Coastal Management Plans, the Territory shall recognize the national interest in the siting of such facilities including those associated with electric power production and transmission, petroleum refining and transmission, port and air installations, solid waste disposal, sewage treatment, and major reservoir sites.

5. Hazardous Areas

Identified hazardous lands including floodplains, erosion-prone areas, air installation crash and sound zones and major fault lines shall be developed only to the extent that such development does not pose unreasonable risks to the health, safety, or welfare of the people of Guam, and complies with land-use regulations.

6. Housing

The government shall encourage efficient design of residential areas, restrict such development in areas highly susceptible to natural and manmade hazards, and recognize the limitations of the island's resources to support historical patterns of residential development.

7. Transportation

The Territory shall develop an efficient and safe transportation system while limiting adverse environmental impacts on primary aquifers, beaches, estuaries, and other coastal resources.

8. Erosion and Siltation

Development shall be limited in areas of 15% or greater slope by requiring strict compliance with erosion, sedimentation, and land-use district guidelines, as well as other related land-use standards for such areas.

C. Resource Policies

1. Conservation of Natural Resources - Overall Policy

The value of Guam's natural resources as recreational areas, critical marine and wildlife habitats, the major source of drinking water, and the foundation of the island's economy,

- shall be protected through policies and programs affecting such resources.

2. Air Quality

All activities and uses shall comply with all local air pollution regulations and all appropriate federal air quality standards in order to ensure the maintenance of Guam's relatively high air quality.

3. Water Quality

Safe drinking water shall be assured and aquatic recreation sites shall be protected through the regulation of uses and discharges that pose a pollution threat to Guam's waters, particularly in estuarine, reef and aquifer areas.

4. Fragile Areas

Development in the following types of fragile areas shall be regulated to protect their unique character: historic and archaeologic sites, wildlife habitats, pristine marine and terrestrial communities, limestone forests, and mangrove stands and other wetlands.

5. Living Marine Resources

All living resources within the territorial waters of Guam, particularly corals and fish, shall be protected from over-harvesting and, in the case of marine mammals, from any taking whatsoever.

6. Visual Quality

Preservation and enhancement of, and respect for the island's scenic resources shall be encouraged through increased enforcement of and compliance with sign, litter, zoning, subdivision, building and related land-use laws; visually objectionable uses shall be located to the maximum extent practicable, so as not to degrade significantly views from scenic overlooks, highways, and trails.

7. Recreational Areas

The Government of Guam shall encourage development of varied types of recreation facilities located and maintained so as to be compatible with the surrounding environment and land uses; adequately serve community centers and urban areas, and protect beaches and such passive recreational areas as wildlife and marine conservation areas, scenic overlooks, parks, and historic sites.

8. Public Access

The public's right of unrestricted access shall be ensured to all non-federally owned beach areas and all Territorial recreation areas, parks, scenic overlooks, designated conservation areas and other public lands; and agreements shall be encouraged with the owners of private and federal property for the provision of reasonable access to, and use of, resources of public nature located on such land.

9. Agricultural Lands

Critical agricultural lands shall be preserved and maintained for agricultural use.

GOVERNMENT OF GUAM
OFFICE OF THE GOVERNOR
AGANA, GUAM



EXECUTIVE ORDER NO. 78-23

LAND-USE DISTRICTS

WHEREAS, Public Law 12-200 mandates the establishment of generalized areas of use within an urban, rural, agriculture, conservation and resort context; and

WHEREAS, Guam's proposed Constitution and Public Law 12-200 both require preparation of a land-use plan which identifies those areas most suitable for urban, rural, agriculture and conservation use; and

WHEREAS, the Bureau of Planning, through an extensive research and public involvement program, has identified such areas on a Land-Use Districting Map as part of its Land-Use and Community Design Plans; and

WHEREAS, such plans have been approved by the Governor, transmitted to the Legislature and may now begin to be implemented; and

WHEREAS, incorporation of the land-use districting system into the Territory's land-use planning and zoning processes is necessary to insure the best use of its land and water resources; and

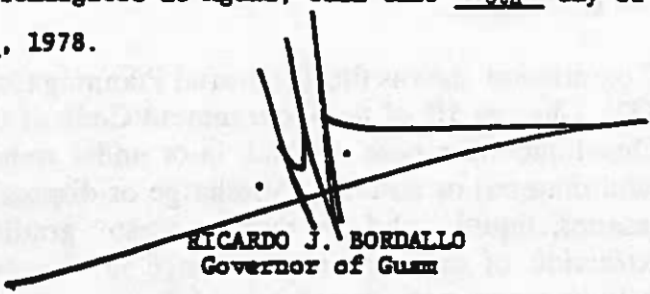
WHEREAS, utilization of land-use designations will ensure adequate and appropriate land is made available for agriculture, housing, commerce recreation, and protection of natural resources; and

WHEREAS, the use of land-use districts complies with, and supports, the goals and objectives of the Territory's Coastal Management Program;

NOW, THEREFORE, I, RICARDO J. BORDALLO, Governor of Guam, by virtue of the authority vested in me by the Organic Act of Guam, as amended, do hereby order the attached guidelines and standards relating to land-use districts to be implemented by the Territorial Planning Commission and any other such commissions or agencies as may be noted or affected.

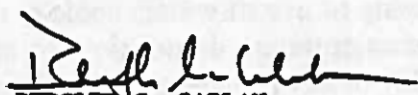
Signed and promulgated at Agaña, Guam this 8th day of

September, 1978.



RICARDO J. BORDALLO
Governor of Guam

COUNTERSIGNED:



RUDOLPH G. SABLÁN
Lieutenant Governor

LAND-USE DISTRICT GUIDELINES

Section I. Definitions.

- A. 'Commission' means the Territorial Planning Commission as established under Title XIV, Chapter III of the Government Code of Guam.
- B. 'Development' means on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in density or intensity of the use of land, including, but not limited to, subdivision of land and any other division of land including lot splits; Change in the intensity of use of water, ecology related thereto, or of access thereto; construction or reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility, and the removal of major vegetation.
- C. 'Standard' means any performance standard, rule, regulation, requirement, or other condition for the regulation of development.
- D. 'Persons' means any individual, organization, or partnership or corporation, including any utility or agency of federal, territorial, or local government.
- E. 'Seashore Reserve' means that area of land and water is defined under Title XLV, Chapter V-A of the Government Code of Guam.

Section II. Land-Use Districts.

Pursuant to Public Law 12-200, there shall be four land-use districts into which all lands in the Territory shall be placed; urban, rural, agricultural, and conservation. The Commission shall suitably group contiguous land areas for inclusion in one of these four major districts:

- a) Urban districts shall include those areas characterized by and designated for higher concentrations of people, structures and streets, proximity to basic services such as sewers, waters, sanitation, police and fire protection, power, and other major facilities and areas of high intensity use.
- b) Rural districts shall include those areas composed of small farms mixed with low-density residential lots where urban-like concentrations of people, structures, streets and levels of services are absent. Rural districts may include those areas determined to be capable of adequately supporting services and population densities characteristic of urban districts in the future, but which are currently rural in character.
- c) Agricultural districts shall include those areas characterized by the cultivation of crops, orchards, forage and forestry; farming activities or uses related to animal husbandry; services and uses clearly accessory to the above activities including, but not limited to, living quarters or dwellings, storage facilities, processing facilities and roadside stands for the sale of products grown on the premises; and open recreation facilities.

- d) Conservation districts shall include those areas necessary for protection of watersheds and water sources, prevention of floods and soil erosion and preservation of archaeological, historic, scenic, and other natural and cultural resources; parklands, wetlands, beach and wilderness areas; areas necessary for conservation of endemic plants and animals; open-space areas which, because of their present use, natural condition or openness enhance the present or potential value of abutting or surrounding communities; areas of value for existing or future recreational purposes agricultural preserves as defined under Section 12603 of the Government Code; and other permissible uses related activities found not to be detrimental to conservation policies and objectives.
- e) The Commission may include within the four respective land-use districts, areas of land which, though not characteristic of the district in which they are to be included, are of such a geographic or topographic nature as to be more suitable for inclusion within such district than classified as a separate district.

Section III. District Boundary Designation

The Commission shall adopt as the initial land-use district boundaries those designations as delineated on the Land-Use Districting Map included as part of the Land-Use Plan Guam, 1977-2000, as approved by the Governor.

Section IV. District Boundary Revisions

- a) Any person petitioning the Commission for revision of a district boundary shall submit a written statement to the Commission identifying the land area involved, the proposed district designation, and any documentation in support of such a revision. No later than thirty (30) days following receipt of such a petition, the Commission shall hold a public hearing concerning the proposed revision, notice of which shall be placed in a newspaper of general circulation at least fifteen (15) days prior to the hearing date. Such notice shall indicate the time and place at which maps designating the proposed boundary revision may be inspected. All comments relative to the proposed district revision shall be submitted to the Commission no later than fifteen (15) days following such hearing. Upon review of such comments, the Commission shall no earlier than fifteen (15) days, nor later than thirty (30) days following the district revision hearing either approve or disapprove the proposed district revision. No district boundary may be revised without the approval of at least four (4) Commission members. The Commission shall issue a written statement of findings in support of its decision addressing those issues raised by the applicant, Commission or other government agency staff, or resulting from the public hearing. If approved, the proposed district boundary revision shall be transmitted to the Governor for approval or disapproval.
- b) No district boundary revision shall be effective without approval by the Commission and the Governor.

- c) Any district boundary revisions proposed by the Government of Guam agency be submitted to the Commission by memorandum, the date of which shall constitute the date of receipt for purposes of establishing a public hearing date.
- d) All district boundary revisions shall be consistent with the policies of the Territory's Coastal Management Program and land-use plans as approved by the Governor.
- e) The burden of establishing the conformity of the proposed district boundary revision with the territory's official land-use policies shall be on the party proposing such revisions.
- f) Any district boundary revision resulting in 1) expansion of an immediately adjacent urban or rural district, or 2) establishment of a new-contiguous urban or rural district shall become effective only upon final approval of the zoning designations within such district by the Commission and the Governor.
- g) The Commission may adopt such rules and regulations as necessary to carry out its function under this Section, including extending time periods allotted for review of or comment upon proposed district boundary revisions.
- h) All officially adopted land-use district boundary revisions shall be filed with the Commission and Department of Land Management and recorded on the Government's Land-use Districting Map accordingly.

Section V. District Boundary revision requirements

- A. Land not included in an urban district may, by amendment to a land-use district boundary, be classified as urban if the Commission finds, after considering the following factors, such amendments to be consistent with the purposes of these guidelines.
 - 1) The availability and adequacy of transportation systems, infrastructure, and other public facilities and services for the land included in the proposed amendment, and the cost of providing transportation systems or other public facilities or services which are not available or the cost improving those which are inadequate for such land.
 - 2) The extent to which development which has been proposed for such land will enhance employment opportunities or access to employment opportunities, or assist in providing a balanced housing supply for all economic and social groups.
 - 3) The extent to which proposed development for such land can be provided at the same or higher densities at locations within existing urban districts, comparing the cost of providing adequate transportation systems and public facilities and services within existing urban districts with the cost of providing comparable systems, facilities, and services for such land.
 - 4) The extent to which social and economic benefits, achieved by including the land in an urban district, balance potential harm from the loss of land in agricultural production, land which has a potential for agricultural production, or land which includes natural, environmental, recreational, scenic, historic, or other resources.
- B. Land not included in a rural district may, by amendment to a land-use district boundary, be classified as rural if the Commission finds that such amendment would serve to further community design and Government land-use policies and objectives

and compliances with those rural district guidelines outlined in Section II of these guidelines.

- C. Land not presently included in an agriculture district may, by amendment to a land-use district boundary, be classified as agriculture if all or a substantial part of such land is in agricultural production, has a potential for agricultural production, or is being devoted to a use which maintains that potential, or conforms with criteria established for agricultural preserves under Government Code of Guam Section 12604 and for agricultural districts under Section II (c) of these guidelines.
- D. Land not included in a conservation district may, by amendment to a land-use district boundary, be classified as conservation if the Commission finds that (1) all or a substantial part of the land includes natural, recreational, recreational, scenic, historic, archaeological or other significant resources which should be conserved; (2) it is necessary that the land be classified as conservation so as to minimize the impact of development on land which includes such resources; or (3) rich land conforms to those conservation district guidelines outlined in Section II (d) of these guidelines.

Section VI Zoning Within Districts

- a) Following adoption of the final Land-Use Districting Map as described in Section III of these guidelines, the Commission shall have prepared a tentative revised zoning map designating the boundaries of permitted zones within the respective districts. Only the following zones shall be permitted within each of the respective districts: Urban: R1, R2, C, H, M1, M2; Rural: A, R1; Agriculture: A; Conservation: no zoning.
- b) Effective the date of this Executive Order No. _____, no land within a district may be zoned as, or rezoned to, any zone not permitted in that district, as specified in part (a) above.
- c) The tentative revised zoning map shall be presented for review and comment in at least one public hearing, notice of which shall be provided in a newspaper of general circulation at least fifteen (15) days prior to the hearing date. Such notice shall indicate the time and place at which the tentative map may be inspected prior to the hearing. All comments relative to the tentative map shall be submitted to the Commission no later than fifteen (15) days following the final public hearing concerning such map.
Upon review of such comments, the Commission shall no earlier than fifteen (15) days, nor later than thirty (30) days, following the date of the final public hearing adopt a final revised zoning map. Such map shall be transmitted to the Governor for final approval or disapproval. Upon final approval by the Governor, such map shall be deemed the official zoning map upon which all future or rezoning shall be recorded.
- d) No zones shall be established within Conservation Districts. The Commission shall adopt such rules and regulations as necessary to ensure proper development within Conservation District consistent with these guidelines and approved government land-

use plans and policies. Any development within a Conservation District, for which a building or grading permit is required, shall require approval by the Commission before issuance of such permit. No building or grading permit shall be issued within a Conservation District without approval of the Commission. The Commission shall approve only those permits which will result in development compatible with those policies, guidelines or standards for conservation districts as outlined in these guidelines or as adopted by the Commission.

- e) On the revised zoning map, all land within Agriculture Districts shall be zoned "A" and all applicable provisions of the Zoning Law, Title XVIII shall be enforced therein.
- f) The Zoning Law shall be fully enforced within those permitted zones within Urban and Rural districts.
- g) If a proposed development, because of its location, falls within the jurisdiction of more than one set of applicable standards or guidelines, the development shall be subject to the standards established for the area according to the following priority: (1) Area of Particular Concern, (2) Seashore Reserve, (3) Zoning and Subdivision Law. Where a conflict in standards cannot be resolved by the Commission through application of the above priorities, the Commission shall, by rule, determine the appropriate applicable standards.

Section VII. Compliance with Land-Use Policies and Standards

The following uses shall be approved by the Commission only if such uses are found to be compatible with such standards and guidelines, land-use policies or other applicable standards as approved by the Commission, Governor or Legislature:

- a) Any development within Conservation Districts;
- b) Any permissible or conditional uses, variances, or other uses within Agriculture Districts; and
- c) Any zone changes, permissible or conditional uses, variances, or other uses within Urban and Rural Districts.

Section VIII. Private Property Rights

This Executive Order is not intended, and shall not be construed as authorizing the Commission to exercise their power or grant or deny a permit in a manner which will take or damage private property for public uses, without the payment of just compensation therefore. This Executive Order is not intended to increase or decrease the rights of any owner of property under the Constitution of the Territory of Guam or the United States.

Section IX. Judicial Review

- a) Any person may maintain an action for declaratory and equitable relief to restrain

any violation of these guidelines. On a prima facie showing of a violation of these guidelines preliminary equitable relief shall be issued to restrain any further violation of this title.

- b) Any person may maintain an action to enforce the duties specifically imposed upon the Commission.
- c) Any person may maintain an action for the recovery of such civil penalties as provided for in the Zoning Law, Title XVIII, of the Government Code of Guam for violation of these guidelines.

GOVERNMENT OF GUAM
OFFICE OF THE GOVERNOR
AGANA, GUAM

EXECUTIVE ORDER NO. 78-20

FLOOD HAZARD AREAS

WHEREAS, certain land areas of Guam are subject to flood conditions due to surface water drainage into sinkholes and low-lying basins, overflow of rivers and wetlands and stormwave inundation of coastal areas; and

WHEREAS, development within flood-prone areas in absence of adequate regulatory controls has historically resulted in recurring public expense for relief and repair of flood-damaged facilities; and

WHEREAS, uncontrolled development within flood-prone areas creates conditions which are hazardous to human safety, health and welfare; and

WHEREAS, open space use and low-intensity activities within flood-prone areas are necessary for water quality management, aesthetic quality and maintenance of natural wetland and shoreline ecosystems; and

WHEREAS, ample land has been identified, outside flood-prone areas, to accommodate needed urban residential, commercial, industrial and other high-density or heavily populated uses of land; and

WHEREAS, the high costs of flood-proofing structures and flood control engineering projects within flood-prone areas is an unnecessary financial constraint to economic development; and

WHEREAS, responsible flood hazard area management is a requirement of the federally-subsidized National Flood Insurance Program which is an essential source of disaster relief during times of flood damage; and

WHEREAS, local agency coordination is essential in recognizing the intent of Presidential Executive Order 11988 which directs all federal agencies to take actions which will reduce the risks of flood losses, minimize adverse impacts on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains;

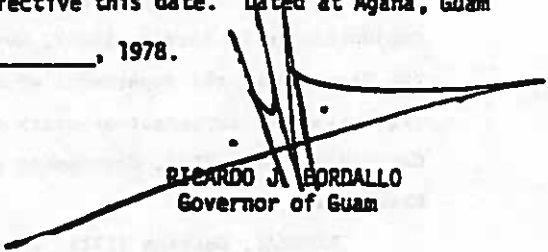
NOW THEREFORE, by virtue of the authority vested in me by the Organic Act of Guam, flood hazard areas are declared to be an area of particular concern in the planning and management of Guam's land and water resources and the Territorial Planning Commission is directed to:

1. Promulgate such rules and regulations as are necessary to meet the requirements of the National Flood Insurance Program and Guam's Coastal

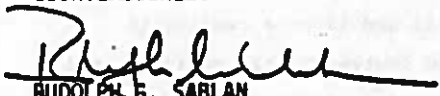
Management Program in insuring that development in such floodplains does not endanger the public's health, safety and welfare.

2. Designate as floodplain areas of particular concern those areas of Guam delineated as floodplains under the National Flood Insurance Program and such other areas as recommended by the Subdivision and Development Review Committee.

This Executive Order shall be effective this date. Dated at Agana, Guam this 28th day of August, 1978.


RICARDO J. BORDALLO
Governor of Guam

COUNTERSIGNED:


RUDOLPH E. SABLAN
Lieutenant Governor



GOVERNMENT OF GUAM
OFFICE OF THE GOVERNOR
AGANA, GUAM

EXECUTIVE ORDER NO. 78-14

HUNTING REGULATIONS

WHEREAS, Section 12321, Government Code of Guam, in conjunction with Section 12007, Government Code of Guam, authorizes the Director of the Department of Agriculture to formulate regulations to implement or carry out the purposes of Article 1, Chapter 4, Title XIII, Government Code of Guam, dealing with Game; and

WHEREAS, Section 12321, Government Code of Guam, authorizes the Director of Agriculture to regulate and license hunting in Guam, and regulations are necessary to implement this activity; and

WHEREAS, the aforesaid Section 12007, Government Code of Guam, provides that such regulations shall be issued upon approval by the Governor and promulgation by executive order;

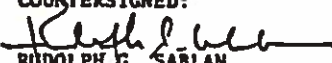
NOW, THEREFORE, I, RICARDO J. BORDALLO, Governor of Guam, by virtue of the authority vested in me by the Organic Act of Guam, as amended, and Section 12007 and 12321 of the Government Code of Guam, do hereby order as follows:

1. Hunting Regulations of 1973, approved and promulgated by Executive Order 73-6, is hereby repealed.
2. The attached Department of Agriculture Regulation No. 41 "Hunting Regulations" is hereby approved and promulgated, to be in effect this date.

Signed and promulgated at Agana, Guam this 5TH day of JULY, 1978.


RICARDO J. BORDALLO
Governor of Guam

COUNTERSIGNED:


RUDOLPH F. SABLAN
Lieutenant Governor

GOVERNMENT OF GUAM
DEPARTMENT OF AGRICULTURE

REGULATION 41

HUNTING REGULATIONS

Pursuant to the authority vested in the Director of Agriculture by Sections 12007 and 12321, Government Code of Guam, the following regulations relating to the harvest of game are hereby approved:

HUNTING GENERAL

1. **LEGAL SHOOTING TIME.** It shall be legal to hunt wild game in season from one half hour before sunrise to one half hour after sunset.
2. **HUNTING LICENSE REQUIRED.** It shall be unlawful for any person to hunt, pursue, catch, capture, kill, wound, or shoot any wild mammal or bird without first obtaining a general hunting license from the Government of Guam, Department of Agriculture, or any authorized licensing agent. All persons obtaining a hunting license shall complete hunter report cards (attached to each license) whether they harvested game or not, as follows: (a) The **DEER REPORT** must be returned within (5) days of the taking of a deer during the regular season only; (b) the **DEER TAG** must be attached immediately to the carcass upon the taking and it must remain so until consumed completely; and, (c) the **WILD PIG REPORT** must be mailed to the Department of Agriculture within five (5) days of the end of the regular season.
3. **HUNTING LICENSE FEE.** Five dollars (\$5.00). The hunting license shall be valid during all prescribed hunting seasons of the calendar year for which issued.
4. **DUPLICATE LICENSE.** If a license becomes lost, destroyed, or stolen, a duplicate license may be issued by any licensing agent upon payment of one dollar (\$1.00).

5. LICENSE TO BE IN POSSESSION. Every hunter shall have on his person while in the field, a valid Guam Hunting License.
6. ALTERING, BORROWING, LOANING, OR TRANSFERRING LICENSE. No person shall at any time alter, change, borrow, loan or transfer to another, any hunting license issued in accordance with the law.
7. INSPECTION OF LICENSE AND GAME BAG. The hunting license and game bag or kill are subject at all times to inspection by any peace officer of the territory.
8. HUNTING AGE. Only persons 18 years of age or older may hunt with firearms. Persons 14 years of age or older may hunt with bows & arrows or crossbows, provided that persons between 14 and 18 years of age are accompanied by a licensed hunter of 18 years of age or older.
9. INFLUENCE OF ALCOHOL AND DRUGS. No person shall hunt at any time while under the influence of alcohol, or other intoxicating substances.
10. HUNTING FROM MOVING VEHICLE PROHIBITED. No person shall hunt, pursue, catch, molest, kill, or destroy any wild animal or bird at any time from an automobile, power-propelled vehicle, or other mechanical contrivance, or from an animal's back.
11. USE OF LIGHTS AND FIRE PROHIBITED. The use of fire or artificial light of any kind as an aid to the taking of game is prohibited.
12. VILLAGES AND ROADS CLOSED TO HUNTING. The firing of any gun or bow & arrow within a village or within 100 yards thereof (for the taking of wildlife), or within 100 yards of an occupied dwelling, or across a public road, or within twenty-five (25) feet of a road, is prohibited.
13. PURCHASE AND SALE PROHIBITED. The purchase and sale of wild mammals or birds or their eggs, or parts thereof, is prohibited.
14. UNPROTECTED WILDLIFE. The following wildlife only may be taken during the legal shooting time as specified at any time of year:

- | | |
|-----------------------|--|
| (a) Wild (feral) dogs | (c) Rodents |
| (b) Wild (feral) cats | (d) Philippine rat snake
and monitor lizard |

All other wildlife are strictly protected by law and may not be taken except as specifically authorized in this regulation.

15. DEFINITION OF BAG, POSSESSION, AND SEASON LIMITS.

BAG LIMIT Maximum number of game species (each) that may be legally taken in one day.

POSSESSION LIMIT Maximum number of game species (each) that may be in possession at any one time after the second day of the season.

SEASON LIMIT Maximum number of game species (each) that a hunter may take or bag during an entire given season for any species.

16. USE OF DOGS. Dogs may be used to hunt and retrieve game birds during the legal game bird season only. They shall not be used to hunt, pursue, or kill any other game or nongame species, including unprotected species.

17. TAKING OF DEER AND WILD PIG.

1. Only deer having visible antlers may be hunted, pursued, taken, wounded, killed, or shot in any matter except at special designated hunts.
2. Only the following weapons are authorized for the taking of deer and wild pig:
 - a) Shotguns no larger than 10 gauge, using rifled slugs or buckshot may be used.
 - b) Centerfire rifles of .23 caliber or greater may be used only in the Bolanos Conservation Area. Only commercial bullets of the expanding type may be used. Ammunition using military bullets either altered or unaltered, is not allowed.
 - c) Crossbows and bows & arrows may be used, provided:
 - 1) Bows or crossbows must have a minimum draw weight of at least 40 lbs.
 - 2) Arrows and crossbow bolts must be fitted with arrowheads that measure no less than seven-eighths (7/8) of an inch at the widest point or that have no fewer than two sharp cutting edges.

18. TAKING OF GAME BIRDS:

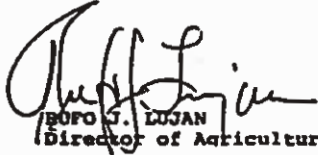
1. Lawful Hunting Weapons and Ammunition. Only shotguns, using shot no larger than No. 6, may be used for the taking of game birds.

19. SPECIAL DESIGNATED HUNTS: The Director of Agriculture may, from time to time, authorize special hunts for the purpose of controlling wildlife populations that cause economic hardship or that present a danger or safety hazard to man. Special regulations may be promulgated for such hunts.

20. HUNTING SEASONS AND BAG LIMITS:

	<u>DAILY LIMIT</u>	<u>POSSESSION</u>	<u>SEASON LIMIT</u>	<u>SEASON</u>
Wild Pig	1	2	10	Oct. 1 - Dec. 31
Deer (Antlered Only)	1	1	1	Oct. 1 - Dec. 31
Philippine Turtle Dove	4	8	20	Jul. 1 - Jul. 31

Dated this 30th day of June, 1978.


RUFINO J. LOJAN
Director of Agriculture

GOVERNMENT OF GUAM
OFFICE OF THE GOVERNOR
AGANA, GUAM

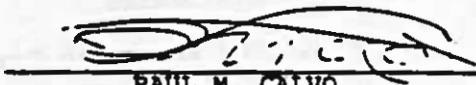
Executive Order No. 79-20

AGRICULTURAL LAND LEASES - RULES AND REGULATIONS

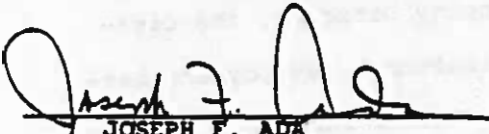
WHEREAS, Government of Guam Public Law 15-18, April 14, 1979, authorizes the Department of Agriculture to administer the agricultural land lease program and in implementation thereof make rules and regulations, subject to the approval of the Governor, as may be necessary or required:

NOW, THEREFORE, By virtue of the foregoing, the Department of Agriculture Rules and Regulations - Agricultural Land Leases and all attachments thereto, are hereby approved and promulgated by Executive Order to be in effect this date.

Dated at Agana, Guam, this 11th day of September,
1979.


PAUL M. CALVO
Governor of Guam

COUNTERSIGNED:


JOSEPH F. ADA
Lieutenant Governor

RULES AND REGULATIONS

AGRICULTURAL LEASES

INTRODUCTION

For purposes of implementation pursuant to Government of Guam Public Law 15-18 of April 18, 1979 relating to agricultural leases of government land, the following rules and regulations are hereby established to effectuate the administrative and operational implementation of the statutory provisions of the law.

I. Rules and Regulations

The purpose of the rules and regulations for agricultural leases on government land, is to provide more precise standards within the scope of the general framework set up by P.L. 15-18. The rules and regulations is not a restatement of P.L. 15-18, but rather to be consistent with the law with more specifications as to the actual implementation and the general operations of land leases. A copy of P.L. 15-18 will be made available, upon request, for review and further explanation by the Department of Agriculture.

II. Administration

1. The Approving Committee within the Department of Agriculture who shall further effectuate the administrative and operational implementation for purposes of this law shall consist of the Director and/or the Deputy Director, the Division Heads of the Agricultural Development Services, Plant Industry, Animal Industry, Aquatic and Wildlife Resources, and Forestry and Soil Resources.
2. The Division of Agricultural Development Services of the Department of Agriculture shall be the responsible body for the general operations of the agricultural land lease under the direct supervision of the division chief. The general operations of the land lease shall in-

filing system; the disbursement of all forms and necessary information to applicants; the conduction of any and all required inspections of every lessees' operation; and, to report to the above mentioned Approving Committee and the Director of Agriculture of any lessee deterring from the lease agreement.

III. Definitions

1. "Department" and "Director of Agriculture" shall include any successor to said Department or Director of Agriculture.
2. Tract means a defined area of land, either large or small, separately or collectively, which applies to the minimum standards set forth in the categorical classification table showing minimum acreage of land area allowable for lease.
3. Improvements means clearings, roads, buildings, fences, irrigation and drainage systems, wells or reservoirs, utilities and economical or ornamental trees.
4. Termination of a lease agreement shall mean a lessee ending his rights to a lease agreement before the fifty (50) years term is fully utilized.
5. Expiration of a lease agreement means a lessee ending his rights to a lease agreement by fully utilizing the allotted fifty (50) years term.

IV. Qualifications and Eligibility

1. Applicant must have adequate experience and background in agriculture on either field crops, poultry, livestock, aquaculture or any combination of these activities and should be a part-time or full-time commercial or individual farmer whose main source of income or subsidiary income is derived from the farm; and/or an educational attainment

2. Applicant must possess a satisfactory development plan in order to carry out his proposed agricultural operation.
3. Applicant is required to submit an agricultural plan to the approving committee of the Department of Agriculture, which will include certain details as to the type of agricultural enterprise the individual, corporation or partnership intends to engage in, the estimated costs and expected returns of the project and the various operations involved in the production process including but not limited to the local need and marketability of the kind of crops or livestock to be raised and its marketing potentialities.

V. Rent

1. The amount of rent due shall be established through the use of the Rent Formula Derivation Schedule which will be incorporated in the lease agreement.

VI. Terms and Conditions

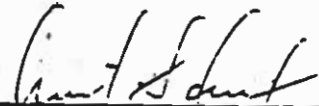
1. Any and all improvements to be made by a lessee on government leased land must have prior written consent from the Director of Agriculture through the Approving Committee. Those improvements made by lessees on government leased land, without written consent of the Director of Agriculture, shall not be subjected to reimbursement by a new lessee upon the termination of a lease agreement.
2. If a tract of land has been occupied by a lessee but was terminated for non-compliance or by mutual agreement, the improvements on the land should be charged to the new applicant. This rule should not apply to heirs of a deceased

3. Heirs and descendants should be awarded the lots if they desire to continue the lease of their ancestor.
4. Improvements made on leased land should become the property of the lessee during the term of the lease.
5. Determination of the value of improvements upon termination of the lease by mutual consent of both parties shall be established at fair market value.
6. A lessee may sale his improvements made on the leased land to a new lessee upon termination of the lease agreement.
7. All improvements on lease land shall become the property of the government upon expiration of the lease agreement.
8. The Department of Agriculture has no jurisdiction in reimbursing lessees for any improvements made on the leased land.

VII. Other Requirements

1. Annual fiscal inspection would be maintained to ascertain improvements made on leasehold with respect to real estate taxes for taxation purposes. Such certification is to be made to the Department of Revenue and Taxation, Government of Guam.
2. The Director of Land Management shall certify available surveyed government real property for lease as may be suitable for agriculture.
3. The lessee shall pay the Department of Land Management the required fees charged for surveying, mapping and recording of his intended leased land.

Submitted


ANTONIO S. QUITUGDA
Director of Agriculture

Approved as to Form:


KENNETH E. NORTH
Attorney General

APPROVED:


PAUL M. CALVO
Governor of Guam

Date: 9/11/79



TERRITORY OF GUAM
OFFICE OF THE GOVERNOR
AGAÑA GUAM 96910
U.S.A.

EXECUTIVE ORDER NO. 87-19

Amendment To
EXECUTIVE ORDER NO. 85-6

RELATIVE TO THE LEASING OF GOVERNMENT-OWNED
LAND FOR COMMERCIAL PURPOSES

WHEREAS, Section 3 of Public Law 15-6 authorized the Government of Guam to lease government-owned land for commercial purposes; and

WHEREAS, the Government of Guam desires to assist in the economic development of the territory; and

WHEREAS, the Government of Guam owns real properties which may have potential for commercial use and are not needed by the government for present or future use; and

WHEREAS, the Department of Land Management has cognizance of government real property;

NOW THEREFORE, I, JOSEPH F. ADA, Governor of Guam, by virtue of the authority vested in me by the Organic Act of Guam, do hereby order as follows:

1. Commercial Leases.

The Department of Land Management, subject to approval by the Governor, is authorized to declare available for lease, under the provisions of this Executive Order, government real property designated for development in the Guam Public Land Use Plan and which is not required for public use or reserved or needed for other use by any agency or department of the government, including any future use. All affected agencies and departments of the government shall have the opportunity to comment as to any intended use or potential future use of any government property proposed for commercial lease.

All submerged lands, under the jurisdiction of the Government of Guam and determined suitable for commercial use, are declared available for lease on a case by case basis, under the provisions of this Executive Order.

2. Property Available for Lease.

The Director shall annually prepare and submit to the Governor an inventory of government real property available for lease. The inventory shall include only those properties designated for development in the Guam Public Land Use Plan. Upon approval of the Governor, such inventory shall be published on July 1 of each year, and at such other times as may be appropriate. Any deletion or addition shall be published in like manner. No application to lease government real property shall be accepted except as to real property included in such inventory.

Submerged lands shall be exempt from the publication requirement. All submerged lands under the jurisdiction of the Government of Guam determined suitable for commercial use shall be deemed included in the inventory list. Determination of suitability for commercial use of submerged lands is subject to prior approval of all affected Territorial agencies, boards and commissions.

3. Definitions.

As used in this Executive Order, the term "commercial use" shall include the use by individuals, partnerships and corporations qualified to do business in Guam for the purpose of operating commercial or industrial business enterprises. The term does not include use of the leased property for the purpose of securing a sublease, assignment or other transfer of rights under the lease.

4. Eligibility.

Any person who is a legal resident of the Territory of Guam and of legal age and licensed to do business in the Territory of Guam and authorized to do business in the Territory of Guam and authorized by its articles of incorporation to engage in a commercial enterprise, or any partnership, limited or general, licensed to do business in the Territory of Guam, shall, in accordance with the provisions of this Executive Order, be eligible to lease Government of Guam land for commercial purposes. No such person, partnership or corporation shall be eligible to lease more than one tract, lot or parcel. Submerged lands leased adjacent to leased government land leased by the same parties shall be considered as part of the non-submerged tract, lot or parcel for the purposes of this Executive Order.

5. Priorities.

The Director, in considering and acting upon applications for the lease of government real property for commercial purposes, shall give priority to such business enterprises as will, if established, contribute to the economic development of the territory or provide desirable goods or services not then available here and to such business enterprises already established as will, by expansion and improvement of their facilities, contribute to the economic development of Guam or provide desirable goods or services not then available here or, if available, not adequate to the needs of the territory.

If, under the application procedures, two or more applications for the same properties are determined by the Director to be of equal value when considering the above priorities, the Director may enter into negotiations with the applicants to obtain an agreement and lease that best meets the needs of the territory. Unsuccessful applicants under this section may obtain review of the Director's decision if such objection is filed with the Governor of Guam within fourteen (14) days of receipt of a notice of award of the lease to another applicant.

6. Same: Application: Restrictions.

No person, firm or corporation shall be allowed any priority who shall have previously, on the same facts establishing the priority, claimed and been allowed any priority under this Executive Order, or any equivalent priority or preference authorized under any other provision of law, whether or not the transaction in which the priority was claimed and allowed was ever completed, provided an opportunity to complete the transaction was offered.

7. Application for Leases.

Application for leases of government land for commercial use shall be made to the Department of Land Management. The application shall be in such form and contain such data as the Director of Land Management, with the approval of the Governor and the Attorney General, shall prescribe. Applications for such leases shall be accompanied by a detailed plan for the commercial use of the property by

the Lessee, which may require submission and prior approval of detailed drawings and financial information to be provided by the applicant.

8. Same: Zoning.

All government property leased for commercial purposes must comply with the applicable zoning law before a lease may be entered into. If the property is not zoned for the use intended by an applicant, and the applicant in all other respects is eligible to lease the property, the Department of Land Management may apply to the Territorial Planning Commission for the applicable zone change or variance for the property. Applications to lease government land not properly zoned for the intended commercial use shall not be approved by the Department of Land Management. Submerged lands leased for commercial purposes are exempt from compliance with this paragraph, but subject to determination of suitability for commercial use as required by paragraph 2 of this Executive Order.

9. Approval of Applications.

The Department of Land Management shall verify the eligibility of the applicant and all essential facts set forth by the applicant. The Department shall approve or disapprove the application in accordance with such reasonable standards as the Director, with the approval of the Governor and the Attorney General, may prescribe. The applicant for a lease of submerged lands must comply with all Territorial permit and agency requirements prior to approval of the lease application.

10. Same.

Upon approval of the lease application by the Department of Land Management, the lease must be approved by the Attorney General and be submitted to the Governor for his signature. The lease shall be executed by the Department of Land Management upon the approval of the Governor. The lease shall not take effect until after approval of the Legislature, pursuant to P.L. 18-32:14.

11. Term.

The term of the lease shall not exceed fifty (50) years.

12. Rent.

The amount of rent due shall be determined by the fair market rental value of the property at the time of the initial execution of the lease. The rental amount shall be redetermined at least every ten years to conform with the current fair market rental value of the property leased or at least every five years at a fixed amount stated in the contract not to exceed 10% of the immediate prior lease amount. The parties shall also have the option to lease the property with the first year's rent being forgiven. If this option is exercised by the parties, the lease document shall state the specific reasons for the forgiving of the first year's rental amount. The amount of rent due for submerged lands shall not exceed the amount of rent that would be due for adjacent non-submerged lands if they were to be leased for commercial purposes, on an area for area basis. For fish weir operators, rent shall commensurate with existing fees as established by the Department of Agriculture.

13. Cancellation.

The Government of Guam shall reserve the right to cancel at any time any lease executed hereunder if the lessee is not using the land for the specific purpose for which it was leased, unless good cause for such failure can be shown, except that no lease can be cancelled without a hearing pursuant to the provisions of the Administrative Adjudication Law.

If the Lessee does not use the land for the specific purpose for which it was leased, within two years of the initial effective date of the lease, the lease shall be automatically cancelled on the second anniversary of the lease.

14. Taxes.

Holders of a lease under this Executive Order shall be responsible for all property taxes. Both the leasehold interest, as well as any improvements shall be subject to real estate taxes.

15. Transfer or Encumbrances.

No rights derived from any lease executed under Section 3 of P.L. 15-6 and this Executive Order shall be assigned, sold, subleased, encumbered or hypothecated without the approval of the Governor after review and approval by the Attorney General and shall not take effect until approval of the Legislature. No person

leasing under the provisions of this Executive Order shall sublease or otherwise transfer any interest in the leased property for more than the current lease amount.

16. Recording.

Every original lease under the provisions of this Executive Order shall be recorded with the Department of Land Management. A copy of every lease shall be filed with the Department of Administration. The property description shall contain a reference to a map recorded with the Department of Land Management which specifically identifies the property.

17. Annual Financial Statement.

Every lessee under a lease executed under Section 3 of P.L. 15-6 and this Executive Order shall annually submit to the Department of Land Management on the anniversary of each lease, a financial statement and report setting forth in detail the use, improvements and income derived from the leased property. The Director shall, with the approval of the Governor, prescribe the form of such financial statement and the date required.

18. Change in Use.

A lessee who desires to materially change the approved use of the property must submit an application to the Department detailing the specific reasons for the intended change. The application shall be accompanied by a detailed plan for the new intended commercial use of the property by the lessee, which may require submission of detailed drawings and financial information to be provided by the lessee. The Department shall approve or disapprove the application in accordance with such reasonable standards as the Director, with the approval of the Governor and the Attorney General, may prescribe.

19. Form of Lease.

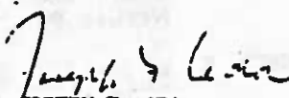
All leases under the provision of this Executive Order must be in a form approved by the Attorney General.

20. The Director of Land Management shall annually, no later than January 30 of each year, submit to the Governor a list of current commercial leases, including, but not limited to: the Lessee, current rent, expiration date, property

description, financial status as last reported and current use. Such list shall be available at the Department for public inspection during normal business hours.

This Order shall be effective upon approval of the Governor.

Signed and promulgated at Agana, Guam the 18th day of June,
1987.


JOSEPH F. ADA
Governor of Guam

COUNTERSIGNED:


FRANK F. BLAS
Lieutenant Governor of Guam



TERRITORY OF GUAM
OFFICE OF THE GOVERNOR
AGAÑA, GUAM 96910
U.S.A.

EXECUTIVE ORDER NO. 87-36

CREATION OF ANAO NATURE PRESERVE

WHEREAS, Anderson Elementary School competed for and was awarded an "Excellence in Education" federal grant by the U.S. Department of Education; and

WHEREAS, this grant includes the implementation of a nature trail and environment complex to be known as the Anao Nature Preserve; and

WHEREAS, all aspects of this Preserve will be integrated into the curriculum of mathematics, science, language arts and social studies in the public schools of Guam; and

WHEREAS, the many objectives of the Anao Nature Preserve includes the use and appreciation of the area by all people of the community, and especially, the students of the schools of Guam at all instructional levels; and

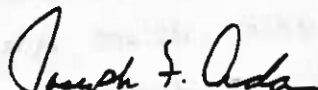
WHEREAS, the primary objective of creation of the Preserve is the conservation of the natural resources within the Preserve, as well as the protection and continuation of the flora and fauna therein for posterity; and

WHEREAS, this project shall promote an awareness of the natural resources of Guam.

NOW, THEREFORE, I, JOSEPH F. ADA, Governor of Guam, by virtue of the authority vested in me by the Organic Act of Guam, as amended, do hereby order as follows:

- 1. That the Anao Nature Preserve be established on Lot 7116-R4, which excludes that area designated as Government Staff Housing.**
- 2. That the Anao Nature Preserve be used for and reserved for the enjoyment of all the people of Guam, especially the school children.**
- 3. That all agencies and departments of the Government of Guam provide assistance within their means, and which will not hinder their daily operations, in the efforts to maintain the Anao Nature Preserve.**

SIGNED and PROMULGATED at Agaña, Guam this 13th day of
NOVEMBER 1987.


JOSEPH F. ADA
Governor of Guam

COUNTERSIGNED:


FRANK F. BLAS
Lieutenant Governor of Guam

TERRITORY OF GUAM
OFFICE OF THE GOVERNOR
AGANA, GUAM 96910
U.S.A.

EXECUTIVE ORDER NO. 88-22

PROTECTION AND RECOVERY OF UNDERWATER
HISTORIC PROPERTY AND SITES

WHEREAS, a recent ruling by the District Court of Guam in D.C. Case No. CV-87-0036-CCD has cast serious doubt on the efficacy of Government Code sections 13985.29 through 13985.35, Guam's enabling legislation relating to the protections and recovery of underwater historic property; and

WHEREAS, under Pub. Law 100-298 (the Abandoned Shipwreck Act of 1987), enacted April 29, 1988, the United States asserts title to any abandoned shipwrecks embedded in submerged lands of the Territory of Guam; embedded in coralline formations protected by the Territory on submerged lands of the Territory; or on submerged lands of the Territory and is included in or determined eligible for inclusion in the National Register; and

WHEREAS, the United States has transferred its title to such shipwrecks to the territory of Guam; and

WHEREAS, pursuant to Pub. Law 100-298, the Secretary of the Interior, acting through the Director of the National Park Service, is authorized by publish guidelines, but has not yet done so; and

WHEREAS, there currently exists an immediate need for an interim regulatory scheme for the protection and recovery of Guam's underwater historic property and sites;

NOW, THEREFORE, by virtue of the authority vested in me by the Organic Act of Guam and the laws of the United States and Guam, the following regulations are promulgated:

"1. Definitions. As used in these regulations, 'underwater historic property' means any shipwreck, vessel, cargo, apparel, tackle, armament, or vestiges thereof, or underwater

archaeological specimen, including any found at refuse sites or submerged sites of former habitation, that has remained unclaimed for more than ten (10) years on the bottoms of any waters; 'Department' means the Guam Department of Parks and Recreation.

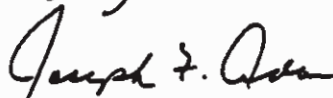
2. Title to underwater historic property. Subject to any statute of the United States and any vested riparian rights, the title to all bottoms of navigable water within Guam's boundaries and the title to any underwater historic property on submerged lands, embedded in submerged lands, embedded in coralline formations which are in, on or under submerged lands of the Territory of Guam, or other historic property to which the Government of Guam has the authority under federal or territorial law to assert title, is declared to be in the territory, and such bottoms and underwater historic properties shall be subject to the exclusive dominion and control of the territory.

3. Custody of underwater historic property. The custodian of underwater historic properties as defined herein shall be the Department which shall administer the preservation and protection of these properties as hereinafter directed by these regulations. The Department is empowered to prescribe such additional rules and regulations as may be necessary to preserve, protect, and recover any or all underwater historic properties.

4. Salvage research. The Department shall establish a center responsible for salvage research in areas designated by the Department as endangered by the lease, sale, or use of public or private lands.

5. Permits. Any qualified persons, firm, or corporation desiring to conduct any type of exploration or recovery operations, in the course of which any underwater historic property or part thereof may be removed, displaced, or

destroyed, shall first make application to the Department for a permit to conduct such operations. If the Department finds that the granting of such permit is in the best interest of the territory, it may grant such applicant a permit for such a period of time and under such conditions as the Department considers to be in the best interest of the territory. Such permit may provide for the fair compensation to the permittee in terms of a percentage of the reasonable cash value of the objects recovered or a fair share of the objects recovered, such fair compensation or share to be determined by the Department. Superior title to all objects recovered shall be retained by the territory unless or until they are released to the permittee by the Department with the concurrence of the Governor. All exploration and recovery operations undertaken pursuant to a permit issued under these regulations shall be carried out under the general supervision of the Department and in accordance with the rules and regulations prescribed hereunder and in such manner that the maximum amount of historic, scientific, archaeological, and educational information may be recovered and preserved in addition to the physical recovery of items. Permits may be renewed upon or prior to expiration upon such terms as the Department may specify. Holders of permits shall be responsible for obtaining permission of any federal agencies having jurisdiction prior to conducting any salvaging operations. Promulgated this 13th day of August, 1988.


JOSEPH F. ADA
Governor of Guam

Countersigned:



FRANK F. BLAS
Lieutenant Governor of Guam



**TERRITORY OF GUAM
OFFICE OF THE GOVERNOR
AGAÑA, GUAM 96910
U.S.A.**

EXECUTIVE ORDER NO. 88-29

**TO DESIGNATE A LEAD AGENCY FOR
COORDINATING GOVERNMENT OF GUAM
INTERESTS AND ACTIVITIES WITHIN THE
200-MILE EXCLUSIVE ECONOMIC ZONE.**

WHEREAS, Guam Public Law 15-114 proclaimed, for Guam, Jurisdictional Rights over the waters surrounding for a distance of 200 geographical miles; and

WHEREAS, Presidential Proclamation 5030 of March 10, 1983, effectively removed resource jurisdictional rights within the 200-mile Exclusive Economic Zone from the international domain and redefined jurisdictional control as a domestic issue; and

WHEREAS, Article 10 of Guam's Draft Commonwealth Act states, "The Commonwealth shall exercise rights to determine the conditions, including pollution control, and terms of all scientific research, management, exploration and exploitation of all ocean resources and all sources of energy and prevention of pollution with the 200-mile Exclusive Economic Zone, including pollution outside the zone that poses a threat within the zone"; and

WHEREAS, Guam's Exclusive Economic Zone has the potential for extensive deposits of mineral resources, technologically difficult, but potentially developable energy resources, mariculture resources; and, stands in imminent danger of both direct and indirect pollution; and

WHEREAS, all the various uses or potential uses of the natural resources within Guam's Exclusive Economic Zone require extensive planning, coordination and management in order to return the maximum benefit to the people of Guam and to protect the resources for further generations on Guam; and

WHEREAS, no single Government of Guam agency has the authorities or expertise to address all aspects of resource conservation and development; and

WHEREAS, Public Law 12-200, Section 62017 created the Bureau of Planning and delegated to that agency the function of developing and recommending territorial policies to foster and promote the improvement of planning activity and development quality;

NOW THEREFORE, I JOSEPH F. ADA, Governor of Guam, by the authority vested in me by the Organic Act of Guam, as amended, and by Section 62017 of the Government Code of Guam, as enacted by Public Law 12-200, hereby order as follows:

1. The Bureau of Planning is designated the lead agency for Exclusive Economic Zone matters for Guam. As such, the Bureau of Planning is to act as reviewing and coordinating agency for all EEZ activities and correspondence between the Government of Guam and all federal, regional or international agencies and organizations.

2. There is hereby created an Exclusive Economic Zone Policy Committee, as follows:

a) The Lieutenant Governor of Guam shall act as Chairman;

b) The Director of the Bureau of Planning shall act as Vice-Chairman;

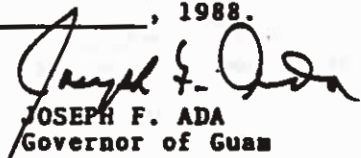
c) The Administrator of Guam Coastal Management Program shall serve as staff to the Committee;

d) Committee members shall be the directors or heads of those agencies named by the Chairman, and other members of the community named by the Chairman;

e) The Committee shall meet on a regular basis to define and recommend policies, relating to all EEZ resource matters, to the Governor.

f) The Committee is to meet without pay or compensation.

SIGNED AND PROMULGATED in Agaña, Guam, this 25th day of October, 1988.


JOSEPH F. ADA
Governor of Guam

COUNTERSIGNED:


FRANK F. BLAS
Lieutenant Governor of Guam



TERRITORY OF GUAM

OFFICE OF THE GOVERNOR

AGAÑA, GUAM 96910

U.S.A.

EXECUTIVE ORDER NO: 88-30

**Agricultural Leases Affecting the Northern
Guam Water Lens**

WHEREAS Public Law 15-18 authorizes the Government of Guam to enter into agricultural leases and places the powers and duties of administering said leases within the Department of Agriculture, Government of Guam; and

WHEREAS, Executive Order No. 75-26 placed certain strictures on the Agriculture Land Lease Program based on the need to provide protection to the groundwater supply in Northern Guam; and

WHEREAS, the Northern Guam Lens Study identified the nature and characterization of the Groundwater Lens in Northern Guam; and

WHEREAS, the Northern Guam Groundwater Lens was designated as a Principle Source Aquifer by the United States Environmental Protection Agency under Federal Public Law 93-523, the Federal Safe Drinking Water Act; and

WHEREAS, the Guam Environmental Protection Agency, acting in accordance with the directives of the Groundwater Management Act, designated a Groundwater Protection Zone in Northern Guam, the boundaries of which were officially adopted and became effective on August 6, 1986; and

WHEREAS, the great preponderance of knowledge bears out that the use of toxic and hazardous chemicals for domestic, commercial or agricultural purposes within the boundaries of the Groundwater Protection Zone constitutes an unacceptable risk of contamination of the groundwater supply unless the strictest controls are maintained on such usage; and

WHEREAS, protecting the quality of the groundwater supply represented by the Northern Groundwater Lens is the overriding factor in any consideration of land use within the Groundwater Protection Zone; and

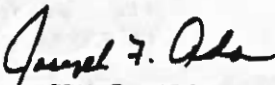
WHEREAS, the Guam Environmental Protection Agency has successfully located Government of Guam land, specifically Yigo Tract 7150, where agricultural practices should constitute an acceptably low risk factor for a contamination of the groundwater supply and has so advised the Department of Agriculture.

NOW THEREFORE, I JOSEPH F. ADA, Governor of Guam, by the virtue of authority vested in my by the Organic Act of Guam, do hereby order that:

1. All provisional Agricultural Leases shall be reviewed individually, by the Guam Environmental Protection Agency and the Department of Agriculture for conversion to long term Agricultural Leases.
2. All present long term Leaseholders may lease additional Government of Guam land adjacent to their present leased lands sufficient to permit crop rotation so long as the total land under cultivation at any given time is not increased beyond the present amount.
3. New long term Agricultural Land Leases shall not be permitted within the Groundwater Protection Zone unless specific exemption from the present moratorium on long term Agricultural Land Leases is granted.
4. Yigo Tract 7150 is hereby exempted from the long term Agricultural Land Lease Moratorium and new long term Agricultural Land Leases may be granted by the Department of Agriculture subject to other Government of Guam land use needs, such as for schools or well sites, being met on a priority basis on this Tract.
5. All existing, expanded and new Agricultural Land Lease operations shall be subject to specific conditions concerning storage, preparation, handling and use of agricultural chemicals. The Department of Agriculture shall, in coordination with the Guam Environmental Protection Agency, develop such Rules and Regulations as are necessary to meet the needs of groundwater protection. Under provisions of Public Law 15-18, these shall be appended to the Rules and Regulations, Agricultural Leases making them a part of the Lease Agreements.
6. No further land use permits for agriculture purposes shall be issued until such time as a clearly defined and enforceable program for issuance and control of the Land Use Permit Program is developed and implemented.
7. The Department of Agriculture and Guam Environmental Protection Agency shall evaluate and recommend for exemption from the moratorium additional tracts of land as the need arises and if such lands can be defined.

8. Any provisions of Executive Orders heretofore issued in conflict with this Order are hereby repealed insofar as they conflict.

SIGNED AND PROMULGATED AT Agaña, Guam this 28th day of November, 1988.


JOSEPH F. ADA
Governor of Guam

COUNTERSIGNED:



FRANK F. BLAS
Lieutenant Governor of Guam



TERRITORY OF GUAM
OFFICE OF THE GOVERNOR
AGaña, GUAM 96910
U.S.A.

EXECUTIVE ORDER NO. 89-5

**Reservation of the Remaining Sustainable Yield of
Northern Guam Groundwater Lens**

- WHEREAS,** Public Law 17-87 declared that "it is the policy of the Government of Guam to conserve and control its water resources for the benefit of the inhabitants of Guam"; and
- WHEREAS,** Public Law 17-87 further declares that "an emergency condition exists with respect to the availability of surface and underground water, on Guam and that restrictions are necessary to prevent overpumping of water, the intrusion of salt water, sewage and other contaminants and the resulting permanent destruction of the utility of underground water reservoirs and source of potable water supply"; and
- WHEREAS,** Public Law 17-87 further declares that "the people of Guam have a primary interest in the location, construction, maintenance, operation, modification, abandonment and destruction of water wells by virtue of the impact of such activities on the quality, purity and integrity of underground waters"; and
- WHEREAS,** the Northern Guam Lens Study identified the nature and characterization of the Groundwater Lens in Northern Guam; and
- WHEREAS,** the Northern Guam Groundwater Lens was designated as a Principle Source Aquifer by the United States Environmental Protection Agency under Federal Public Law 93-523, the Federal Safe Drinking Water Act; and
- WHEREAS,** the Guam Environmental Protection Agency, acting in accordance with the directives of the Groundwater Management Act, designated a Groundwater Protection Zone in Northern Guam, the boundaries of which were officially adopted and became effective on August 6, 1986; and
- WHEREAS,** the Administrator of the Guam Environmental Protection Agency has determined through the data acquisition and analysis activities of the Agency that areas of the Northern Guam Groundwater Lens are undergoing stress from present water production wells to the extent that saltwater intrusion has been detected, a summary of such data being appended hereto; and



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WHEREAS, there is an every increasing demand for more groundwater production to meet the needs of development; and

WHEREAS, population and water use projections indicate that the entire remaining safe sustainable yield of the Northern Groundwater Lens will be fully committed within the next sixteen years; and

WHEREAS, there are competing demands for the remaining water available from the Northern Groundwater Lens.

NOW, THEREFORE, I, JOSEPH F. ADA, Governor of the Territory of Guam, by virtue of authority vested in me by the Organic Act of Guam, do hereby order that:

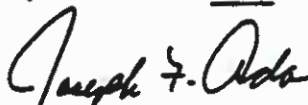
1. All remaining safe sustainable yield of the Northern Guam Groundwater lens, as set forth in the Northern Guam Lens Study, is hereby reserved for the public potable water supply.
2. No well drilling permits shall be issued for other than test wells, exploratory wells or production wells for the public water supply within the Groundwater Protection Zone.
3. No well drilling permits shall be issued for other than test wells or exploratory wells in the "buffer zone", as designated in the Northern Guam Lens Study, unless it is established by qualified geohydrologic studies that such wells will have no adverse effects on the groundwater lens.
4. The priority for water supply from groundwater sources outside the Groundwater Protection Zone shall be in descending order as follows:
 - a. Public drinking water supply
 - b. Commercial use for culinary purposes, including bottled water
 - c. Agricultural irrigation
 - d. Industrial use
 - e. Recreational use, including irrigation of golf courses
5. Existing production wells for other than the public drinking water supply, within the Groundwater Protection Zone, shall be permitted to continue operation at a rate no greater than that permitted at the time this Executive Order becomes effective.



EXECUTIVE ORDER NO. 89-5
PAGE THREE

6. Any provisions of Executive Orders heretofore issued in conflict with this Order are hereby repealed insofar as they conflict.

SIGNED AND PROMULGATED at Agaña, Guam this 17th day of
MARCH, 1989


JOSEPH F. ADA
Governor of Guam

COUNTERSIGNED:


FRANK F. BLAS
Lieutenant Governor of Guam



TERRITORY OF GUAM

OFFICE OF THE GOVERNOR

AGAÑA, GUAM 96910

U.S.A.

EXECUTIVE ORDER NO. 89-9

**ADOPTING PROCEDURES FOR
PRESERVING HISTORIC SITES**

- WHEREAS,** under Government code Section 13985.23 the Territorial Planning Commission and Territorial Seashore Protection Commission are required to cooperate with the Department of Parks and Recreation in the preservation and protection of significant sites; and
- WHEREAS,** under Government Code Section 13985.42 the Territorial Planning Commission and Territorial Seashore Protection Commission are required to institute procedures to assure that their programs contribute to the preservation of significant sites; and
- WHEREAS,** the Guam Institute for Spanish Chamorro Culture has never been established; and
- WHEREAS,** the Department of Parks and Recreation shall be the primary enforcement agency for historic preservation concerns; and
- WHEREAS,** the Guam Review Board for Historic Preservation is constituted to determine the eligibility of sites for inclusion in the Guam Register of Historic Places and to advise the Department of Parks and Recreation on all aspects the historic preservation program; and
- WHEREAS,** the criteria for inclusion in the Guam Register of Historic Places and for inclusion in the National Register of Historic Places are substantially the same; and
- WHEREAS,** other preservation references developed by the federal government use terminology compatible with the preservation requirements set forth in the laws of the Territory of Guam.

NOW, THEREFORE, I, JOSEPH F. ADA, Governor of the Territory of Guam, by the authority vested in me, by the Organic Act of Guam, do hereby order:

- 1. The Territorial Planning Commission and Territorial Seashore Protection Commission shall impose conditions to protect the integrity or significance of sites which are either listed on the Guam Register of Historic Places, or eligible for such inclusion as a part of their review of all applications placed before them.**



EXECUTIVE ORDER NO. 89-9

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2. In imposing such conditions, the Territorial Planning Commission and Territorial Seashore Protection Commission shall use standard procedures adopted by the Department of Parks and Recreation and the Guam Review Board for Historic Preservation for the purpose of ensuring consistent identification and treatment of significant sites affected by development projects.
3. When a preservation condition is imposed on a project, the Department of Parks and Recreation shall use the Secretary of Interior's Standard and Guidelines for Archaeology and Historic Preservation to ensure consistent standards of performance in meeting the conditions so imposed.
4. Where significant sites are reasonably expected to occur but have not yet been identified or documented, an applicant shall be required to both fully identify such significant sites that may be affected by the proposed project, and to consult with the Department of Parks and Recreation after completion of such identification in order to devise appropriate and feasible measures to avoid or mitigate any adverse effects to the significant sites.
5. Where mitigation measures are undertaken to record information of importance to scientific study of historic sites, these mitigation measures shall be devised in accord with principles stated in "Treatment of Archaeological Sites: A Handbook", a guideline published by the Advisory Council on Historic Preservation.
6. Avoidance or mitigation of adverse affects shall, to the highest degree possible, also take into account non-scientific aspects of historic significance, including but not limited to the associations with important events, people and traditional practices and beliefs.
7. All Government of Guam agencies, departments, bureaus and commissions shall conform to the Secretary of Interior's Standards and Guidelines for Archaeology and Historic Preservation in carrying out their historic preservation responsibilities under laws of Guam.



EXECUTIVE ORDER NO. 89-9

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8. In the absence of the Guam Institute for Spanish-Chamorro Culture, Government of Guam agencies, departments, bureaus and commissions shall consult with the Department of Parks and Recreation to carry out the responsibilities of Government Code Section 13985.42.

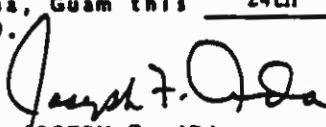
9. In the event that either the Department of Parks and Recreation, the applicant to the Territorial Planning Commission, or Territorial Seashore Protection Commission, or members of the public feel that any condition imposed by the TPC with respect to historic preservation, or any action in fulfillment of that condition is inadequate or will not provide appropriate protection for the historical significance of affected sites, that party may appeal for a hearing of a joint board composed of a quorum of the Territorial Planning Commission and a quorum of the Guam Review Board of Historic Preservation.

This joint board will hear the complaint, be empowered to call witnesses and to review records of any relevant government agency, and to hear statements from interested parties.

On review of the complaint and the subsequent materials, the joint board may either re-affirm the condition or action taken, or may make recommendations to the full TPC for changes with a statement of reasons for the changes.

Enactment of changes in a condition shall require separate action by the full Territorial Planning Commission or Territorial Seashore Protection Commission.

SIGNED AND PROMULGATED at Agana, Guam this 24th day of April 1989.


JOSEPH F. ADA
Governor of Guam

COUNTERSIGNED:


FRANK F. BLAS
Lieutenant Governor of Guam



TERRITORY OF GUAM
OFFICE OF THE GOVERNOR
AGAÑA, GUAM 96910
U.S.A.

EXECUTIVE ORDER NO. 89-10

RELATIVE TO THE TEMPORARY CLOSURE OF EAST AGANA BAY
TO THE USE OF MECHANIZED VESSELS FOR THE PROTECTION
OF TRADITIONAL MANAHAC FISHING RIGHTS

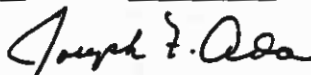
WHEREAS, the traditional taking of seasonal juvenile rabbitfish (manahac) is a highly anticipated and participated fishing event of Guam; and

WHEREAS, the daily use of mechanized vessels in the area of East Agana Bay interferes with this traditional event that occurs for but a few days during each year.

NOW, THEREFORE, I, JOSEPH F. ADA, Governor of the Territory of Guam, by virtue of the powers vested in me by the Organic Act of Guam, as amended, do hereby approve and promulgate the following temporary regulations regarding the use of mechanized vessels in the East Agana Bay area during manahac runs:

1. An area of 150 feet by 300 feet, with the long axis parallel to the beach and located at least 150 feet off the beach, may be designated as an operation area for mechanized watercraft during the manahac run, with the provision that all mechanized vessels operation must stop should the manahac approach within 25 yards of the designated area. The designated operations area shall be marked with green buoys at each corner.
2. It shall be a violation to operate mechanized vessels during this designated operations area at any time the manahac are present, or to interfere in any way with fishing operations.
3. Should the operation of mechanized vessels within the designated operation area be observed to interrupt or interfere with the normal movement of manahac in or near the designated operations area, then all operations must cease.
4. The regulations under this Executive Order shall remain active until new regulations recommended in the completed Water Use Master Plan for East Agana Bay are established, in accordance with the Administrative Adjudication Act.
5. Upon the first violation of the regulations under this Executive Order, or upon determination that despite all precautions, an adverse effect on the manahac run has occurred, the Division of Wildlife and Fisheries, Department of Agriculture, shall be authorized to close completely the East Agana Bay area to mechanized vessels.

SIGNED AND PROMULGATED at Agana, Guam, this 27th day of April, 1989.


JOSEPH F. ADA
Governor of Guam

COUNTERSIGNED:


TED S. NELSON
Lieutenant Governor of Guam,
Acting



TERRITORY OF GUAM
OFFICE OF THE GOVERNOR
AGAÑA, GUAM 96810
U.S.A.

EXECUTIVE ORDER NO. 8924

**REGARDING POLICIES FOR DISPOSITION OF
ARCHAEOLOGICALLY RECOVERED HUMAN REMAINS**

- WHEREAS,** unmarked human remains are from time to time discovered and salvaged in the course of archaeological activities; and
- WHEREAS,** such remains may be of persons with different cultural associations; and
- WHEREAS,** study of these remains is desirable for the purposes of ascertaining actual cultural associations as well as to gain knowledge of past cultures and events; and
- WHEREAS,** all human remains should be treated with dignity and respect consistent with the cultures of which they were members; and
- WHEREAS,** the Territory of Guam stands in need of a consistent policy regarding the disposition of such remains which are discovered in the course of both government projects and private developments with governmental approvals or licenses.

NOW, THEREFORE, I, JOSEPH F. ADA, Governor of the Territory of Guam, by the authority vested in me by the Organic Act of Guam, do hereby order:

The declared policy of this Territory regarding unmarked human remains found in archaeological context is:

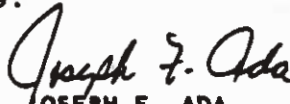
1. That burials be left in place undisturbed to the extent practical.
2. That all government agencies, bureaus, departments and commissions and private developers who need licenses, permits or other assistance from the government make reasonable and good faith efforts in consultation with the Guam Historic Preservation Officer to locate such burials that may be affected by their actions or developments early in the planning process.
3. That if such burials cannot practically be left undisturbed, removal shall be done with proper archaeological methods and documentation.
4. Scientific, medical or other study shall be restricted to the minimum necessary to ascertain cultural or ethnic associations, and to address significant research questions.



All research proposals regarding such remains must be adequately justified in terms of standards used by the Department of Parks and Recreation for archaeological data recovery projects.

5. In the absence of expressed preferences otherwise by persons with ascertainable relationships to the specific remains involved or other justifying circumstances, re-interment in an appropriate and respectful manner is to be considered the normal treatment of human remains removed from their original burial locations.
6. Such re-interment shall normally be in sealed containers with information regarding the original location and circumstances marked on the outside of the container and included within the container.
7. The Director of the Department of Parks and Recreation shall designate a location within the Territorial Park System as a location for re-interments of such removed human remains, and shall cause an appropriate memorial to be erected at the location.
8. Removal, examination and re-interment shall be at the expense of the government agency whose project necessitates the removal, or of the developer whose project requires governmental licenses, permits or assistance.
9. The Department of Parks and Recreation may issue rules and regulations to further implement these policies in an orderly and consistent manner.

SIGNED AND PROMULGATED at Agana, Guam this 25TH day of
SEPTEMBER 1989.


JOSEPH F. ADA
Governor of Guam

COUNTERSIGNED:



FRANK F. BLAS
Lieutenant Governor of Guam



TERRITORY OF GUAM

OFFICE OF THE GOVERNOR

AGAÑA, GUAM 96910

EXECUTIVE ORDER NO. ^{U.S.A.} 89-3

**ADOPTION OF THE RECREATIONAL WATER
USE MANAGEMENT PLAN (RWUMP) FOR
THE WATERS OF GUAM**

- WHEREAS,** the public beaches and waters of Guam are available for all of the people to enjoy for recreational, sports, and other activities; and
- WHEREAS,** safety is a primary concern for those using the beaches, especially for the children; and
- WHEREAS,** mechanized recreational watercraft vessels are not properly regulated to ensure the safety of those using the beaches and the vessels; and
- WHEREAS,** the commercialized recreational water vessels use a larger amount of area and restrict others from using these areas; and
- WHEREAS,** Government of Guam agencies/departments have recognized that the user demand in our limited lagoon waters is increasing and, as a result, user conflicts and environmental damage are occurring; and
- WHEREAS,** over the past year, the government has received complaints regarding not only user conflicts, but the noise, nuisance, and safety problems caused by mechanized crafts; and
- WHEREAS,** protection of Guam's ocean resources are vital to the residents of Guam and to tourism; and
- WHEREAS,** in order to prevent further loss to the environment and to create optimal and compatible activities for all types of inshore water uses; and
- WHEREAS,** a working committee was formed to prepare a management plan for the area from Oka point (also known as Satpon Point) to Tepungan Channel, Piti, and
- WHEREAS,** where a series of public hearings was held in Agaña, Asan, Piti and Tamuning, the villages that are affected by the RWUMP, at which the plan was well received by those in attendance, with minor changes to the RWUMP based on comments received at the public hearing; and
- WHEREAS,** changes to the plan was made based on the comments received at the public hearing and have been incorporated in the RWUMP Map.



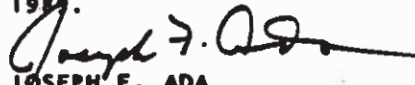
EXECUTIVE ORDER NO. 89-21

PAGE TWO

NOW, THEREFORE, I, JOSEPH F. ADA, Governor of Guam, by virtue of the authority vested in me by the Organic Act of Guam do hereby order and direct as follows:

1. That the Recreational Water Use Management Plan (RWUMP) as prepared by the working committee and attached to this order shall serve as the official Plan for the types of water related activities that will be permitted in the areas within the RWUMP.
2. That the areas impacted upon by the RWUMP include all water areas from the main high water line to the outer edge of the reef.
3. That the use of mechanized crafts and water sports equipment will be permitted only in areas as designated by the RWUMP.
4. That the Guam Police Department make special rules and regulations pursuant to 10 GCA to achieve the intent of the RWUMP.
5. That the Department of Agriculture make special rules and regulations pursuant to Title 13, Government Code 12321, to achieve the intent of the areas defined in the RWUMP.
6. That the Department of Revenue and Taxation's issuance of a business license for commercial operation within the RWUMP area be in accordance with established procedures of the department.
7. That all designated departments shall complete the assigned tasks within 90 days of the effective date of the executive order.
8. That the working committee meet periodically to evaluate the need for revisions to the RWUMP.

SIGNED AND PROMULGATED at Agaña, Guam this 29th day of December, 1989.


JOSEPH F. ADA
Governor of Guam

COUNTERSIGNED:


FRANK F. BLAS
Lieutenant Governor of Guam



TERRITORY OF GUAM
OFFICE OF THE GOVERNOR
AGAÑA, GUAM 96910
U.S.A.

EXECUTIVE ORDER NO. 90-09

ESTABLISHING THE DEVELOPMENT REVIEW COMMITTEE

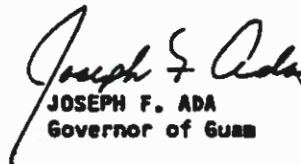
- WHEREAS,** Guam's unprecedented economic and development activity provides the Territory of Guam with many opportunities of an extremely positive nature, but also poses significant risk to our environment, our culture, and the very quality of life that has made Guam such a wonderful place to live and visit; and
- WHEREAS,** it is increasingly vital that Territorial Land Use Commission/Territorial Seashore Protection Commission exercise care and caution in the conduct of its activities and that all the laws and regulations governing land and water use in this Territory are followed to the letter; and
- WHEREAS,** the concerns of other governmental bodies that are tasked with review of these projects must be taken into serious consideration by the Territorial Land Use Commission/Territorial Seashore Protection Commission when a decision is to be made with respect to the approval of projects; and
- WHEREAS,** there is a need for an effective intergovernmental mechanism for review and analysis of various development activities brought before the Territorial Land Use Commission/Territorial Seashore Protection Commission; and
- WHEREAS,** it is desirable that such review be coordinated through a committee composed of various representatives of government agencies involved in land and water use related activities.
- NOW, THEREFORE, I, JOSEPH F. ADA, Governor of the Territory of Guam, by virtue of the authority vested in me by the Organic Act of Guam, as amended, do hereby order that:**

- 1. The Development Review Committee is created with the following duties and responsibilities:**
 - A. Developing and providing official position statements by GovGuam agencies on applications submitted under the Zoning and Subdivision laws, the Territorial Seashore Protection Act and other such laws as may be enacted by the Legislature.**
 - B. Advising applicants of the procedures and requirements for submitting applications.**
 - C. Advising applicants on alternatives to ensure that proposed projects comply with applicable law.**
 - D. Promoting and assuring the compliance of development with all appropriate governmental policies and plans.**
 - E. To establish such rules and regulations as necessary to effectively carry out those duties and responsibilities as outlined above.**



2. The Committee shall be composed of representatives appointed by the respective agency directors from the following agencies or departments:
 - A. Planning Division, Department of Land Management, the Territorial Planner of which shall be the Chairperson.
 - B. Building Permit Section, Department of Public Works.
 - C. Department of Public Works (other than Building Permits Section).
 - D. Guam Environmental Protection Agency.
 - E. Department of Parks and Recreation.
 - F. Public Utility Agency of Guam.
 - G. Bureau of Planning.
 - H. Chamorro Language Commission.
 - I. Department of Agriculture.
 - J. Department of Commerce.
3. The Attorney General's Office shall provide assistance as deemed necessary.
4. Executive Order No. 78-2 and 85-10 are repealed in its entirety.
5. No project application shall be forwarded to the Territorial Land Use Commission/Territorial Seashore Protection Commission until such time as the Development Review Committee has had full opportunity to review the project to the satisfaction of constituent members. If, however, the committee review process exceeds three (3) months in duration, the Committee will justify its extended review in writing, explaining the reasons why the review will continue.
6. Should the TLUC/TSPC disagree with recommendations made by the Development Review Committee and contemplate action contrary to recommended action, then the TLUC/TSPC shall take no action on the proposed project immediately and shall instead provide justification for its disagreement, in writing, to the Development Review Committee. The Committee shall have two (2) weeks to respond, after which the TLUC/TSPC may take action on the proposal.

SIGNED AND PROMULGATED at Agana, Guam, this 25TH day of MAY, 1990.


JOSEPH F. ADA
Governor of Guam

COUNTERSIGNED:


FRANK F. BLAS
Lieutenant Governor of Guam



TERRITORY OF GUAM
OFFICE OF THE GOVERNOR
AGANA, GUAM 96910
U.S.A

EXECUTIVE ORDER NO. 90-10

**REQUIREMENTS FOR ENVIRONMENTAL IMPACT ASSESSMENTS
FOR ALL TERRITORIAL LAND USE COMMISSION ACTIONS**

WHEREAS, Public Law 1-89 (as amended) established the Territorial Land Use Commission (TLUC) under the Department of Land Management and charged the TLUC with the review of all matters pertaining to the zoning of public and private land and development thereon; and

WHEREAS, there was established a Development Review Committee (DRC), charged with the responsibility of evaluating applications for zone changes and variances and reporting the DRC findings and recommendations to the TLUC prior to any action being taken on such applications; and

WHEREAS, commercial and residential development on Guam is presently occurring at an unprecedented rate; and

WHEREAS, many aspects of such development activities create impacts upon the environment of the Island of Guam; and

WHEREAS, the environmental impact of such development activities vary widely depending upon the nature, location and other factors unique to each case; and

WHEREAS, the Guam Environmental Protection Agency (GEPA), was created by the Guam Environmental Protection Agency Act (PL 11-191:10 GCA Chapter 45) and charged with the responsibility "... to provide a united, integrated and comprehensive territory-wide program of environmental protection and to provide a framework to fulfill that task."; and

WHEREAS, GEPA has the technical, legal and administrative capabilities to implement such a program; and

WHEREAS, such a program includes evaluation of the environmental impacts of any and all development activities in Guam.

NOW, THEREFORE, I, JOSEPH F. ADA, Governor of the Territory of Guam, by virtue of the authority vested in me by the Organic Act of Guam, do hereby order that:

1. The Territorial Land Use Commission (TLUC) shall not act upon any application for zone change or variance without an Environmental Impact Assessment (EIA) being submitted to the Guam Environmental Protection Agency (GEPA) and approved by the GEPA Administrator and the submission of a complete Environmental Impact Statement (EIS) if determined to be necessary as a result of the EIA.



2. To be considered valid, an Environmental Impact Assessment shall, at a minimum, follow the following outline and contain full information as described herein;

A. Describe the project and the setting

1. Description of the project
 - a. Purpose and justification of the project
 - b. Location within the region
 - i. maps
 - c. What types of actions will the project entail
 - i. construction
 - ii. grading/filling
 - iii. infrastructure development
 - d. Necessary permits needed
 - i. grading
 - ii. air and water pollution
 - iii. building
2. Description of existing environment
 - a. Physical condition
 - i. soil
 - ii. weather/wind
 - iii. topography
 - b. Existing infrastructure
 - i. sewers
 - ii. roads
 - iii. water
 - iv. electricity
 - c. Biological
 - i. plants
 - ii. animals
 - d. Land use
 - i. urban/rural
 - ii. existing surrounding uses
 - e. Unique features
 - i. archaeological/cultural

B. Alternatives compared and rationale for their selection

1. Alternative sites including proposed action where the project could be located
 - a. Site description including information required in A2 above
 - b. Reasons for elimination
2. No action
 - a. Reasons for elimination

C. Estimate the nature and magnitude of environmental changes caused by the activities of the project

1. Description of impacts
 - a. Description of impacts caused by construction activities during the development
 - b. Description of long term impacts directly caused by the project or through secondary effects such as income distribution, population growth or shifts, additional stress on services
 - c. Description of cumulative impacts, those that come about due to multiple development in the area
2. Estimates of the magnitude of the impacts
 - a. Estimate rate of change caused by the impact
 - b. Estimate what irreversible or irretrievable commitments of resources will take place

D. Define criteria to be used in measuring significance

1. Statutory criteria
 - a. Relevant goals and objectives set out in environmental laws
 - b. Standards set forth in statute or regulation
 - i. noise pollution
 - ii. air
 - iii. water



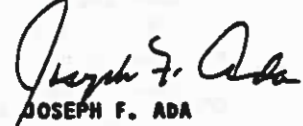
2. Derived criteria
 - a. Technically derived measurements such as statistical measures
3. Cultural/Social/Political criteria
 - a. Judgement of significance based on:
 - i. criteria agreed on through political process
 - ii. criteria based on input from affected groups
 - iii. criteria based on local customs
 - iv. criteria based on agreement through mediation
- E. Evaluation of impacts relevant to site sensitivity
 1. Impacts estimated compared to measurement criteria
 2. Description of avoidable and unavoidable impacts
- F. Mitigative measures - measures taken to ameliorate the impacts of the project on the environment
 1. Short-term impact mitigation
 - a. Listing of short-term impacts
 - b. Proposed mitigative measures
 - c. Utility of proposed measures
 2. Long-term impact mitigation
 - a. Listing of long-term impact
 - b. Proposed mitigative measures
 - c. Utility of proposed measures
3. The GEPA Administrator shall advise the TLUC, through the GEPA representative on the Development Review Committee (DRC), of the time period required for thorough review of such EIA documents, upon initial presentation of the application for rezoning or zone variance to the TLUC.
4. In the event that the Administrator of GEPA determines, during his review of any EIA submitted pursuant to the provisions of this Executive Order, that the proposed action of the applicant will result in a significant or adverse impact on the environment, the Administrator of GEPA shall require that an Environmental Impact Statement (EIS) be submitted by the applicant.
5. In the event that an EIS is required pursuant to the requirements of this Executive Order, the TLUC shall not act upon any requested zone change or variance until such EIS has been submitted to GEPA and approved by the Administrator of that Agency.
6. The Administrator of GEPA shall specify the content, format and method of submission of such EIS documents as are necessary to fulfill the purposes of this Executive Order, providing that such content, format and method are in accordance with commonly accepted professional standards with respect to Environmental Impact Statements.
7. The Administrator of GEPA shall not approve any EIS unless it contains satisfactory remediation provisions for any and all adverse environmental impacts, as determined in the EIA.
8. In the event that there is a change in ownership, management or direction of any development project, before, during or after construction on the project takes place, which project required an EIA or EIS under provisions of this Executive Order, the new owner, manager or director of such development project shall be subject to all provisions of such EIA or EIS in the same manner as the original owner, manager or director of such development project.
9. In the event that construction on any development project does not commence within one year of approval of an EIA or EIS, which project required and EIA or EIS under provisions



of this Executive Order, the TLUC shall suspend its approval of any zone change or variance granted the applicant for such project until the Administrator of GEPA has reviewed the EIA or EIS required and advised the TLUC of the results of such determination.

10. The TLUC shall revoke, suspend or nullify any zone change or variance granted to an applicant if the application for such action contains false, misleading or improper representation of information required pursuant to this Executive Order.
11. The TLUC shall revoke, suspend or nullify any zone change or variance granted to an applicant if such applicant fails to comply with all remediation provisions of an approved EIS.
12. The TLUC shall revoke, suspend or nullify any zone change or variance granted to an applicant if such applicant fails to implement remedial action specified in an EIS promulgated in accordance with the requirements of this Executive Order in an appropriate and timely manner.
13. The TLUC shall revoke, suspend or nullify any zone change or variance granted to an applicant if such applicant initiates or conducts activities not specified in any EIA or EIS promulgated in accordance with the requirements of this Executive Order.
14. No act prohibited or restricted by any statute, regulation, law or existing Executive Order shall be permitted by reason of compliance with this Executive Order.
15. No permit, license or requirement under any statute, regulations or law, Federal or Territorial, shall be waived by reason of compliance with this Executive Order.
16. Any provisions of Executive Orders, heretofore, issued in conflict with this Order are hereby repealed insofar as they conflict.
17. The Administrator of GEPA may waive requirements for an EIA in such cases where a single family residence is being constructed or where the zone variance being requested constitutes less than a 10% variance from zone requirements, except in such cases where the proposal impacts an environmentally sensitive area. Environmentally sensitive areas shall include, but not necessarily be limited to areas that effect seashores, rivers and streams, wetlands, critical fauna and/or flora habitats and aquifer recharge areas. Special emphasis shall be placed upon areas where run-off may have adverse impact.

SIGNED AND PROMULGATED at Agana, Guam this 25TH day of MAY, 1990.


JOSEPH F. ADA
Governor of Guam

COUNTERSIGNED:


FRANK F. BLAS
Lieutenant Governor of Guam



TERRITORY OF GUAM

OFFICE OF THE GOVERNOR

AGAÑA, GUAM 96910

U. S. A.

EXECUTIVE ORDER NO. 90-13

PROTECTION OF WETLANDS

WHEREAS, Executive Order 78-21 directed the Territorial Land Use Commission to officially designate wetland areas on Guam; and

WHEREAS, Government agencies have been utilizing three separate maps to identify wetland areas due to the lack of an officially adopted map; and

WHEREAS, wetlands are areas of particular concern that provide an essential habitat for maintenance of native plant and animal life, prevent soil erosion and stormwave damage, and valuable locations for scientific and educational investigations, and act as floodplains during periods of excessive water flow and a source of fresh water for domestic and agricultural purposes; and

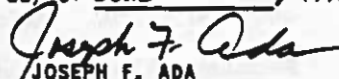
WHEREAS, the rapid pace of development currently experienced on Guam has placed greater pressure on this valuable resource; and

WHEREAS, the management of this resource cannot begin until landowners, developers and the Government of Guam utilize a consistent source of wetland information.

NOW, THEREFORE, I, JOSEPH F. ADA, Governor of the Territory of Guam, pursuant to the authority vested in me by the Organic Act of Guam, do hereby declare that:

1. The official, interim wetland map for Guam shall be the National Wetlands Inventory map published by the United States Fish and Wildlife Service.
2. All Government of Guam agencies shall utilize this map in the review of physical development projects.
3. The appropriate land use agencies including the Guam Environmental Protection Agency, the Department of Agriculture, and the Bureau of Planning shall complete a study of wetlands; prepare public information material; and draft all necessary legislation, rules and regulations, and/or executive orders for processing through the appropriate channels.
4. The Executive Order shall remain in effect until the results of such study recommended legal framework are approved as required by applicable law.
5. Executive Order 78-21 is repealed in its entirety.

SIGNED AND PROMULGATED this 12th day of JUNE, 1990.


JOSEPH F. ADA
Governor of Guam

COUNTERSIGNED:


FRANK F. BLAS
Lieutenant Governor of Guam



TERRITORY OF GUAM
OFFICE OF THE GOVERNOR
AGAÑA, GUAM 96910
U. S. A.

EXECUTIVE ORDER NO. 90-15

**ESTABLISHING INTERIM GUIDELINES
FOR THE DEVELOPMENT REVIEW COMMITTEE**

- Whereas, the people of Guam have always lived in close harmony with the land and the sea; and
- Whereas, Executive Order 90-09 establishes the Development Review Committee for the purpose of providing for effective intergovernmental review and analysis of various development activities brought before the Territorial Land Use Committee/Territorial Seashore Protection Commission; and
- Whereas, there is a need to provide for operating rules and regulations for the Development Review Committee; and
- Whereas, there is a need to foster sound economic development within the Territory of Guam in accordance with all the laws and regulations governing land and water use and to ensure that developers abide by these laws; and
- Whereas, it is in the interest of the people of Guam to promulgate interim guidelines to carry out the mandates of Executive Order 90-09.

NOW, THEREFORE, I, JOSEPH F. ADA, Governor of the Territory of Guam, by virtue of the authority vested in me by the Organic Act of Guam, as amended, do hereby order that:

- 1 The Development Review Committee shall draft rules and regulations as necessary for its operations and shall submit such rules and regulations for Public Hearing and to the Legislative Secretary for the Administrative Adjudication process within 120 days of this Executive Order; and
2. The following interim guidelines for the Development Review Committee shall be the official operating guidelines until such time permanent rules and regulations for the Development Review Committee can be promulgated and adopted:

Section 12300. Authority, Purpose, and Duties.

Section 12301. Meetings.

Section 12302. Organization.



Section 12303. Application Procedure.

Section 12300. Authority, Purpose, and Duties.

A. Pursuant to the authority of Executive Order 90-09 of the 25th day of May, 1990, set out herein are Interim Guidelines promulgated for the purpose of providing guidance to the Development Review Committee in:

1. Developing and providing official position statements by GovGuam agencies on applications submitted under the Zoning and Subdivision Laws, the Territorial Seashore Protection Act and other such Laws as may be enacted by the Legislature.

2. Advising applicants of the procedures and requirements for submitting applications.

3. Advising applicants on alternatives to ensure that proposed projects comply with applicable law.

4. Promoting and assuring the compliance of development with all appropriate governmental policies and plans; and,

5. Establishing rules and regulations as necessary to effectively carry out those duties and responsibilities as outlined above.

B. Each Committee member shall advise the Territorial Land Use Commission by written review comments and suggestions.

Section 12301. Meeting.

A. There shall be at least two (2) meetings a month held on the 1st and 3rd Thursday of the month. If such meeting falls on a legal holiday or is cancelled because of unforeseen circumstances, the meeting shall be held on the following Tuesday.

B. Six (6) members shall constitute a quorum.

C. All meetings shall be open to the general public.

Section 12302. Organization.

A. Membership

1. Membership is defined in Executive Order 90-09 and is listed as follows:



a. Planning Division, Department of Land Management, the Territorial Planner of which shall be the Chairperson.

b. Building Permit Section, Department of Public Works.

c. Department of Public Works (other than Building Permits Section).

d. Guam Environmental Protection Agency.

e. Department of Parks and Recreation.

f. Public Utility Agency of Guam.

g. Bureau of Planning.

h. Chamorro Language Commission.

i. Department of Agriculture.

j. Department of Commerce.

B. The Attorney General's Office shall provide assistance as deemed necessary.

C. Ex-Officio Members shall be designated by majority vote of the DRC. Such members shall be informed of meetings, times, agendas, and applicant information.

D. For projects which may result in potentially significant impacts, the Chairman may establish Ad-Hoc Subcommittees. These subcommittees are identified below and their membership and duties are listed as follows:

1. Ad-Hoc Infrastructure Subcommittee - Department of Public Works (Chair), Department of Land Management, Public Utility Agency of Guam, Guam Power Authority, Guam Telephone Authority, and Guam Environmental Protection Agency; and,

2. Ad-Hoc Environment Subcommittee - Guam Environmental Protection Agency (Chair), Department of Land Management, Department of Agriculture, Bureau of Planning, Public Utility Agency of Guam, University of Guam, and Department of Parks and Recreation; and,

3. Ad-Hoc Social/Cultural Subcommittee - Department of Parks and Recreation (Chair), Department of Land Management, Bureau of Planning, Department of Public Health & Social Services, Guam Fire Department, Guam Police Department, Guam Memorial Hospital Authority, Chamorro Language Commission, Department of Commerce, Department of Education, Guam Community College, and University of Guam.

4. The subcommittees shall meet as necessary with the applicants to discuss the applicants' proposals.



5. The Chairman of each subcommittee shall report to the DRC prior to submittal of the application to TLUC/TSPC.

E. Voting.

1. Motions on procedural matters can be made by and seconded by any member as identified by Executive Order 90-09.

2. Motions shall be passed by a majority vote of those members present.

F. Officers and Supporting Staff.

1. The Chairman shall call all meetings to order, oversee the application procedure and transmit all comments and recommendations to the Territorial Land Use Commission/Territorial Seashore Protection Commission. Any Acting Territorial Planner shall automatically become Acting Chairman of this Committee.

2. The Planning Division of the Department of Land Management shall implement the intent of Executive Order 90-09; retain project files by lot number and municipality; develop and revise as needed a planning information sheet which lists needed facts for review; develop and revise as needed the flow charts for processing; review applications; may request meetings with the applicant, distribute packets of applications to members prior to the DRC meeting; and, collect the final Development Review Committee position statements.

Section 12303. Application Procedure.

A. Applications for subdivision approvals, zone changes, conditional uses, seashore clearances, wetlands permits, variances, and other permit applications shall meet the current requirements of the Territorial Land Use Commission/Territorial Seashore Protection Commission including the requirements of Executive Order 90-10. Completed applications shall be submitted to the Territorial Planner in accordance with the Territorial Land Use Commission/Territorial Seashore Protection Commission requirements, defined as follows:

1. Completed applications are those applications that provide all information required in the forms prescribed by the Territorial Planner;

2. Completed applications shall be received and initialled by the Territorial Planner or his authorized representative who shall stamp the date and time the application was received; and,



3. Upon receipt the Territorial Planner shall review application for completeness and correctness prior to acceptance for submittal to DRC. Incomplete applications shall not be accepted by the Territorial Planner.

B. After their acceptance by the Territorial Planner, applications shall be transmitted together with an approved review form, to all voting members two (2) weeks prior to the next DRC meeting by the Territorial Planner. All applications for DRC consideration must receive acceptance by the Territorial Planner no less than three (3) days prior to the next date applications must be sent to the members.

C. Upon acceptance by the Territorial Planner, the applicant shall be notified when and where to appear before the DRC and shall be informed of the purpose of the DRC. The Territorial Planner shall establish the DRC agenda. In no event shall the agenda exceed ten (10) applications for review at each meeting.

D. Members shall submit written comments to the Territorial Planner.

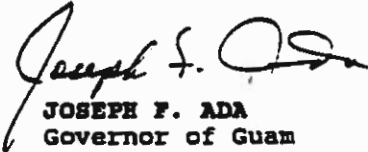
E. If any DRC member finds any applications to be incomplete or lacking pertinent information, which may reasonably be deemed necessary to formulate comments or recommendations, the application shall not be forwarded to the TLUC/TSPC until such time as the DRC member has been provided with the information it requires. For any application not covered in a category specified in Executive Order 90-10, any DRC member may require an Environmental Impact Assessment of any applicant.

F. The Territorial Planner shall transmit all written comments and recommendations to the Territorial Land Use Commission/Territorial Seashore Protection Commission on all applications no later than fourteen (14) days before the Territorial Land Use Commission/Territorial Seashore Protection Commission reviews the proposal.



G. The Territorial Planner shall compile all written comments and prepare a proposed agenda for TLUC/TSPC. The proposed agenda will be submitted to DRC for review and final unanimous approval prior to referral to TLUC/TSPC.

SIGNED AND PROMULGATED at Agana, Guam, this 29th day of JUNE,


JOSEPH F. ADA
Governor of Guam

COUNTERSIGNED:


FRANK P. BLAS
Lieutenant Governor of Guam



TERRITORY OF GUAM
OFFICE OF THE GOVERNOR
AGAÑA, GUAM 96910
U.S.A.

EXECUTIVE ORDER NO. 92-06

**AMENDING EXECUTIVE ORDER NO. 90-9
CONCERNING THE
DEVELOPMENT REVIEW COMMITTEE**

WHEREAS, Executive Order No. 90-9 established the Development Review Committee in order to review the impact of proposed developments on various aspects of the Territory; and

WHEREAS, it is in the interest of the Territory that this review process be completed in an efficient and yet thorough manner; and

WHEREAS Executive Order No. 90-9 requires amendment to accomplish this.

NOW, THEREFORE, I, JOSEPH F. ADA, Governor of the Territory of Guam, by virtue of the authority vested in me by the Organic Act of Guam, as amended, do hereby order that:

- 1. Section 2 of Executive Order No. 90-9 is amended to include among the list of departments and agency directors or their representatives who comprise the Development Review Committee the Department of Public Health and Social Services and the Guam Fire Department.**
- 2. Section 5 of Executive Order No. 90-9 is deleted and replaced with a section that reads as follows:**

No project application shall be forwarded to the Territorial Land Use Commission/Territorial Seashore Protection Commission until such time as the Development Review Committee has had full opportunity to review the project to the satisfaction of constituent members. Upon receipt of a project application, the constituent members of the Development Review Committee have sixty (60) days in which to



TERRITORY OF GUAM
OFFICE OF THE GOVERNOR
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U.S.A

EXECUTIVE ORDER NO. 91-27

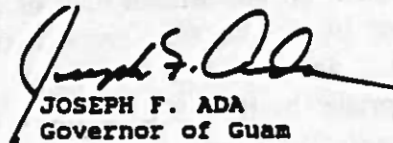
ESTABLISHING INTERIM GUIDELINES
FOR THE PROTECTION OF GUAM'S WETLANDS

- WHEREAS, the wetlands of Guam are natural habitats of high biological productivity and significant resource value; and
- WHEREAS, wetlands are extremely fragile, limited in number and difficult to restore once damaged; and
- WHEREAS, wetlands provide critical habitats for native plant and animal life including endangered and threatened species; and
- WHEREAS, We must safeguard Guam's fragile and precious natural resources including our wetlands, and those animal and plant species which require them for survival, so that future generations of our people may enjoy and benefit from these resources; and
- WHEREAS, Section 3 of Executive Order 90-13 states, in part, that the appropriate land use agencies shall draft necessary rules and regulations in order to better manage and protect the wetlands of Guam; and
- WHEREAS, there is a need to maintain operating rules and regulations for the Protection of Wetlands; and
- WHEREAS, it is in the interest of the people of Guam to promulgate interim guidelines to carry out the mandates of Executive Order 90-13.

NOW, THEREFORE, I, JOSEPH F. ADA, Governor of the Territory of Guam, pursuant to the authority vested in me by the Organic Act of Guam, do hereby declare that:

The Wetland Rules and Regulations promulgated under Executive Order 78-21 shall stand in effect as interim guidelines until such time permanent rules and regulations are adopted and promulgated.

SIGNED AND PROMULGATED this 12TH day of NOVEMBER, 1991.


JOSEPH F. ADA
Governor of Guam

COUNTERSIGNED:


FRANK F. BLAS
Lieutenant Governor of Guam

TERRITORIAL LAND USE COMMISSION
WETLANDS RULES AND REGULATIONS
(Re-enacted by E.O. 91-27)

Contents:

- Section I. Authority, Purpose, and Intent
- Section II. Definitions
- Section III. Procedures for Development and Conservation of Wetlands
- Section IV. Standards for Development and Conservation of Wetlands
- Section V. Designation of Wetland Areas of Particular Concern

Section I. AUTHORITY, PURPOSE, AND INTENT

A. Authority

These rules and regulations are promulgated by the Territorial Planning Commission under authority of Titles XVIII and XIV of the Government Code of Guam, and Executive Order No. 78-21.

B. Purpose

The purpose of these rules and regulations is to establish procedural guidelines and performance standards for development and conservation of wetland areas pursuant to Executive Order No. 78-21.

C. Intent

These rules and regulations apply to those land and water areas delineated as Wetland Areas of Particular Concern on an official map of wetlands as approved by the Territorial Planning Commission and retained by the Department of Land Management, Parks and Recreation, Public Works, Agriculture, the Bureau of Planning, the Guam Environmental Protection Agency, and Public Utilities Agency of Guam, Government of Guam. Those wetland areas too small to be precisely delineated on the official map of wetlands shall be listed and at the request of DRC, verified by on-site field inspection by the Department of Agriculture's Division of Aquatic and Wildlife Resources or other government agencies, as determined appropriate by the DRC. If there is question as to whether a proposed development or activity is within an officially designated wetland and therefore subject to these rules and regulations, the Director of the Department of Agriculture shall determine

if the developments occurring only partially within a designated or recognized wetland APC shall be subject to these rules and regulations. These rules and regulations supplement all other provisions of law relating to land use and shall remain in effect until such time as amended by the Territorial Planning Commission. These rules and regulations shall apply to all developments on Government of Guam or private lands. Compliance with these rules and regulations shall precede submittal of applications for permits from the U.S. Army Corps of Engineers for development within wetlands. However, issuance of a permit for development within a wetland by the Territorial Planning Commission shall not preclude the U.S. Army Corps of Engineers from denying an application for development within such wetland area under Section 404 of the Federal Water Pollution Control Act, as amended.

Section II. DEFINITIONS

1. **Area of Particular Concern (APC):** A specifically designated geographic area where the presence of unique or significant natural resources, geologic constraints, hazards or other exceptional geographic characteristics warrants and requires the application of extraordinary regulatory or management measures in order to insure the retention of such exceptional qualities or to insure the health, safety and welfare of the general public.
2. **Wetland:** Those areas that are inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, mangroves, natural ponds, surface springs, estuaries and similar such areas.
3. **Development:** Means the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision of land and any other division of land including lot parcelling; change in the intensity of use of water, ecology related thereto, or of access thereto; construction or reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility, and the removal of significant vegetation.
4. **Environmental Impact Assessment(EIA):** A detailed description of a proposed action including: Information and technical data adequate to permit a careful analysis of environmental, economic and social impacts; discussion of the probable impact on the environment and any direct or indirect consequences that may result from the action; any adverse effects that cannot be avoided; alternatives to the proposed action that might avoid some or all of the adverse environmental effects; assessment

of the cumulative long-term effects of the proposed action including its relationship to short-term use of the environment in comparison with long-term use of the environment in comparison with long-term productivity and irreversible or irretrievable commitments of resources.

5. Aquaculture Facility: A facility for the culture or commercial production of aquatic plants and animals for food sales and distribution.
6. Threatened and Endangered Wildlife: Species of plants and animals: 1) determined by the Department of Agriculture's Division of Aquatic and Wildlife Resources to be of such limited numbers as to be in immediate danger of extinction or reduction to a critically low population level on Guam if faced with continued habitat reduction or alteration, or 2) so designated by the U.S. Department of Interior's Fish and Wildlife Service on the latest list of "Endangered and Threatened Wildlife and Plants."
7. Commission: means the Territorial Planning Commission.
8. "Industrial" "Commercial" and "Residential" Development: means such development as described under the Zoning Law, Title XVIII, Government of Guam as permissible uses under, respectively, the "M1" and "M2", "C", and "RI and R2" zones.

Section III. PROCEDURES FOR DEVELOPMENT WITHIN DESIGNATED WETLAND AREAS OF PARTICULAR CONCERN

- A. Before issuance of any permit for development within a wetland APC, a tentative plan for the proposed development shall be submitted to the Territorial Planner including a thorough description of the proposed development and the following specific information:
 1. The name and address of the owner or owners of record, of the developer and of the person preparing the map.
 2. Date, north arrow and scale.
 3. A key map locating the development in relation to surrounding areas.
 4. The exact length and bearing of the exterior boundaries of the development which data shall be referenced to the "Guam Geodetic Triangulation Control Network" or such alternative system of triangulation control as the Territorial Surveyor may direct.
 5. The accurate placement and outline of structures existing on the site.

6. The location, names, and existing width of adjacent street right-of-way.
 7. Topography with contour intervals of two feet.
 8. The location and dimensions of all known existing easements and reservations.
 9. The location of existing utilities and drainage facilities located within or adjacent to the proposed development.
 10. The approximate layout and approximate dimensions of each structure, facility, or use proposed within the development.
 11. Areas intended to be reserved for public use.
- B. A tentative plan of the proposed development shall be prepared in sufficient detail so as to permit its complete analysis by the Commission. The tentative plan for any project other than a single-family dwelling unit shall include a schedule indicating the approximate dates when construction or development stages are planned to begin and be completed. The Commission, or Territorial Planner at the request of another government agency or department, may require submittal of detailed construction drawings and/or preparation of an EIA for analysis prior to issuance of any clearing, grading, building, or other permits.
- C. A performance bond or undertaking may be required by the Commission for any development undertaken pursuant to an approved tentative plan within a wetland. The amount of the bond shall be one hundred and ten percent (110%) of the infrastructure costs of the project, and not less than two thousand dollars (\$2000). The entire bond or any undertaking of any portion thereof shall be forfeited as determined by the Commission for failure to comply with any applicable wetland, water quality, or zoning regulation except as allowed for under a variance or other legal exception from such requirements. The entire bond or any portion thereof shall be forfeited as is required to complete the site preparation and infrastructure features or restoration of the project should these not be completed by the developer.
- D. Upon certification by the Territorial Planner that such complete and accurate information as required and requested has been provided, such documents shall be submitted to the Development Review Committee as established under Executive Order 78-2, (repealed by E.O. 90-09) amended by E.O. 92-06, and the Department of Agriculture, Division of Aquatic and Wildlife Resources.
- E. The Development Review Committee shall receive comments from the Bureau of Planning, Department of Public Works, Department of Land Management, Department of Parks and Recreation, Guam Environmental Protection Agency, Department of Agriculture's Division of Aquatic and Wildlife Resource, and other

agencies indicating interest in a particular development proposal, prior to submittal of recommendations to the Commission. Comments should be submitted before or on the date of the scheduled DRC meeting when the development proposal is to be reviewed, but will be accepted up until the time of the scheduled Commission meeting in which the project is to be presented for review.

- F. The commission shall either approve, including approval with conditions, or disapprove in whole or in part the proposed tentative development plan. Upon receipt of approval by the Commission for development within the wetland, the applicant should apply for such other permits as may be required by the Federal Government.
- G. If a field inspection by relevant local or federal agencies concludes that the development has not adhered to all applicable rules and regulations, or conditions imposed by the Commission, the Attorney General shall take such action as necessary to ensure compliance with such requirements. Penalties for violation of these regulations shall be the same as for violations of the Seashore Protection Act, Title XIV, Chapter V-A, Government Code of Guam.
- H. Any expansion or alteration of an approved project, which exceeds 59% of the physical value of the original structure or development, shall require application for a new Wetland Permit from the Commission.
- I. Upon Commission approval of an EIA or tentative plan for a proposed commercial development within a wetland APC, the developer may be requested to demonstrate that sufficient funding is available for the project, prior to issuance of a Wetland Permit.
- J. During all phases of a proposed development project and application for permit, the land area shall be open for inspection by all interested agencies or parties.
- K. If a development project is not completed or operations totally cease within a prescribed time period, if any, indicated on the approved permit, the developer shall be required to restore the natural appearance and biological character of the wetland to its condition prior to institution of the development to the maximum extent practicable.
- L. The comments submitted to the Commission, by Government of Guam agencies, on requests for development within wetlands, as summarized by the Executive Secretary of the Commission shall constitute the Government of Guam's position on such projects for the purpose of providing comments to the U.S. Army Corps of Engineers under their permit process for wetland development.

- M. Variances to such procedures and standards as outlined in these rules and regulations may be granted by the Commission only upon written findings that the applicant satisfies all of the four criteria for granting of zoning variances under Section 17502(a)-(d) of the Government Code of Guam.

Section IV. STANDARDS FOR DEVELOPMENT AND CONSERVATION OF WETLAND APCS

- A. All development within a wetland APC shall comply with all air and water quality, erosion and sedimentation control standards and other applicable pollution standards as promulgated by the Guam Environmental Protection Agency.
- B. Wetland acreage shall not be reduced by filling or dumping material over submerged areas unless issued a Wetland Permit by the Commission.
- C. Wetlands shall not be graded, dredged or subject to removal of large areas of productive plant life unless issued a Wetland Permit by the Commission.
- D. The flow of water within or into wetlands shall not be altered so as to adversely effect the wetland by blocking or channelizing rivers (within or upstream from the wetland) or tidal flow, or reducing natural spring discharge unless issued a Wetland Permit by the Commission.
- E. Any development which substantially increases the potential for damaging flooding of properties within or adjacent to the wetland shall not be permitted within a wetland APC.
- F. Development of any structure subject to damage, or posing a health or safety threat to the public or the wetland environment, due to flooding of the wetland shall not be permitted within a wetland APC.
- G. Any developments, including aquaculture facilities existing within wetland APCs, at the time rules and regulations for wetland APCs are promulgated, do not require a Wetland Permit for existing use and structures, and are not subject to restoration requirements.
- H. Proposed aquaculture operations, expansion of existing aquaculture operations and/or reactivation of aquaculture sites within wetland APCs shall require preparation of an EIA prior to issuance of a Wetland Permit by the Commission.
- I. Proposed ponding or storage facilities; industrial, residential or commercial development may be permitted within wetland APCs only upon a finding by the Commission that no feasible alternative sites exist and that such development is dependent on location within a wetland.

- J. Passive recreational and educational uses and structures such as unpaved foot trails, interpretive signs, elevated walkways, portable tables, etc., within wetland APCs shall not require Wetland Permits, but shall be subject to applicable Department of Parks and Recreation rules and regulations and Department of Agriculture hunting regulations.
- K. Hunting, removing or otherwise disturbing threatened or endangered wildlife or plants within wetland APCs is prohibited unless such actions are in compliance with the rules and regulations of the Department of Agriculture and such actions are essential to the health, safety, and welfare of the general public and alternative actions are not feasible. Removal of small amounts of non-threatened or non-endangered wildlife for non-commercial home consumption or medicinal use does not require issuance of a Wetland Permit.

Section V. DESIGNATION OF WETLAND AREAS OF PARTICULAR CONCERN

- A. The Commission shall designate as initial wetland areas of particular concern those wetlands identified on the Bureau of Planning's Community Design Maps, as approved by the Governor, and those mangrove strands and wetlands delineated in the Army Corps of Engineers' Inventory and Mapping of Wetland Vegetation in Guam, Tinian and Saipan, June, 1977 and the Appendix of the Bureau of Planning's Atlas of the Reefs and Beaches of Guam, 1976.
- B. Subsequent proposed additions, deletions or revisions to these initial wetland APC designations shall be submitted to the Territorial Planner who shall circulate such proposed changes to DRC member agencies, the Department of Agriculture and the U.S. Army Corps of Engineers, and other interested agencies or, upon request, private parties.
- C. Upon review by all DRC members and other interested agencies the proposed wetland APC shall be submitted to the Commission with recommendations for approval, disapproval or modification. The Commission, upon holding a public hearing in the Commission's Office nearest the subject wetland areas in which at least ten (10) days notice is provided in a newspaper of general circulation, shall either approve, disapprove or approve with modifications the requested wetland APC designation.
- D. All initially and subsequently approved wetland APC's shall be officially noted and recorded by the Department of Land Management and the Bureau of Planning on official wetland APC maps. Copies of such official wetland APC maps shall be available to the general public and shall be provided to and retained by all DRC member agencies.

TERRITORIAL LAND USE COMMISSION

FLOOD HAZARD AREAS RULES AND REGULATIONS

Contents:

- Section I. Authority, Purpose, and Intent
- Section II. Definitions
- Section III. Procedures for Flood Hazard Area Management
- Section IV. Standards for Flood Hazard Area Management
- Section V. Designation of Flood Hazard Areas of Particular Concern

Section I. AUTHORITY, PURPOSE, INTENT

A. Authority

These rules and regulations are promulgated by the Territorial Planning Commission under authority of Titles XVIII and XIX of the Government Code of Guam and Executive Order No. 78-20.

B. Purpose

The purpose of these rules and regulations is to establish procedural guidelines and performance standards for management of flood hazard areas, pursuant to Executive Order No. 78-20, and the National Flood Insurance and Guam Coastal Management Programs.

C. Intent

These rules and regulations apply to those land areas delineated as Flood Hazard Areas of Particular Concern on an official map, as approved by the Territorial Planning Commission and retained for public inspection by the Department of Land Management, Public Works, Parks and Recreation, Agriculture, the Bureau of Planning, the Guam Environmental Protection Agency, and Public Utilities Agency of Guam, Government of Guam. The official map is subject to amendment as additional data becomes available or a flood event expands a designated boundary. A designated flood boundary will be reduced only upon completion of an approved flood control project. Those activities or developments occurring only partially within a designated or recognized flood hazard area shall be subject to these rules and regulations. These rules and regulations supplement all other provisions of the law relating to land use and shall remain in effect until such time as amended by the Territorial Planning Commission. These rules and regulations shall apply to all developments on Government of Guam or private lands. Compliance with these

rules and regulations should precede submittal of applications for any required Federal permits.

Section II. DEFINITIONS

1. Area of Particular Concern (APC): A specifically designated geographic area where the presence of unique or significant natural resources, geologic constraints, hazards or other exceptional geographic characteristics warrants and requires the application of extraordinary regulatory or management measures in order to insure the retention of such exceptional qualities or to insure the health, safety and welfare of the general public.
2. Flood: The general and temporary condition of partial or complete inundation of normally dry land areas from: (a) abnormally high coastal waters resulting from tropical storms, typhoons or tsunamis; (b) overflow of streams, rivers and wetlands; (c) excessive drainage of rainfall into sinkholes and low-lying basins.
3. Flood Hazard Area, Flood Prone Area, Flood Plain: Any land area subject to flood-conditions or susceptible to inundation, including wetlands, and areas subject to a one percent or greater chance of flooding in any given year (100-year flood), as designated on the official map of Flood Hazard Areas.
4. Wetland: Those areas that are inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence or vegetative or aquatic life that requires saturated or seasonally saturated conditions for growth reproduction. Wetlands generally include swamps, marshes, mangroves, natural ponds, surface springs, estuaries and similar such areas.
5. Floodproofing: Any combination of structural or non-structural measures or adjustments to properties and structures that would reduce flood loss to facilities, structures or the contents of buildings. Structural flood-proofing involves the ability to resist hydrostatic and hydrodynamic pressure and the effect of buoyancy.
6. Flood Control Measures: any dam, wall, embankment, levee, dike, abutment, basin, culvert, channelization or other means specifically designed to alter the natural course of waters within or affecting a flood hazard area.
7. Structure: Any building with walls, supports or roofing; or gas or liquid storage tank which is affixed to the land.
8. Development: The placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or

thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including but not limited to, subdivision of land and any other division of land including lot parcelling; change in the intensity of use of water, ecology related thereto, or of access thereto; construction or reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility, and the removal of significant vegetation.

9. Environmental Impact Assessment (EIA): A detailed description of a proposed action including: Information and technical data adequate to permit a careful analysis of environmental, economic and social impacts; discussion of the probable impact on the environment and any direct or indirect consequences that may result from the action; any adverse effects that cannot be avoided; alternatives to the proposed action that might avoid some or all of the adverse environmental effects; assessment of the cumulative long-term effects of the proposed action including its relationship to short-term use of the environment in comparison with long-term productivity and irreversible or irretrievable commitments of resources.
10. Commission: means the Territorial Planning Commission.

Section III. PROCEDURES FOR FLOOD HAZARD AREA MANAGEMENT

- A. Before issuance of any permit for development within a designated flood hazard area, a tentative plan for the proposed development shall be submitted to the Building Permit Division, Department of Public Works including a thorough description of the proposed development and the following specific information:
 1. The name and address of the owner or owners of record, of the developer and of the person preparing the map.
 2. Date, north arrow and scale.
 3. A key map locating the development's relation to surrounding areas.
 4. The exact length and bearing of the exterior boundaries of the development, referenced to the Guam Geodetic Triangulation Control Network or such alternative system of triangulation control as the Territorial Surveyor may direct.
 5. The accurate placement and outline of structures existing on the site.
 6. The location, names, and existing widths of adjacent street rights-of-way.

7. Topography with contour intervals of two feet.
 8. The location and dimensions of all known existing easements and reservations.
 9. The location of existing utilities and drainage facilities located within or adjacent to the proposed development.
 10. The approximate layout and approximate dimensions of each structure, facility or use proposed within the development.
 11. Areas intended to be reserved for public use.
 12. A description of all floodproofing measures to be utilized in the proposed development.
 13. An indication of the water surface elevation of the 100-year flood if the development involves a land area greater than 50 lots or 5 acres.
- B. A tentative plan of the proposed development shall be prepared in sufficient detail so as to permit its complete analysis by the Building Permit, Engineering and Hydraulics Divisions of the Department of Public Works. The tentative plan shall include a schedule indicating the approximate dates when construction or development stages are planned to begin and be completed. These divisions may require submittal of detailed construction drawings and/or preparation of an EIA for analysis prior to issuance of any clearing, grading, building or other permit.
- C. A performance bond or undertaking may be required by the Department of Public Works for any development undertaken pursuant to an approved tentative plan with a flood hazard area. The amount of the bond shall be one hundred and ten percent (110%) of the infrastructure costs of the project, and not less than two thousand dollars (\$2,000). The entire bond or any undertaking of any portion thereof shall be forfeited as determined by the Director, Department of Public Works for failure to comply with any applicable flood hazard areas, wetland, water quality, or zoning regulations except as allowed for under a variance or other legal exception from such requirements. The entire bond or any portion thereof shall be forfeited as is required to complete the site preparation and infrastructure features or restoration of the project should these not be completed by the developer.
- D. The Building Permit Division, Department of Public Works shall either approve, including approval with conditions, or disapprove in whole or in part the proposed tentative development plan. Upon receipt of permission by the Department for development within a flood hazard area, the applicant may proceed to apply for such other permits as may be required by the local or federal government.

- E. If a field inspection by relevant agencies concludes that the development has not adhered to all applicable rules and regulations or conditions imposed by the Commission or Department of Public Works, the Attorney General shall take such action as necessary to ensure compliance with such requirements, including requests for restraining orders or revocation of permission for building in the flood hazard area.
- F. Any expansion of an approved development project, which exceeds 50% of the physical value of the original structure or development, shall require application for a new building permit for development within the flood hazard area.
- G. During all phases of a proposed development project and application for permit, the land area shall be open for inspection by all interested agencies or parties.
- H. If a development project is not completed or operations totally cease within the time period, if any, indicated on the approved permit, the developer shall be required to restore the natural appearance and biological character of the flood hazard area to its condition prior to institution of the development to the maximum extent practicable.
- I. Variances to such procedures and standards, as outlined in these rules and regulations may be granted through appeal to the Commission which may permit such variances only upon written finding that the applicant satisfies all of the criteria outlined for granting zoning variances under Section 17502 (a)-(d) of the Government Code of Guam.
- J. Current uses not adhering to these rules and regulations shall not require a Flood Hazard Area Building Permit and shall be classified as legal non-conforming uses unless declared to be a hazard to public health, safety and welfare by the Department of Public Health and Social Services, at which time they will be subject to conformance with these rules and regulations.
- K. Expansion of existing non-conforming uses or reactivation of uses which have been totally abandoned for a period of one year shall require application for a Flood Hazard Area Building Permit.
- L. Emergency repairs of existing flood-damage structures shall not require application for a Flood Hazard Area Building Permit if completed within a period of six months after a flood event and do not involve major structural or developmental expansion. After the above-stated time period, major repairs shall require application for a Flood Hazard Area Building Permit.

Section IV. STANDARDS FOR FLOOD HAZARD AREA MANAGEMENT

- A. All development within flood hazard areas shall comply with all water quality, erosion and sedimentation control standards and other applicable pollution standards as promulgated by the Guam Environmental Protection Agency and, if applicable, Wetland Rules and Regulations as promulgated by the Territorial Planning Commission.
- B. Flood hazard areas shall not be graded, dredged or filled such that natural topographic drainways are altered unless issued a Flood Hazard Area Permit by the Department of Public Works.
- C. Approved developments shall be designed to the maximum extent practicable to maintain the natural flow during flood conditions, not create backwater effects or expand a flood hazard area into previously non-flood prone areas.
- D. All approved bridges and culverts shall have openings of sufficient width for adequate passage of flood discharge and debris during a 100-year flood.
- E. New septic tanks, leaching fields, outhouses or other on-site sewage disposal systems shall not be permitted within flood hazard areas. All approved sewage disposal shall be connected to government sewerage at the developer's expense. Sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the systems into flood waters.
- F. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- G. No development shall be permitted, within sinkholes or low-lying basins, as designated on the Bureau of Planning's Community Design Plans, which would inhibit the recharge of water into the underground aquifer system or be subject to flood damage.
- H. Fill materials (including trees and vegetation) shall not be discarded into flood hazard areas such as to impede the natural flood flow or velocity by creating an accumulation of loose debris.
- I. Open storage of significant quantities of buoyant, light, loose or unsecured material shall be prohibited within flood hazard areas.
- J. Storage within flood hazard areas of toxic chemicals, fertilizers, pesticides, biological wastes, or other contaminant substances which would be subject to dispersal into flood waters during periods of inundation shall be prohibited (even though storage of such substances might be in conformance with pollution control standards during non-flood conditions).

- K. Excessive removal of natural vegetation in a flood hazard area (though not promoting erosion during non-flood conditions) which would promote erosion during flood conditions shall be prohibited, unless demonstrated to the satisfaction of the Guam Environmental Protection Agency that erosion control measures would satisfactorily prevent erosion and sedimentation or that such action is necessary for agricultural field farming. (Note: Deep-rooted natural vegetation such as trees and shrubs absorb water to greater depths and reduce flood levels much more effectively than shallow-rooted grasses and weeds that dominate lands after natural vegetation is cleared).
- L. All approved flood control measures and structures shall be periodically maintained and immediately repaired in cases of failure. Flood control measures shall not increase flood heights in upstream areas or cause erosion of lands not previously subject to a higher flood level or increase flood velocity. (Note: Channelization can particularly increase flood velocity due to a reduction in natural impediments to flow. Thus, channel flood waters should be directed to a suitable point of discharge).
- M. Flood control measures or development shall not reduce the water supply or biological productivity of a wetland habitat.
- N. An approved seawall for stormwave protection shall not impair public access, contribute to shoreline erosion or significantly disturb scenic vistas or visual quality and shall be sufficiently storm-resistant and structurally safe so as not to create a health or safety hazard.
- O. All approved developments within flood hazard areas shall be floodproofed to the maximum extent practicable. (Note: all exposed doors should be watertight and exposed glass should be wire-reinforced). (Use of materials which easily deteriorate when exposed to water should not be used.).
- P. Below-ground basements, building space, storage or parking shall be prohibited within flood hazard areas.
- Q. Libraries, schools, post offices, museums and other public-use structures, whose maintenance is a public expense or which are used for storage of valuable flood-vulnerable materials, the preservation of which is in the public interest, shall not be located within flood hazard areas.
- R. Cemeteries shall not be located within flood hazard areas. Expansion of existing cemeteries within flood hazard areas shall be permitted as a non-conforming use.
- S. All electrical equipment and the lowest floor of approved structures shall be elevated above the maximum known flood elevation.

- T. All approved structures, including mobile or modular homes and other light-weight structures, shall be anchored to prevent flotation, collapse or lateral movement of the structure or portions of the structure during flood conditions. Ties shall be provided at each of the four corners of the home with two additional ties per side at intermediate locations.
- U. Post, piles or similar techniques for elevating structures in flood hazard areas shall be secured in concrete footings or by imbedment in the ground to a depth sufficient to withstand hydrostatic or hydrodynamic loads, anticipated scour and/or uplift.
- V. Approved structures shall be planned for construction with the longitudinal axis parallel to the direction of flood flow or wave assault whenever possible and additional or adjoining structures shall be planned for placement on the same flood-flow lines as the established structures.
- W. Recreational development such as ballpark or agricultural field farming which does not involve major structural developments does not require issuance of a Flood Hazard Area Permit if outside wetland habitats. Archaeological investigation or restoration of historical sites does not require a Flood Hazard Area Permit. (Note: Floodplains have a high capability for low-intensity uses such as open-space scenic areas, wildlife habitats, groundwater recharge areas, outdoor recreation, field farming and livestock grazing).

Section V. DESIGNATION OF FLOOD HAZARD AREAS

- A. The Commission shall designate as initial flood hazard areas of particular concern those floodplain designations submitted by the Bureau of Planning for approval under the National Flood Insurance Program.
- B. Subsequent proposed additions, deletions or revisions to these initial flood hazard area designations shall be submitted to the Territorial Planner who shall circulate such proposed changes to DRC member agencies, the Department of Agriculture and the U.S. Army Corps of Engineers, and other interested agencies or, upon request, private parties.
- C. Upon review by all DRC members and other interested agencies the proposed flood hazard area shall be submitted to the Commission with recommendations for approval, disapproval or modification. The Commission, upon holding a public hearing in the Commissioner's Office nearest the subject flood hazard areas in which at least ten (10) days notice is provided in a news-paper of general circulation, shall either approve, disapprove or approve with modification the requested flood hazard area designation.

- D. All initially and subsequently approved flood hazard areas shall be officially noted and recorded by the Department of Land Management, Department of Public Works and the Bureau of Planning on official flood hazard area maps. copies of such official flood hazard area maps shall be available to the general public and shall be provided to and retained by all DRC member agencies.
- E. Officially designated flood hazard areas of too small a size to be accurately delineated on such official maps which are the subject of proposed development shall be verified through on-site field inspection by the Department of Public Works Hydraulics Division. If any portion of the proposed development is determined to be in the designated flood hazard area such development shall be subject to these rules and regulations.

TERRITORIAL LAND USE COMMISSION
INTERIM "H" RESORT-HOTEL ZONE
RULES AND REGULATION

Contents:

- Section I. Authority, Purpose, and Intent
- Section II. Definitions
- Section III. Procedures for Zone Changes to "H"
- Section IV. Procedures for development within an "H" Zone
- Section V. Standards for development within an "H" Zone

Section I. AUTHORITY, PURPOSE, INTENT

A. Authority

These rules and regulations are promulgated by the Territorial Planning Commission under authority of Titles XIV and XVII of the Government Code of Guam and Public Law 14-41, as amended by Public Law 14-72 and Public Law 14-82.

B. Purpose

The purpose of these rules and regulations is to establish procedural requirements for:

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

C. Intent

These rules and regulations apply to that area rezoned "H" under the provisions of Public Law 14-41, as amended by Public Law 14-72 and 14-82 (Tumon), as well as all future proposals for development within or changes of zone designation to an "H" zone. As interim regulations, they shall remain in effect until such time as final "H" Zone regulations are adopted by the Territorial Planning Commission.

Section II. DEFINITIONS

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

1. Amusement Activity: An indoor facility operated for the amusement or entertainment to the public.
2. Cultural Facility
An indoor or outdoor facility operated for the purpose of portraying or promoting aspects of the Island's culture through use of plays, theaters, museums, arts and crafts galleries and displays, and similar facilities.
3. Landscaped Area or Landscaping
An area planted and covered with soft live flora such as lawn, ground cover, trees, shrubs, or any other materials which would aesthetically enhance the area.
4. Park Recreational Facility
An area or facility established and operated for the purpose of accommodating or promoting active or passive recreational activities including sports, interpretive parks, botanical and zoological gardens, playgrounds, and such related facilities.
5. Tourism Related Shops, Offices and Supportive Services (Resort Commercial)
Commercial facilities and offices directly dependent on sales or services and immediate proximity to the public and, including but not limited to bicycle or moped rental facilities, but not such commercial or industrial activities as auto, motorcycle, bicycle, and appliance sales or repair; assembly line, hardware, building, electrical, or plumbing supply enterprises and related uses.
6. Transient Guest
Those persons who occupy a hotel, lodging house, or similar facility in a specific location for less than 90 consecutive days.

Section III. Procedures for Zone Change to "H"

- A. A proposed zone change to "H" may be initiated by the Commission or by an application directed to the Commission by any person owning or leasing real property with the area covered by the proposed "H" zone.
- B. Application. An application for a change of zone to "H" shall be filed with the Planning Division, Department of Land Management, on a zone change form, which

in addition to that information normally required for zone changes shall include:

1. A legal description of the area proposed for rezoning, copies of certificates of title for property within the proposed zone and the name of the developer and/or development company, if appropriate.
2. A statement outlining the reasons for requesting such a zone change including:
 - a. A discussion of how the public necessity, convenience, and general welfare justifies such a zone change.
 - b. A description of the general geographical character of the area to be rezoned.
 - c. Types of future uses or development proposed within the area, if any.
 - d. Alternatives considered (PUD), Variance, C Zone, etc.).
 - e. A general summary of the anticipated effect of the proposed rezoning on the surrounding environment including its impact on water quality (through drainage, leaching, run-off); any unique historical or ecological sites or other valuable natural or cultural resources; accessibility to beaches, caves, waterfalls, or other recreational sites; and surrounding land-use patterns. General narrative discussion acceptable--no requirement to follow specific guidelines for preparation of Environmental Impact Statements, or Assessments as established by Council on Environmental Quality; unless otherwise required by law.
 - f. If proposed in conjunction with plans for substantial development of the subject area:
 - (1) A summary economic statement to include discussions of the operating and economic role and function of the development's major features, of the primary and secondary markets to be served, of the demand for support services to be generated and the manner in which each will be secured, and of the ways in which the development furthers the expansion in breadth of depth of the Island's economy; but to specifically exclude confidential or sensitive financial data such as forecasted operating cost breakdowns, revenues, cash-flows, breakeven points, and profitability.

- (2) A development schedule indicating the approximate date when construction or stages (by unit or increment basis) of any planned development are planned to begin and be completed.
- (3) A statement of the applicant's tentative plans regarding the future selling or leasing of all or portions of the development, including specific land areas, condominium units, or cottage or cluster developments by increment method.
- (4) Where no public sewer, water, or such public facilities exist, the proposed methods and facilities to provide such services.
- (5) A plot plan of any proposed development within the "H" Zone area. The plot plan shall show the location of proposed major structures and facilities within the rezoned area, including sources of water and power, required sewage disposal systems and proposed landscaping. The plot plan shall indicate existing topography as defined in Chapter IV, Section 18300(a)(12) of Title XIX of the Government Code of Guam.

- C. Upon certification by the Territorial Planner that complete information has been provided by the applicant, the Commission shall hold at least one (1) public hearing thereon in the municipal district where the property to be rezoned is located, as such districts are described in Chapter I of Title XVI of the Government Code, notice of time and place of which shall be given by at least one (1) publication in a newspaper of general circulation at least ten (1) days before the day of said hearing, and by mail to the Commissioner of the municipal district concerned, and to those landowners owning land within five hundred (500) feet of the property for which rezoning is requested, the mailing addresses for such landowners to be in the Real Estate Tax records.
- D. Prior to the public hearing, the Territorial Planner shall submit the application and other supporting documents including a summary report of the public hearing for the proposed zone change to the Development Review Committee for their review and recommendation. The Development Review Committee (DRC) findings shall be presented at the public hearing.
- E. The Commission shall consider the proposed change of zone and may approve or disapprove the same, in whole or in part. The Commission shall make its findings and determinations within forty (40) days from the date of the hearing thereon and shall forward notice of such decision to the applicant. if any. If the application is approved in whole or in part by the Commission, the same shall be forwarded to the Governor who may approve or disapprove the proposed change in whole or in part.

- F. Pursuant to Chapter XIV, Title XVIII of the Government Code, upon approval of the zone change by the Governor, it shall be submitted to the next portion of the next regular session of the Legislature convening after the said approval. Such amendment to the zoning map shall remain in effect unless amended or repealed by statute.
- G. Zone changes to "H" shall not be permitted for any area less than two and one half (2½) acres in size.

Section IV. Procedures for Development Within an "H" Zone

- A. Before issuance of any building permit for development proposed either in 1) in conjunction with submittal of a requested zone change to "H" or 2) in a prior approved "H" Zone, a tentative plan for such development shall be submitted to the Territorial Planner containing the following information as deemed appropriate by the Territorial Planner:
1. The name and address of the owner or owners of record, of the developer and of the person preparing the map.
 2. Date, north arrow and scales.
 3. A key map locating the development in relation to surrounding areas.
 4. The exact length and bearing of the exterior boundaries of the development which data shall be referenced to the "Guam Geodetic Triangulation Control Network" or such alternative system of triangulation control as the Territorial Surveyor may direct.
 5. The accurate placement and outline of structures existing on the site.
 6. The location, names, and existing widths of adjacent street rights of way.
 7. The location and dimensions of all known existing easements and reservations.
 8. The location of existing utilities, sewers, drainage ditches, and other drainage facilities located in, or adjacent to, the proposed development.
 9. The location, width and direction of flow of all water courses within the subdivision area.

10. Topography with contour intervals of two feet (2') where the ground slope is five percent (5%) or less or contour intervals of five feet (5') where the ground slope is more than five percent (5%).
11. The location and widths of all existing or proposed streets in the development.
12. The approximate layout and approximate dimensions of each structure, facility, or use proposed within the development.
13. Areas intended to be reserved for public use.
14. A drainage plan showing methods and facilities for collection and disposal of storm waters. The storm drainage disposal area or channel must have demonstrated ability to accept additional water in view of capacity of area or channel and of capacity of existing improvements confining the channel.

The tentative plan shall be prepared in sufficient detail for analysis by the Commission as to sufficiency and most suitable location. The Commission may require the submission of detailed construction drawings as work is initiated to permit detailed analysis of construction conformity to law and the rules and regulations of the Commission, and to facilitate inspections.

- B. Upon certification by the Territorial Planner that such complete and accurate information as requested has been provided, such tentative plan shall be submitted to the Development Review Committee (DRC) for review and recommendations.
- C. The Territorial Planning Commission shall either approve, including approval with conditions, or disapprove in whole or in part the proposed tentative development plan. Upon approval, appropriate permits for initial construction may be issued.
- D. Any proposed use or structure which has not been included in an approved tentative plan must be approved by the Commission or at its discretion, the Territorial Planner, before issuance of any building permits.
- E. A performance bond or undertaking shall be required for any development undertaken pursuant to an approved tentative plan within an "H" Zone as otherwise provided in the regulations. The amount of the bond shall be One Hundred and Ten Percent (110%) of the infrastructure costs of the project, and not less than Two Thousand Dollars (\$2,000). The entire bond or any undertaking of any portion thereof shall be forfeited as determined by the Commission for failure to comply with any

applicable land use, water quality, or zoning regulation except as allowed for under prior granting of a variance or other legal exception from such requirement: including, but not limited to, erosion and grading standards, landscaping, height and setback requirements, the tentative development plan as approved by the Commission and any applicable zone regulations. The entire bond or any portion thereof shall be forfeited as is required to complete the site preparation and infrastructure features of the project should these not be completed by the developer.

- F. The commission shall approve a maximum time period within which all of the improvements authorized the tentative development plan shall be completed. The time period shall be no less than six months, and no more than four years. The time period shall be based on the size, character, and complexity of the authorized improvements. The Commission may, for good cause shown, grant any extension of time.
- G. Upon completion or any portion of the project in accordance with the tentative plan, the Department of Public Works shall certify to the Commission that the project has been completed in accordance with the tentative plan.
- H. Requirements or preparation of tentative development plans and posting of performance bonds as outlined in this section shall not apply to construction of single-family dwellings in that area in Tumon zone "H" under Public Law 14-41, as amended.

Section V. Standards for Development Within an "H" Zone

- A. All development within an "H" Zone shall comply with all applicable pollution and erosion standards as promulgated by the Guam Environmental Protection Agency.
- B. The nature, size, shape, lighting, and style of an outdoor sign shall conform to those requirements as outlined in the Sign Regulations, Title XVIII, Chapter IX, of the Government Code for Commercial Zones.
- C. The following parking regulations shall apply:
 - 1. Title XVIII, Chapter VIII, Sections 17350 -17352 of the Government Code of Guam.
 - 2. Provisions noted under "footnotes" to the "H" Zone Yard and Height Regulations.

D. Development and activities within an "H" Resort-Hotel Zone shall:

1. Provide open access to public resources including but not limited to beaches or other parts of the ocean shore, parks, conservation areas, rivers, waterfalls, and other public resources.
2. To the maximum extent possible, assure that all permissible and accessory uses enhance, compliment, and do not detract from or surrounding area.
3. When associated with or encompassing such valuable resources as unique land, water, floral, faunal, cultural, historic, archaeologic, or other such areas:
 - a. Provide interpretive materials, displays, and information, as required, reviewed, and approved by the Department of Parks and recreation. The Territorial Planner shall certify to the TPC and DRC that the interpretive materials, displays, and information have been so approved.
 - b. Assure that such resources remain, to the maximum extent possible, in their natural or undisturbed state.

E. Dwellings permitted in an "H" Zone shall be designed:

1. To accommodate primarily the needs and desires of visitors, tourists, and transient guests.
2. In a compatible arrangement so as to compliment and enhance the adjacent structures and environment.

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

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

- H. Variance to these regulations may be granted by the Commission only upon issuance of such findings or under such conditions as prescribed under Sections 17501 - 17502 of the Government Code.
- I. Yard, Area, and Height regulations for the "H" Zone are as outlined in the attached chart.

YARD AREA AND HEIGHT REGULATIONS

USE	GROSS DENSITY	MINIMUM LOT SIZE	YARD (3)			LOT AREA PER DWELLING	(5) MAXIMUM BLDG. HEIGHT
			Front	Side	Rear		
Single	4 d.u./acre	5,000 w/ sewer 10,000 w/o sewer (929 sq.m.)	(4) 15 ft.(5m)	(4) 8 ft. (3m)	10 ft.(3m)	5,000 w/ sewer 10,000 w/o sewer (929 sq.m.)	2 Storeys
Zero Lot Line	5 d.u./acre	4,000 sq.ft. (371.5 sq.m.)	(4) 15 ft.(5m)	(4) 16 ft. (5m)	10 ft.(3m)	4,000 w/ sewer 8,000 w/o sewer 8,005 (744 sq.m.)	3 Storeys
Zero Lot Line Semi-Attached	6 d.u./acre	3,000 sq.ft. (279 sq.m.)	(4) 5 ft.(2m)	(4) 16 ft. (5m)	10 ft.(3m)	3,000 w/ sewer 6,000 w/o sewer 6,666 (620 sq.m.)	3 Storeys
Row Four to Eight	10 d.u./acre	2,500 sq.ft. (232.5 sq.m.)	(4) 20 ft.(5m)	(4) 16 ft. (5m)	16 ft.(5m)	2,000 w/ sewer 4,000 w/o sewer (372 sq.m.)	2 Storeys
Multi-Family	15 d.u./acre	10,880 sq.ft. (1,012 sq.m.)	10 ft.(3m)	10 ft. (3m)	13 ft.(4m)	1,012 w/ sewer 2,722 w/o sewer (253 sq.m.)	3 Storeys
Multi-Family	20 d.u./acre	29,999 sq.ft. (2,788 sq.m.)	13 ft.(4m)	10 ft. (3m)	20 ft.(6m)	2,217 sq.ft. (206 sq.m.)	(Lot Length+Lot Width) + 10 m.
Multi-Family	22 d.u./acre	50,002 sq.ft. (4,647 sq.m.)	23 ft.(7m)	23 ft. (7m)	33 ft.(10m)	2,001 sq.ft. (185 sq.m.)	"
Multi-Family	26 d.u./acre	70,005 sq.ft. (6,506 sq.m.)	33 ft.(10m)	Total combined side yards equals(30%) lot width, or 33 ft.(10m)	49 ft.(15m)	1,688 sq.ft. (155 sq.m.)	"
Hotel Small	32 d.u./acre	90,000 sq.ft. (8,363 sq.m.)	33 ft.(10m)	Total combined side yards equals 40% lot width, or 33ft. (10m)	75 ft.(23m)	1,361 sq.ft. (126.5 sq.m.)	"
Hotel Large	38 d.u./acre	200,000 sq.ft. (18,588 sq.m.)	33 ft.(10m)	Total combined side yards equals 50% lot width, one side min. 53 ft. (16m)	75 ft.(23m)	1,141 sq.ft. (106 sq.m.)	"
Resort Commercial	NA	9,996 sq.ft. (929 sq.m.)	10 ft. (3m)	(5) 10 ft. (3m)	10 ft.(3m)	NA	3 Storeys

FOOTNOTES:

- (1) Landscape/areas include all setbacks, no parking permitted.
- (2) Two (2) parking spaces permitted on paved driveway within the sixteen foot (16') setback.
- (3) When yard abuts shoreline, building setbacks are increased by thirty-five feet (35') for one story and seventy-five feet (75') for two story and above.

- (4) Zero lot line may be permitted with adjacent owner approval and provision of additional open, space.
- (5) Maximum Building Height (MBH) is calculated by dividing the sum of lot length plus lot width by 10.

(LL + L11)

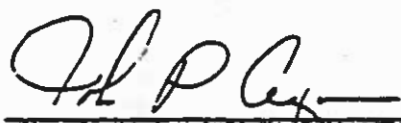
Section VI. Amendments

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

Adopted on March 10, 1978.


Chairman, Territorial Planning Commission

I certify that the foregoing is a true copy of the Rules and Regulations of the "H" Resort-Hotel Zone promulgated, effective March 10, 1978. These rules and regulations were in effect March 10, 1978 and continue in effect as of the date of this certification.


JOHN P. AGUON, EXECUTIVE SECRETARY
Territorial Planning Commission

**RULES AND REGULATIONS
GUAM TERRITORIAL SEASHORE PROTECTION COMMISSION**

ARTICLE I. AUTHORITY AND PURPOSE

Section 1. Authority. These Rules and Regulations are promulgated under the authority of Chapter V-A, Title XIV, Public Law 12-108, Section 13415.

Section 2. Purpose. The purpose of these Rules and Regulations is to govern the meetings and proceedings of the Guam Territorial Seashore Protection Commission, acting pursuant to the Legislative authority mentioned above.

ARTICLE II. THE COMMISSION

Section 1. The official name of the Commission shall be the Guam Territorial Seashore Protection Commission.

Section 2. Official Address. The official address of the Guam Territorial Seashore Protection Commission shall be c/o Government of Guam, Agana, Guam.

Section 3. Place of Meeting. The Commission will hold its regular meeting at a location to be determined by a majority vote at any regular meeting.

ARTICLE III. MEMBERS OF THE COMMISSION

Section 1. Commission Creation, Membership and Compensation. The Commission shall consist of the seven (7) members of the Territorial Land Use Commission and the members shall hold office so long as they remain members of the Territorial Land Use Commission. Commission members shall serve without compensation except that each member shall be paid a per diem of fifty (\$50.00) for each day's attendance at a meeting of the Commission. Each member shall also be allowed actual expenses incurred in the discharge of his duties.

Section 2. Powers and Duties. The Commission may:

- (a) Accept grants, contributions and appropriations;
- (b) Employ and fix the compensation, in accordance with law; of such professional, clerical and other assistants as may be necessary;
- (c) (1) Through coordination and assistance with other Government agencies, acquire lands, waters, interests therein with the boundaries of the Seashore Reserve, by donation, purchase with donated or appropriated funds, by

exchange for government land, or transfer;

(2) Grant land use permits;

(3) Terminate a right of use and occupancy retained pursuant to this subsection upon a determination that such use and occupancy is being exercised in a manner not consistent with the purpose of this Chapter, and upon tender to the holder of the right an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination;

(d) Contract for any professional services if such work or services cannot satisfactorily be performed by its employees;

(e) Be sued and sue to obtain any remedy to retrain violations of this Act. Upon the request of the Commission, the Attorney General shall provide necessary legal representation;

(f) Adopt any regulations or take any action it deems reasonable and necessary to carry out the provisions of Chapter V-A, Section 13415 (Public Law 12-108), but no regulations shall be adopted without prior public hearing.

(g) Elect a Chairman; and

(h) Appoint an Administrator who shall not be a member of the Commission.

ARTICLE IV. OFFICERS

Section 1. **Regular Officers.** Regular officers of the Commission shall be Chairman, Vice-Chairman and Administrator.

Section 2. **Additional Officers and Assistant Officers.** The Commission may, by Resolution, appoint such additional officer or officers, or assistant officer or officers, establish the terms of office of such officers, and define the duties of such officers as the Commission may by such Resolution determine necessary or desirable.

Section 3. **Terms of Office.** The terms of office for the Chairman and Vice-Chairman shall be concurrent with their terms of office as members of the Territorial Land Use Commission. The term of office of the Administrator shall serve at the pleasure of the Commission.

Section 4. **Vacancies.** Should the office of Chairman and Vice-Chairman be vacant, the Commission shall fill the vacancy by election.

Section 5. **Duties of Officers.** The Chairman shall preside at all meetings of the Commission. At such meetings, he shall submit such proper information and recommendations to the Commission as he may deem proper concerning the policies, administration, and other affairs of the Commission. The Chairman shall

sign all contracts and other important documents and letters of the Commission upon approval of the Commission in accordance with Article VI, Section 4, of these Rules and Regulations.

The Vice-Chairman shall perform the duties of the Chairman in the absence or incapacity of the Chairman.

The Administrator shall serve as administrative officer of the Commission, shall be directly responsible to it, and subject thereto shall have complete control and responsibility for the execution of the Commission policies, the administration of its affairs, and the furnishing of such technical and clerical personnel, and office facilities as may be reasonably necessary.

Section 6. The officers of the Commission shall perform such other duties and functions as may from time to time be appropriately required by the Commission or the Rules and Regulations.

ARTICLE V. INTERIM PERMIT CONTROL

Section 1. **General Provisions.** The Commission shall adopt a permit application form which shall conform to the General provisions as enumerated in Section 13417 (a), Public Law 12-108, Seashore Reserve Act, and all other applicable laws governing the area defined as the Seashore Reserve.

Section 2. Permit Procedure.

(a) **Acceptance of Application.** Applications for the Territorial Seashore Protection Commission shall meet all current requirements of the Territorial Land Use Commission and Public Law 12-108. Completed applications, with seven (7) additional copies, shall be submitted to the Administrator of the Commission in accordance with the Territorial Land Use Commission and Public Law 12-108 requirements.

(b) **Filing Fee.** The Commission shall require a reasonable filing fee which shall be determined by the estimated cost of the project.

(c) After their acceptance by the Administrator, applications shall be transmitted to the Territorial Seashore Protection Commission. The Commission shall then hold at least one (1) hearing thereon in the municipal district where the project is located, such districts are described in Chapter I of Title XIV of the Government Code, notice of time and place of which shall be given by at least one (1) publication in a newspaper of general circulation, at least ten (10) days before the day of said hearing, and by mail to the Commissioner of the municipal district concerned. The hearing shall be no less than 21 nor more than 90 days after the date on which application is filed. All applications should be submitted and reviewed by the Development Review Committee prior to public hearing. All

comments and evaluations of the Development Review Committee should be presented during the public hearing.

(d) The Commission shall act upon the application for permit within sixty (60) days after the conclusion of the hearing.

ARTICLE VI. MEETING

Section 1. **Regular Meetings.** Meetings shall be held on the second and fourth Thursdays of the month. If such meeting falls on a legal holiday, the meeting shall be on the subsequent Tuesday.

Section 2. **Special Meetings.** Special meetings shall be held at such time and places as the Commission may determine, or may be called by the Chairman at such time and place as he may determine, and must be called by him upon the written request of three or more members of the Commission filed with the Administrator. Notice of such special meetings must be given at least 24 hours prior to the time of said meeting, and is to be given in writing, or in such form as

the Chairman may direct. Any and all business of the Commission may be transacted at such a special meeting.

Section 3. **Quorum.** Four (4) members of the Commission shall constitute a quorum for the purpose of conducting its business, exercising its powers and for all other purposes.

Section 4. **Voting.** Every official act taken by the Commission shall be adopted by four affirmative votes. Only positive motions will be entertained.

Section 5. **Order of Business.** At the regular meetings of the Commission, the following shall be the order of business:

- (1) Notation of attendance;
- (2) Consideration of Seashore Protection Commission applications, governed under the general provisions, Section 1, Article V of these Rules and Regulations;
- (3) Miscellaneous matters;
- (4) Approval of Minutes not previously approved;
- (5) Adjournment.

Section 6. **Parliamentary Procedure.** The Rules. Parliamentary procedure set forth in Robert's Rules of Order shall govern all meetings of the Commission except as otherwise provided.

ARTICLE VII. AMENDMENTS

These Rules and Regulations may be amended by the Commission at any regular or special meeting by a majority vote, provided that 10 days public notice is provided.

Adopted on the 14th day of August 1975.

\ signed \
DAVID J. ULLOA, CHAIRMAN

I certify that the foregoing is a true copy of the Rules and Regulations of the Guam Territorial Seashore Protection Commission as promulgated, effective August 14, 1975. These Rules and Regulations were in effect August 14, 1975 and continue in effect as of the date of this certification.

\ signed \
ESTEBAN U. TORRES, ADMINISTRATOR

ORGANIC ACT OF GUAM AND RELATED FEDERAL LAWS

Updated through P.L. 21-90



SUBCHAPTER 1 GENERAL PROVISIONS

§[1] Short Title. This Act may be cited as the "*Organic Act of Guam*".

SOURCE: "This Act" is the Act of August 1, 1950, 64 Stat. 384, codified as 48 U.S.C. 1421-1425, as amended.

§1421. Name and Territory Encompassed. The territory ceded to the United States in accordance with the provisions of the Treaty of Peace between the United States and Spain, signed at Paris, December 10, 1898, and proclaimed April 11, 1899, and known as the island of Guam in the Marianas Islands, shall continue to be known as Guam.

SOURCE: §2 of Act of Aug. 1, 1950; 48 U.S.C. 1421.

NOTE: The numbering of this (1992) entire publication of the Organic Act and Related Federal Laws is that found in Title 48 of the U.S. Code Annotated.

§1421a. Unincorporated Territory-Government.

Guam is hereby declared to be an unincorporated territory of the United States and the capital and seat of government thereof shall be located at the city of Agana, Guam. The government of Guam shall have the powers set forth in this Act, shall have power to sue by such name, and, with the consent of the legislature evidenced by enacted law, may be sued upon any contract entered into with respect to, or any tort committed incident to, the exercise by the government of Guam of any of its lawful powers.¹ The government of Guam shall consist of three branches, executive, legislative and judicial, and its relations with the Federal Government in all matters not the program responsibility of another Federal department or agency, shall be under the general administrative supervision of the Secretary of Interior.²

SOURCE: §3 of Act of Aug. 1, 1950, 48 U.S.C. §1421a; ¹added by Act of Sept. 21, 1959; ²adopted by amendment of Sept. 11, 1968, P.L. 90-497, 12(a), 82 Stat. 847.

COURT DECISIONS:

Since Guam is an unincorporated territory, its government has only those powers conferred upon it by Congress. *Rodriguez v. Gaylord*, [1977 DC Hawaii] 429 F. Supp. 797.

Because the Organic Act did not specifically permit such action, the Guam Legislature could not enact a law which took from the District Court all appellate jurisdiction. *Territory of Guam v. Olsen*, 451 U.S. 195. (1977).

Because the Organic Act (22) did not specifically provide for "diversity" jurisdiction in the District Court, no such jurisdiction exists. *Chase Manhattan Bank (Nat. Assn.) v. South Acres Dev. Co.*, [1978 U.S.] 98 S.Ct. 544.

The Organic Act provides for a stricter separation of powers than found in the U.S. Constitution in that this Act specifies that there shall be "three branches" of government. *People v. Camacho*, Sup.Ct.Guam, 1 Guam R. 501 (1975). Followed in *Attorney General of Guam v. Superior Court (Flores, Real Party)*, D.C.Guam, Civ. Case #79-153 (1980).

Guam has not waived its statutory immunity, granted by §3 of the Organic Act, and so is not liable for damages arising from intentional torts. The statutory limited waiver of immunity (Government Claims Act - §6500 et seq. of the Government Code) is constitutional. *Munoz and Munoz v. Govt. of Guam & Aguon*, (1980 CA9) 625 F.2d 257.

Because of the doctrine of "separation of powers", the Legislature may not hire an attorney to represent the government of Guam in the institution of a suit by and on behalf of the territory. Such an act is the prerogative of the executive branch, as an act "executing the laws" applicable to Guam. *Government of Guam v. United States*, D.C.Guam 1982, Civ. No. 82-0001.

The doctrine of "separation of powers" does not permit the Legislature to enact a law by which the Judiciary appoints a person to undertake a purely executive branch function, namely, the prosecution of criminal cases. *People v. Camacho*, 1 Guam Rep. 501.

Guam's sovereign immunity is immunity against the government only and not against officers of the government acting in their individual capacities. *Ngiraingas v. Sanchez, et al.*, (C.A. Guam 1988) 858 F.2d 1368.

1. Territories have an "inherent sovereign immunity", though not deriving it from the same source as that of the states.

2. While a sovereign may waive its immunity by unequivocally expressing its consent to the court's jurisdiction, a motion to dismiss for lack of jurisdiction (because of such immunity) is not a consent to

SUBCH. 1 - GENERAL PROVISIONS

the court's jurisdiction, even when motion is accompanied by a request for court marshal to release items in his custody. *Marx v. Government of Guam*, (C.A.9 Guam 1989) 866 F.2d 294.

The immunity granted under this section does not provide immunity to police officers in their individual capacities in §1983 suits. *Ngiraingas v. Sanchez*, C.A.9 (Guam) 1988, 849 F.2d 372, 959 F.2d 1368. *Aff'd* U.S. Sup.Ct (1989).

§1421b. Bill of Rights.

(a) No law shall be enacted in Guam respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition the government for a redress of their grievances.

(b) No soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

(c) The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant for arrest or search shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or things to be seized.

(d) No person shall be subject for the same offense to be twice put in jeopardy of punishment; nor shall he be compelled in any criminal case to be a witness against himself.

(e) No person shall be deprived of life, liberty, or property without due process of law.

(f) Private property shall not be taken for public use without just compensation.

(g) In all criminal prosecutions the accused shall have the right to a speedy and public trial; to be informed of the nature and cause of the accusation and to have a copy thereof; to be confronted with the witnesses against

him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense.

(h) Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

(i) Neither slavery nor involuntary servitude, except as punishment for a crime whereof the party shall have been duly convicted, shall exist in Guam.

(j) No bill of attainder, ex post facto law, or law impairing the obligation of contracts shall be enacted.

(k) No person shall be imprisoned for debt.

(l) The privilege of the writ of habeas corpus shall not be suspended, unless, when in cases of rebellion or invasion or imminent danger thereof, the public safety shall require it.

(m) No qualification with respect to property, income, political opinion, or any other matter apart from citizenship, civil capacity, and residence shall be imposed upon any voter.

(n) No discrimination shall be made in Guam against any person on account of race, language, or religion, nor shall the equal protection of the laws be denied.

(o) No person shall be convicted of treason against the United States unless on the testimony of two witnesses to the same overt act, or on confession in open court.

(p) No public money or property shall ever be appropriated, supplied, donated, or used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, sectarian institution, or association, or system of religion, or for the use, benefit, or support of any priest, preacher, minister, or other religious teacher or dignitary as such.

(q) The employment of children under the age of fourteen years in any occupation injurious to health or morals or hazardous to life or limb is hereby prohibited.

(r) There shall be compulsory education for all children, between the ages of six and sixteen years.

(s) No religious test shall ever be required as a qualification to any office or public trust under the government of Guam.

(t) No person who advocates, or who aids or belongs to any party, organization, or association which advocates the overthrow by force or violence of the government of Guam or of the United States shall be qualified to hold any public office or trust or profit under the government of Guam.

(u) The following provisions of and amendments to the Constitution of the United States are hereby extended to Guam to the extent that they have not been previously extended to that Territory and shall have the same force and effect there as in the United States or in any State of the United States: article I, section 9, clauses 2 and 3; article IV, section 1 and section 2, clause 1; the first to ninth amendments inclusive; the thirteenth amendment; the second sentence of section 1 of the fourteenth amendment; and the fifteenth and nineteenth amendments.

All laws enacted by Congress with respect to Guam and all laws enacted by the territorial legislature of Guam which are inconsistent with the provisions of this subsection are repealed to the extent of such inconsistency.

SOURCE: §5 of Act of Aug. 1, 1950 (Organic Act, as amended), codified as 48 U.S.C. 1421b. Subsection (u) added by Public Law 90-497, 10. 82 Stat. 847 [Elective Governor Act].

COURT DECISIONS:

Local law prohibiting voter who has signed partisan candidate's petition from signing a petition for independent candidate for the same

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office is not unconstitutional or contrary to this Section. *Webster v. Mesa*, [1977 CA9] 521 F.2d 442.

Public Law 14-8 and P.L. 15-66:25, giving certain incentives to government of Guam contractors who hire a stated percentage of local workers is contrary to the 14th Amendment of the U.S. Constitution. *Hawaiian Dredging & Construction Co. v. Guam Airport Authority*, (1980 Superior Ct.) Civ. #815-79.

A person charged with 'drunk driving' has no (U.S. Constitution) 6th Amendment right to counsel at the time of arrest. *People v. Eclavea*, (1981 Superior Ct.) Crim. #647-80.

Amendments to Govt. Code 21003, 21503(4) and 21553, making special, lower charges for utilities furnished to nonprofit activities, churches, hospitals, which, in net effect place the burden of supporting one-half of the utilities used by these entities on the ordinary, consumer, arbitrarily and capriciously discriminates against the ordinary consumers. This is in violation of the Bill of Rights, (this Section) which provides that no discrimination shall be made in Guam on account of ... religion. *Guam Power Authority v. Bishop of Guam*, (1974 DC Guam) 383 F.Supp. 476.

"This court . . . holds that the Department of Public Safety's Miranda rights form is not defective." *People v. McGravey, et al.*, (1983 Super. Guam) Cr. #100F-82.

Guam will follow the federal and majority state rule, not the California rule in Hawkins. Therefore, 8 GCA 1.15 which allows either an indictment or information in criminal cases is constitutional. *People v. McGravey, et al.*, (1983 Super. Guam) Cr. #100F-82.

In the context of juvenile certification proceedings, due process requirements of right to counsel, adequate notice and a statement of reasons at a hearing were met in this case. Failure to investigate motives for alleged criminal act do not constitute a violation of due process rights. *People v. Kingsbury*, (CA9 1981) 549 F.2d 740.

The Government of Guam could continue its customs searches of persons and goods arriving from foreign countries and the Northern Marianas; issue of searches of persons and goods coming from Hawaii remanded for fact finding. *Barusch v. Calvo*, (CA9 1982) 685 F.2d 1199.

A juvenile is not subject to double jeopardy in violation of this section by certification proceedings in juvenile court, since, by the terms of the statute, the certification hearing is only to determine the forum for the proceedings, not for determining the fact of guilt, innocence or delinquency. *People v. Fejeran*, (CA9 1982) 687 F.2d 302.

P.L. 13-115, the Malpractice Claims Mandatory Screening and Mandatory Arbitration Act, violates the due process clause of (5) of the Organic Act and the 14th Amendment of the U.S. Constitution because it is "incomprehensibly vague and impossible to apply." *Hammonds v.*

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Boonprakong & Awa v. GMHA, (D.C. Guam, App. Div 1983) Civ. #81-003A & #81-048A; *aff'd. as Awa v. GMH*, 726 F.2d 594.

P.L. 14-151, requiring that the Parole Board determines eligibility for an inmate leaving the Guam Penitentiary for any reason, is in violation of the 14th Amendment of the U.S. Constitution (through 5(u) of the Organic Act) because it fails to set forth proper guidelines to be followed. *Mendiola v. Parole Board*, (Super.Guam 1981) SP #185-81.

Civil Code §537(2), permitting pre-judgment attachments against nonresidents of Guam, violated the due process clause of the Constitution (through 5(u) of the Organic Act) because no opportunity for a hearing is given the defendants and because the attachment must issue upon the filing of an ex parte affidavit. *Holmes & Narver, Inc. v. Udui*, (Super.Guam 1982) Civ. #726-81.

A former police officer fighting in court to regain his position is a "public figure" under the 1st Amendment to the Constitution (here 5(a)) and, therefore must meet the appropriate burden in his attempt to prove libel against a newspaper. *Camacho v. Udick*, (D.C.Guam App. Div. 1983) Civ. #81-0103A.

"The waiver of juvenile court jurisdiction is a 'critically important' proceedings which 'must measure up to the essential of due process and fair treatment.'" [Applied to Guam through 5(u)]. *People in the interest of Manglona*, (D.C.Guam App. Div. 1983) Cr. #02-0011A.

Only an amendment to the United States Constitution can give to the people of Guam the right to vote for President and Vice President. There is no existing constitutional right requiring such a vote. *Attorney General of Guam v. United States*, C.A.9 1984, No. 83-1890, 738 F.2d 1017.

Because Guam is an unincorporated territory having only powers given it by Congress, "it is in essence an instrumentality of the federal government." As such, the negative implications of the commerce clause of the U.S. Constitution do not apply to Guam. *Sakamoto v. Duty Free Shoppers, Ltd.*, D.C.Guam 1983, 613 F.Supp. 381, *aff'd.* 764 F.2d 1285, *cert. den.* 106 S.Ct. 1457, 89 L.Ed.2d 715.

§1421c. Continuation of Laws in Force; Modification or repeal of laws. (a) The laws of Guam in force on August 1, 1950, except as amended by this chapter, are hereby continued in force, subject to modification or repeal by the Congress of the United States or the Legislature of Guam, and all laws of Guam inconsistent with the provisions of this chapter are hereby repealed to the extent of such inconsistency.

(b) Applicability of Federal Laws to Guam. (Repealed)

SOURCE: §25 of Act of Aug. 1, 1950 (Organic Act); amended by Act of Sept. 11, 1968, Public Law 90-497, §7, 82 Stat. 847 (Elective Governor Act). Codified as 48 U.S.C. 1421c. Amendment repealed requirement that, in order to affect Guam, "Guam" or "possession" be specifically stated in the law; and repealed reference to Commission to study applicability of federal laws to Guam. This latter Commission had already issued its report.

§1421d. Salaries and Travel Allowances of officers and employees. The salaries and travel allowances of the Governor, Lieutenant Governor, the heads of the executive departments, other officers and employees of the government of Guam, and the members of the Legislature, shall be paid by the government of Guam at rates prescribed by the laws of Guam.

SOURCE: §26 of Act of Aug. 1, 1950 (Organic Act); amended Aug. 1, 1956, c.852, §21, 70 Stat. 911; July 30, 1965, Public Law 89-100, 79 Stat. 424; Sept. 11, 1968, Public Law 90-497, §9(a), (b), 82 Stat. 847 (Elective Governor Act). Codified as 48 U.S.C. 1421d.

§1421e. Duty on articles. All articles coming into the United States from Guam shall be subject to or exempt from duty as provided for in section 1301a of Title 19 [U.S.C.].

SOURCE: §27 of Act of Aug. 1, 1950 (Organic Act); amended Sept. 1, 1954, c. 1213, Title IV, §402(b), 68 Stat. 1140. Codified as 48 U.S.C. §1421e. The underlying 19 U.S.C.A. §1301a has been repealed and now Guam's customs status is found in 19 U.S.C.A. §1202, Headnote 3.

§1421f. Title to Property Transferred. (a) The title to all property, real and personal, owned by the United States and employed by the naval government of Guam in the administration of civil affairs of the inhabitants of Guam, including automotive and other equipment, tools and machinery, water and sewerage facilities, bus lines and other utilities, hospitals, schools, and other buildings, shall be transferred to the government of Guam within ninety days after the date of enactment of this Act [Organic Act].

(b) All other property, real and personal, owned by the United States in Guam, not reserved by the President of the United States within ninety days after the date of enactment of this Act [Organic Act], is hereby placed under the control of the government of Guam, to be administered for the benefit of the people of Guam, and the legislature shall have the authority, subject to such limitations as may be imposed upon its acts by this Act [Organic Act] or subsequent acts of the Congress, to legislate with respect to such property, real and personal, in such manner as it may deem desirable.

(c) All property owned by the United States in Guam, the title to which is not transferred to the government of Guam by subsection (a) hereof, or which is not placed under the control of the government of Guam by subsection (b) hereof, is transferred to the administrative supervision of the Secretary of the Interior, except as the President may from time to time otherwise prescribe: Provided, That the Secretary of the Interior shall be authorized to lease or to sell, on such terms as he may deem in the public interest, any property, real and personal, of the United States under his administrative supervision in Guam not needed for public purposes.

SOURCE: §28 of Act of Aug. 1, 1950 (Organic Act); amended by Elective Governor Act, Public Law 90-497 by designating the administrative control of subsection (c) to be in the Secretary of the Interior. Codified as 48 U.S.C. §1421f.

NOTE: Pursuant to subsection (b), the President of the United States issued the following Executive Order reserving certain lands for use by the United States:

Executive Order No. 10178

Oct. 30, 1950, 15 F.R. 7313

RESERVATION OF PROPERTY IN GUAM FOR USE OF THE UNITED STATES

WHEREAS, section 28 of the Organic Act of Guam, approved August 1, 1950 (Public Law 630, 81st Congress), reads: "(a) The title to all property,

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real and personal, owned by the United States and employed by the naval government of Guam in the administration of the civil affairs of the inhabitants of Guam, including automotive and other equipment, tools and machinery, water and sewerage facilities, bus lines and other utilities, hospitals, schools, and other buildings, shall be transferred to the government of Guam within 90 days after the date of enactment of this Act.

(b) All other property, real and personal, owned by the United States in Guam, not reserved by the President of the United States within ninety days after the date of enactment of this Act, is hereby placed under the control of the government of Guam, to be administered for the benefit of the people of Guam, and the Legislature shall have authority, subject to such limitations as may be imposed upon its acts by this Act or subsequent acts of Congress, to legislate with respect to such property, real and person, in such manner as it may deem desirable.

(c) All property owned by the United States in Guam, the title to which is not transferred to the government of Guam by subsection (a) hereof, or which is not placed under the control of the government of Guam by subsection (b) hereof, is transferred to the administrative supervision of the head of the department or agency designated by the President under section 3 of this Act [Dept. of the Interior], except as the President may from time to time otherwise prescribe; *Provided*, That the head of such department or agency shall be authorized to lease or sell, on such terms as he may deem in the public interest, any property, real or personal, of the United States under his administrative supervision in Guam not needed for public purposes.

WHEREAS, certain hereinafter described real and personal property of the United States in Guam is required for the respective uses of the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Coast Guard, and it has been mutually agreed that the Department of the Navy shall act on behalf of the Department of the Army, the Department of the Air Force, and the Coast Guard with respect to their requirements as to such property;

WHEREAS, certain other hereinafter described real property of the United States in Guam has been selected by the Secretary of the Navy for transfer or sale pursuant to the act of November 15, 1945, 59 Stat. 584, to persons in replacement of lands acquired for military or naval purposes in Guam, and such property should remain available for disposition by the Secretary of the Interior in his discretion under section 28(c) of the said Organic Act of Guam; and

WHEREAS, certain other hereinafter described personal property of the United States in Guam should remain available for the respective needs of the Department of the Army, Department of the Navy, Department of the Air Force, the Coast Guard and other agencies of the United States:

NOW, THEREFORE, by virtue of the authority vested in me by the said section 28 of the Organic Act of Guam, and as President of the United States, it is ordered as follows:

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1. The following described real and personal property of the United States in Guam is hereby reserved to the United States and placed under the control and jurisdiction of the Secretary of the Navy: Provided, that the secretary of the Navy shall transfer such portions of such property to the Department of the Army, the Department of the Air Force, and the Coast Guard as may be required for their respective purposes:

(a) All of that real property in Guam situated within the perimeter areas defined in the following designated condemnation proceedings in the Superior Court of Guam, being the same property quitclaimed by the Naval Government of Guam to the United States of America by deed dated July 31, 1950, and filed for record with the Land registrar of Guam on August 4, 1950 (Presentation No. 22063):

Civil No.	Facility	Area [Acres]
2-48	North Field	4,566.757
5-48	Mt. Santa Rosa Water Reservoir and supply lines	9.372
6-48	Mt. Santa Rosa-Marbo Water Lines	5.990
7-48	Tumon Maui Well Site	5.990
2-49	Naval Ammunition Depot	4,803.000
3-49	Primary Transmission Line	44.651
4-49	Mt. Santa Rosa-Marbo Water Line easement	12.169
5-49	Apra Harbor Reservation	6,332.000
2-50	Aceorp Tunnel	6.450
3-50	Camp Dealy	35.391
4-50	Tumon Bay Rec. Area Utility Lines	0.637
5-50	Agana Springs	24.914
6-50	Asan Point Tank Farm	41.300
7-50	Asan Point Housing	85.032
8-50	Medical Center	137.393
9-50	Agafa Gumas	45.630
10-50	Naval Communications Station	4,798.682
11-50	Nimitz Beach	11.726
12-60	Command Center	800.443
13-50	Tarague Natural Wells	4,901.100
14-50	Agana Diesel Elec. Generating Plant	5.945
15-50	Mt. Santa Rosa Haul Road, Water Reservoir and Supply Lines, VHF Relay Station, Mt. Santa Rosa Marine Water Line	23.708
16-50	Northwest Air Force Base	4,562.107
18-50	Marbo Base Command Area--Sewage	

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	Disposal	60.480
19-50	Loran Station Cocos Island	21.695
20-50	Av-Gas Tank Farm #12	15.322
21-50	Proposed Boundary of NAS Agana, Housing Area #7	1,820.148
22-50	C.A.A [FAA] Site (Area #90)	37.519
23-50	Tumon Maui Well (Water Tunnel)	3.575
24-50	Tumon Bay Rec. Area (Road & AV-Gas Fuel Line Parcel #1	49.277
25-50	Utility easement from Rt. #1 to Rt. #6 (Coontz Junction)	0.208
26-50	Tumon Bay Rec. Area (Area #78)	65.300
27-50	Marbo Base Command	2,497.400
28-50	Mt. Tenjo VHF Station Site	0.918
29-50	Sasa Valley Tank Farm (Area #26)	285.237
30-50	Sub Transmission System Piti Steam Plant to Command Center	17.793
31-50	Route #1 (Marine Drive) (Portion)	28.888
32-50	Sub Transmission System (34 KV Line) Piti Steam Plant to Agana Diesel Plant and POL System Sasa Valley Tank Farm to NAS Agana	94.000
33-50	Harmon Air Force Base	953.000
34-50	Radio Barrigada	2,922.000
35-50	AACS Radio Range (Area #30)	25.000
36-50	Water Line Apra Heights Reservoir to Fena Pump Station & AV-Gas Fuel System	37.000
37-50	Fena River Reservoir	2,185.000

(b) The road system and utilities systems described in the said deed between the Naval Government of Guam and the United States of America dated July 31, 1950.

(c) The following described areas: Mount Lam Lam Light; Rear Range Light; Mount Alutom Light; Area Number 35 culverts; Mount Santa Rosa Light; 36 acres of Camp Witek; Adelup Reservoir; Tripartite Seismograph Station Site, Land Unite M. Section 2, Land Square 20; the Power sub-station located on Lot 266, Municipality of Agat, adjacent to Erskine Drive, City of Agat.

(d) Lots 2285-5 and 2206-1 in Barrigada.

(e) All personal property relating to or used in connection with any of the above-described real property.

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2. The following described real property of the United States in Guam is hereby reserved to the United States and transferred to the administrative supervision of the Secretary of the Interior, and shall be available for disposition by the secretary of the Interior in his discretion under §28(c) of the said Organic Act of Guam [subsection (c) of this section]:

All of those lands which have been selected by the Secretary of the Navy for transfer or sale pursuant to the Act of November 15, 1945, 59 Stat. 584, to persons in replacement of lands acquired for military or naval purposes in Guam, a list and description of such lands being on file in the Department of the Navy.

3. In addition to the personal property described in paragraph 1(e) hereof, there is hereby reserved to the United States all personal property of the United States in Guam, except that which is transferred to the Government of Guam by or pursuant to Section 28(a) of the Organic Act of Guam [subsection n(a) of this section], which on the date of this order, Oct. 31, 1950, is in the custody or control of the Department of the Army, the Department of the Air Force, the Coast Guard, or any other department or agency of the United States; and all such personal property shall remain in the custody and control of the department or agency having custody and control thereof on the date of this order (Oct. 31, 1950).-

COURT DECISIONS:

The Guam Legislature is a part of the 'government of Guam' within the meaning of this Section (48 USCA 1421f) and, as such, may make appropriate lawful conditions, including approval by the Legislature, on the sale, lease or disposition of any lands transferred by the U.S. to Guam. *Bordallo v. Camacho*, (1973 CA9) 475 F.2d 712.

§1421f-1. Acknowledgment of Deeds. Deeds and other instruments affecting land situate in the District of Columbia or any Territory of the United States may be acknowledged in the islands of Guam and Samoa or in the Canal Zone before any notary public or judge, appointed therein by proper authority, or by any officer therein who has ex officio the powers of a notary public: Provided, That the certificate by such notary in Guam, Samoa, or the Canal Zone, as the case may be, shall be accompanied by the certificate of the Governor or acting governor of such place to the effect that the notary taking said acknowledgment was in fact the officer he purported

to be; and any deeds or other instruments affecting lands so situate, so acknowledged since the 1st day of January, 1905, and accompanied by such certificate shall have the same effect as such deeds or other instruments hereafter so acknowledged and certified.

SOURCE: Codified as 48 U.S.C. 1421f-1. Act of June 28, 1908, ch. 3585, 34 Stat. 552. Not in Organic Act.

§1421g. Establishment and maintenance of public bodies and offices.

(a) Public Health Services. Subject to the laws of Guam, the Governor shall establish, maintain, and operate public health services in Guam, including hospitals, dispensaries, and quarantine stations, at such places in Guam as may be necessary, and he shall promulgate quarantine and sanitary regulations for the protection of Guam against the importation and spread of disease.

(b) Public Education System. The Government of Guam shall provide an adequate public educational system of Guam, and to that end shall establish, maintain, and operate public schools according to the laws of Guam.

(c) Office of Public Prosecutor; Office of Public Auditor. The Government of Guam may by law establish an Office of Public Prosecutor and an Office of Public Auditor. The Public Prosecutor and Public Auditor may be removed as provided by the laws of Guam.

SOURCE: §29 of Act of Aug. 1, 1950 (Organic Act). Codified as 48 U.S.C. §1421g. Subsection (b) amended by 5 and 13(a)(1) of Pub. Law 99-396, Act of Aug. 27, 1986. Subsection (c) added by 13(a)(2) of Pub. Law 99-396, Act of Aug. 27, 1986.

COURT DECISIONS:

The supervision of all departments of the Government of Guam, including the Department of Education, rests with the Governor of Guam. Therefore, a 1972 collective bargaining agreement exceeds the authority given to the signatories where that agreement requires the prior approval of the union before any changes, or complete termination thereof, may be made after the termination date of the agreement.

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People v. Guam Federation of Teachers Local 1581, Conrad Stinson, President, et al. [DC Guam App. Div. 1978] 2 Guam Rep. 203.

Because (Organic Act) 29(a) gives supervision over health facilities in Guam to the Governor, the Legislature has no power to enact a law which, by determining that certain private groups would chose persons the Governor *must* appoint to the Hospital Board of Trustees, effectively insulates the Governor from effective control of the Hospital. *Bordallo v. Baldwin*, [1980 CA9] 624 F.2d 932.

The phrase in subsection (a), "subject to the laws of Guam," applies equally to both subsections (a) and (b). Therefore, the Governor of Guam is not free to ignore the laws of Guam as they operate with regard to establishing rules and regulations dealing with dismissal of personnel within the government. *Brown v. Civil Service Commission*, (C.A.9 Guam 1987) 818 F.2d 706,

Govt. Code §5105, coupled with P.L. 14-1, creating an elected school board, violate 20(b) of the Organic Act as of the time of the enactment of P.L. 14-1 by removing from the Governor the powers given him by this section. The amendments made to this section in 1986 are not retroactive. Therefore, the elected school board is null and void, and the Governor has the power to fire the Director and Deputy Director of Education. *Nelson & Wolf v. Ada, et al.*, Superior Court Case No. S.P. 192-87 (11/6/87); *aff'd*, 878 F.2d 277 (CA9, 1989).

§1421h. Duties, taxes and fees; proceeds collected to constitute fund for benefit of Guam; prerequisites, amount remitted prior to commencement of next fiscal year. All customs duties and Federal income taxes derived from Guam, the proceeds of all taxes collected under the internal revenue laws of the United States on articles produced in Guam and transported to the United States, its Territories, or possessions, or consumed in Guam, and the proceeds of any other taxes which may be levied by the Congress on the inhabitants of Guam (including, but not limited to, compensation paid to members of the Armed Forces and pensions paid to retired civilians and military employees of the United States, or their survivors, who are residents of, or who are domiciled in, Guam), and all quarantine, passport, immigration, and naturalization fees collected in Guam shall be covered into the treasury of Guam and held in account for the government of Guam and shall be expended for the benefit and government of Guam in accordance

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with the annual budgets; except that nothing in this chapter shall be construed to apply to any tax imposed by chapter 2 or 21 of Title 26. Beginning as soon as the government of Guam enacts legislation establishing a fiscal year commencing on October 1 and ending on September 30, the Secretary of the Treasury, prior to the commencement of any fiscal year, shall remit to the government of Guam the amount of duties, taxes and fees which the Governor of Guam, with the concurrence of the government comptroller of Guam, has estimated will be collected in or derived from Guam under this section during the next fiscal year, except for those sums covered directly upon collection into the Treasury of Guam. The Secretary of the Treasury shall deduct from or add to the amounts so remitted the difference between the amount of duties, taxes and fees actually collected during the prior fiscal year and the amount of such duties, taxes and fees as estimated and remitted at the beginning of that prior fiscal year, including any deductions which may be required as a result of the operation of Public Law 94-395 (90 Stat. 1199) or Public Law 88-170, as amended (82 Stat. 863).

SOURCE: §30 of Act of Aug. 1, 1950 (Organic Act); amended Sept. 13, 1960, Public Law 86-778, Title I, §103(u), 74 Stat. 941 by adding clause beginning "except that nothing. . ."; further amended by Public Law 95-348, Act of Aug. 18, 1978. Amended by §601 of Act of October 5, 1984, P.L. 98-454 relative to return of taxes paid by certain federal employees, retirees and their spouses. Codified as 48 U.S.C. §1421h.

Guam implemented the federal fiscal year by P.L. 14-132:V:13, adding 1 GCA § 1611. The new fiscal year commenced on October 1, 1978.

NOTE: The Omnibus Territories Act of 1986 incorporates the following language relative to the receipt by Guam of money under 30 (the above section). The purpose of the new language is to exempt Guam (and the other territories) from the effects of the Gramm-Rudman (Deficit Reduction) Law and similar laws.

§19(b). Pursuant to the terms of the Organic Act of Guam (64 Stat. 384), as amended; . . . , and an Act to authorize appropriations for certain insular areas of the United States, and for other purposes (92 Stat. 487, as amended; there shall be paid

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into the treasury[y] of Guam, . . . , the full amounts which are to be covered into the treasuries of said islands or paid pursuant to said laws as amended and supplemented and such amounts shall not be reduced, notwithstanding Public Law 99-177, Public Law 99-366, or any other provisions of law.

COURT DECISIONS:

Under this Act [Organic Act] Congress intended employees who earn income for personal services in Guam to pay income tax imposed by provisions of Act into the territorial treasury to sustain the local government of the island. *Lamkin v. Brown & Root, Inc.*, C.A.Guam 1956, 233 F.2d 320.

Where corporate employer of taxpayer in Guam withheld income tax payments and paid them to Acting Treasurer of Guam under this section, providing that federal income taxes derived from Guam shall be covered into the treasury of Guam and held on account of that government, and 1421i of this title, providing that income tax laws in force in the United States and those which hereafter may be enacted shall be in force in Guam, and the U.S. construed these sections as establishing territorial tax to be administered by officials of Guam, taxpayer could not be heard to say that tax should be returned to him in order that it be paid to United States and returned to Guam treasury from which it was taken. *Laguana v. Ansell*, D.C.Guam 1952, 102 F.Supp. 919; aff'd 212 F.2d 207; cert. den. 75 S.Ct. 51, 348 U.S. 830, 99 L.Ed. 654.

1421i. Income Tax. (a) Applicability of federal laws; separate tax. The income tax laws in force in the United States of America and those which may hereafter be enacted shall be held to be likewise in force in Guam: Provided, That notwithstanding any other provision of law, the Legislature of Guam may levy a separate tax on all taxpayers in an amount not to exceed 10 per centum of their annual income tax obligation to the government of Guam.

(b) Guam Territorial Income Tax. The income tax laws in force in Guam pursuant to subsection (a) of this section shall be deemed to impose a separate Territorial Income Tax, payable to the government of Guam, which tax is designated the "Guam Territorial Income Tax".

(c) Enforcement of Tax. The administration and enforcement of the Guam Territorial Income Tax shall be

performed by or under the supervision of the Governor. Any function needful to the administration and enforcement of the income tax laws in force in Guam pursuant to subsection (a) of this section shall be performed by any officer or employee of the government of Guam duly authorized by the Governor (either directly, or indirectly by one or more redelegations of authority) to perform such function.

(d) "Income tax laws" defined; administration and enforcement; rules and regulations. (1) The income tax laws in force in Guam pursuant to subsection (a) of this section include but are not limited to the following provisions of the Internal Revenue Code of 1954, where not manifestly inapplicable or incompatible with the intent of this section: Subtitle A [26 U.S.C.A. §1 et seq.] (not including chapter 2 [26 U.S.C.A. §1401 et seq.] and section 931 [26 U.S.C.A. §931]); chapters 24 and 25 of subtitle C [26 U.S.C.A. §3401 et seq. and §3501 et seq.], with reference to the collection of income tax at source on wages; and all provisions of subtitle F [26 U.S.C.A. §6001 et seq.] which apply to the income tax, including provisions as to crimes, other offenses, and forfeitures contained in chapter 75 [26 U.S.C.A. §7201 et seq.]. For the period after 1950 and prior to the effective date of the repeal of any provision of the Internal Revenue Code of 1939 which corresponds to one or more of those provisions of the Internal Revenue Code of 1954 which are included in the income tax laws in force in Guam pursuant to subsection (a) of this section, such income tax laws include but are not limited to such provisions of the Internal Revenue Code of 1939.

(2) The Governor or his delegate shall have the same administrative and enforcement powers and remedies with regard to the Guam Territorial Income Tax as the Secretary of the Treasury, and other United States officials of the executive branch, have with respect to the United States income tax. Needful rules and regulations

not inconsistent with the regulations prescribed under section 7654(e) of the Internal Revenue Code of 1954 [26 U.S.C. §7654(e)] for enforcement of the Guam Territorial Income Tax shall be prescribed by the Governor. The Governor or his delegate shall have the authority to issue, from time to time, in whole or in part, the text of the income tax laws in force in Guam pursuant to subsection (a) of this section.²

(e) Substitution of Terms. In applying as the Guam Territorial Income Tax the income tax laws in force in Guam pursuant to subsection (a) of this section, except where it is manifestly otherwise required, the applicable provisions of the Internal Revenue Codes of 1954 and 1939, shall be read so as to substitute "Guam" for "United States", "Governor or his delegate" for "Secretary or his delegate", "Governor or his delegate" for "Commissioner of Internal Revenue" and "Collector of Internal Revenue", "District Court of Guam" for "district court" and with other changes in nomenclature and other language, including the omission of inapplicable language, where necessary to effect the intent of this section.

(f) Criminal offenses; prosecution. Any act or failure to act with respect to the Guam Territorial Income Tax which constitutes a criminal offense under chapter 75 of subtitle F of the Internal Revenue Code of 1954 [26 U.S.C.A. §7201 et seq.], or the corresponding provisions of the Internal Revenue Code of 1939, as included in the income tax laws in force in Guam pursuant to subsection (a) of this section, shall be an offense against the government of Guam and may be prosecuted in the name of the government of Guam by the appropriate officers thereof.

(g) Liens. The Government of Guam shall have a lien with respect to the Guam Territorial Income Tax in the same manner and with the same effect, and subject to the same conditions, as the United States has a lien with respect to the United States Income Tax. Such lien

in respect of the Guam Territorial Income Tax shall be enforceable in the name of and by the government of Guam. Where filing of a notice of lien is prescribed by the income tax laws in force in Guam pursuant to subsection (a) of this section, such notice shall be filed in the Office of the Clerk of the District Court of Guam.

(h) Jurisdiction of District Court; suits for recovery or collection of taxes; payment of judgment. (1) Notwithstanding any provision of Section 22 of this Act [section 1424 of Title 48] or any other provisions of law to the contrary, the District Court of Guam shall have exclusive original jurisdiction over all judicial proceedings in Guam, both criminal and civil, regardless of the degree of the offense or of the amount involved, with respect to the Guam Territorial Income Tax.

(2) Suits for the recovery of any Guam Territorial Income Tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, under the income tax laws in force in Guam, pursuant to subsection (a) of this section, may, regardless of the amount of the claim, be maintained against the government of Guam subject to the same statutory requirements as are applicable to suits for the recovery of such amounts maintained against the United States in the United States district courts with respect to the United States Income Tax. When any judgment against the government of Guam under this paragraph has become final, the Governor shall order the payment of such judgments out of any unencumbered funds in the treasury of Guam.

(3) Execution shall not issue against the Governor or any officer or employee of the government of Guam on a final judgment in any proceeding against him for any acts or for the recovery of money exacted by or paid to him

and subsequently paid into the treasury of Guam, in performing his official duties under the income tax laws in force in Guam pursuant to subsection (a) of this section, if the court certifies that --

(A) probable cause existed; or

(B) such officer or employee acted under the directions of the Governor or his delegate.

When such certificate has been issued, the Governor shall order the payment of such judgment out of any unencumbered funds in the treasury of Guam.

(4) A civil action for the collection of the Guam Territorial Income Tax, together with fines, penalties and forfeitures, or for the recovery of any erroneous refund of such tax, may be brought in the name of and by the government of Guam in the District Court of Guam or in any district court of the United States or in any court having the jurisdiction of a district court of the United States.

(5) The jurisdiction conferred upon the District Court of Guam by this subsection shall not be subject to transfer to any other court by the legislature, notwithstanding section 1424(a) of this title. [Organic Act]

SOURCE: §31, containing only subsection (a), of Act of Aug. 1, 1950 (Organic Act); amended Aug. 20, 1958, Public Law 85-688, §1, 72 Stat. 681 - added subsections (b) - (h); [1] Oct. 15, 1977, Public Law 95-134, Title II, 203(c), 91 Stat. 1162. Public Law 92-606, §1(d), 86 Stat. 1497, Oct. 31, 1972. Codified as 48 U.S.C. §1424i.

NOTE: There are many decisions, both in the District Court and the Ninth Circuit Court of Appeals, dealing with specific sections of the Internal Revenue Code as applied to Guam. These are not annotated here as they do not deal with this Section as an Organic Act section. However, see notes to 48 USC §1421i in USCA and USCS for further information.

CROSS-REFERENCE: Section 204 of the Act of October 5, 1984, P.L. 98-454, added the following regarding specific authority under the Internal Revenue Code:

"Section 204. (a) The Governor of any possession of the United States may for calendar years 1984 and 1985 proclaim a formula

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(different from that provided by §103A(g) of the Internal Revenue Code of 1954) for allocating the State ceiling under such section among the governmental units in such possession having authority to issue qualified mortgage bonds (as defined in 103A(c) of such Code).

(b) The authority provided by subsection (a) shall not apply after the effective date of any legislation with respect to the allocation of the State ceiling enacted by the legislature of the possession after the date of enactment of this Act.. [Oct. 5, 1984]

COURT DECISIONS:

Section 31 of the Organic Act was enacted by the Congress primarily to relieve the US Treasury of making direct appropriations to the Government of Guam. Although Congress delegated collection and enforcement function of the income tax to the Government of Guam, the Government of Guam is powerless to vary the terms of the Internal Revenue Code as applied to Guam, except as permitted by Congress. *Bank of America v. Chaco*, C.A.Guam 1976, 539 F.2d 1226.

Guam's rebate and abatement provisions (GEDA law) did not violate provisions of this section since Congress failed to annul the tax rebate provisions within the one-year period and, thus, impliedly approved the same. [That provision of 48 U.S.C.A. §1423i which gave Congressional approval of Guam laws if not annulled by Congress within one year was repealed after the passage of the tax rebate laws.] *Ramsey v. Chaco*, C.A.Guam 1977, 549 F.2d 1335.

The District Court of Guam has jurisdiction, by virtue of Guam Government Code 19700, to redetermine deficiencies assessed under the income tax laws of the territory of Guam. *Forbes v. Maddox*, C.A.Guam, 339 F.2d 387 reversing 212 F.Supp. 662.

Because the CNMI Covenant provided that, where pertinent, the Internal Revenue Code should substitute "CNMI" for "Guam" and also for "United States", this language, being a federal public law, affected the mirror image tax code made applicable to Guam by this section. *Holmes v. Dir. of Rev. & Taxation*, C.A.Guam 1987, 827 F.2d 1243.

§1421j. Appropriations Authorized. There are hereby authorized to be appropriated annually by the Congress of the United States such sums as may be necessary and appropriate to carry out the provisions of this chapter.

SOURCE: §32 of Act of Aug. 1, 1950 (Organic Act). Codified as 48 U.S.C. §1421j.

§1421k. Naval and Military Reservations. Nothing contained in this chapter shall be construed as limiting the authority of the President to designate parts

of Guam as naval or military reservations, nor to restrict his authority to treat Guam as a closed port with respect to the vessels and aircraft of foreign nations.

SOURCE: §33 of Act of Aug. 1, 1950 (Organic Act). Codified as 48 U.S.C. §1421k.

COURT DECISIONS:

This chapter, providing government for Guam, did not by implication repeal Ex.Ord. No. 8683 reserving territorial waters between extreme high-water marks and three-mile boundaries surrounding Guam as naval defensive sea area and providing that no person, unless on public vessel of the United States, shall enter area. *U.S. v. Angcog*, D.C.Guam 1961, 190 F.Supp. 696.

NOTE: Section 34 of the Organic Act provided for the effective date of the act and gave the President some leeway in putting its provisions into effect. The effective date of the Organic Act was August 1, 1950.

§1421k-1. Expenses for Guam's Delegate to Congress. Notwithstanding any other provision of law, the clerk hire allowance and the transportation expenses subject to reimbursement under Federal law of the Delegate from Guam to the United States House of Representatives shall each be the same as allowed for Members of the United States House of Representatives.

SOURCE: §35 of the Organic Act, as added by Act of May 27, 1975, Public Law 94-26, §1, 89 Stat. 94. Codified as 48 U.S.C. §1421k-1. See also 48 U.S.C. §1715.

§1421l. Citizenship of Persons living in and born in Guam. (Repealed.)

SOURCE: Organic Act §4. Repealed by Act of June 27, 1952, c. 477, Title IV, §403(a)(42), 66 Stat. 280. This Section, with changes, was re-enacted as part of the Immigration and Nationality Act of 1952, 8 U.S.C. §1407.

§1421m. Marihuana prohibited. (Repealed.)

SOURCE: Added by Act of Aug. 1, 1956, c. 852, §15, 70 Stat. 910. Not part of Organic Act. Repealed by Act of Oct. 27, 1970, Pub.L. 91-513, Title III, Part B, §1101(a)(8), 84 Stat. 1292 - Federal Controlled Substances Act.

§1421n. Copyrights. The laws of the United States relating to copyrights, and to the enforcement of rights

arising thereunder, shall have the same force and effect in Guam as in the continental United States.

SOURCE: Codified as 48 U.S.C. §1421n. Act of Aug. 1, 1956, c. 852, §24, 70 Stat. 911. For present copyright law, see Copyright Act, 17 U.S.C. §101 et seq. (Pub.L. 94-553, 90 Stat. 2541). Not in Organic Act.

§1421o. Federal Assistance for Fire Control, Watershed Protection and Reforestation. The Secretary of Agriculture is authorized to provide financial and technical assistance to Guam for improving fire control, watershed protection and reforestation, consistent with existing laws, administered by the Secretary of Agriculture, which are applicable to the continental United States. The program authorized by this section shall be developed in cooperation with the territorial government of Guam and shall be covered by a memorandum or understanding agreed to by the territorial government and the Department. The Secretary may also utilize the agencies, facilities, and employees of the Department, and may cooperate with other public agencies and with private organizations and individuals in Guam and elsewhere.

SOURCE: Act of Sept. 19, 1974, Public Law 93-421, 1, 88 Stat. 1154. Codified as 48 U.S.C. 1421o. Not in Organic Act.

§1421p. Appropriations Authorized. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of section 1421o of this title [48 U.S.C.]. Sums appropriated in pursuance of sections §1421o and §1421p of this title [48 U.S.C.] may be allocated to such agencies of the Department as are concerned with the administration of the program in Guam.

SOURCE: Added by Public Law 93-421, 2, Sept. 19, 1974, 88 Stat. 1154. Codified as 48 U.S.C. 1421p. Not in Organic Act.

§1421q. Applicability of Federal Laws. The laws of the United States which are made applicable to the Northern Mariana Islands by the provisions of section 502(a)(1) of H.J. Res. 549 [Pub.L. 92-241], as approved by

the House of Representatives and the Senate, except for Section 228 of Title II [42 U.S.C.A. 428] and Title XVI of the Social Security Act [42 U.S.C.A. 1381 et seq.] as it applies to the several States and the Micronesia Claims Act [50 App. U.S.C.A. 2018 et seq.] as it applies to the Trust Territory of the Pacific Islands, shall be made applicable to Guam on the same terms and conditions as such laws are applied to the Northern Mariana Islands.

SOURCE: Act of April 1, 1976, Public Law 94-255, §2, 90 Stat. 300.
Codified as 48 U.S.C. §1421q. Not in Organic Act.

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SUBCHAPTER 2
EXECUTIVE BRANCH

§1422. Governor; Lieutenant Governor: Powers, duties. The executive power of Guam shall be vested in an executive officer whose official title shall be the "Governor of Guam". The Governor of Guam, together with the Lieutenant Governor, shall be elected by a majority of the votes cast by the people who are qualified to vote for the members of the Legislature of Guam. The Governor and Lieutenant Governor shall be chosen jointly, by the casting by each voter of a single vote applicable to both offices. If no candidate receives a majority of the votes cast in any election, on the fourteenth day thereafter a runoff election shall be held between the candidates for Governor and Lieutenant Governor receiving the highest and second highest number of votes cast. The first election for Governor and Lieutenant Governor shall be held on November 3, 1970. Thereafter, beginning with the year 1974, the Governor and Lieutenant Governor shall be elected every four years at the general election. The Governor and Lieutenant Governor shall hold office for a term of four years and until their successors are elected and qualified.

No person who has been elected Governor for two full successive terms shall again be eligible to hold that office until one full term has intervened.

The term of the elected Governor and Lieutenant Governor shall commence on the first Monday in January following the date of election.

No person shall be eligible for election to the office of Governor or Lieutenant Governor unless he is an eligible voter and has been for five consecutive years immediately preceding the election a citizen of the United States and a bona fide resident of Guam and will be, at the time of

taking office, at least thirty years of age. The Governor shall maintain his official residence in Guam during his incumbency.

The Governor shall have general supervision and control of all the departments, bureaus, agencies, and other instrumentalities of the executive branch of the government of Guam. He may grant pardons and reprieves and remit fines and forfeitures for offenses against local laws. He may veto any legislation as provided in this chapter. He shall appoint, and may remove, all officers and employees of the executive branch of the government of Guam, except as otherwise provided in this or any other Act of Congress, or under the laws of Guam, and shall commission all officers he may be authorized to appoint. He shall be responsible for the faithful execution of the laws of Guam and the laws of the United States applicable in Guam. Whenever it becomes necessary, in case of disaster, invasion, insurrection, or rebellion, or imminent danger thereof, or to prevent or suppress lawless violence, he may summon the posse comitatus or call out the militia or request the assistance of the senior military or naval commander of the Armed Forces of the United States in Guam, which may be given at the discretion of such commander if not disruptive of, or inconsistent with, his federal responsibilities. He may, in case of rebellion or invasion, or imminent danger thereof, when the public safety requires it, proclaim the island, insofar as it is under the jurisdiction of the government of Guam, to be under martial law. The members of the Legislature shall meet forthwith on their own initiative and may, by two-thirds vote, revoke such proclamation.

The Governor shall prepare, publish, and submit to the Congress and the Secretary of the Interior a comprehensive annual financial report in conformance with the standards of the National Council on Governmental Accounting within one hundred and twenty days after the

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close of the fiscal year. The comprehensive annual financial report shall include statistical data as set forth in the standards of the National Council on Governmental Accounting relating to the physical, economic, social and political characteristics of the government, and any other information required by Congress. The Governor shall transmit the comprehensive annual financial report to the Inspector General of the Department of the Interior who shall audit it and report his findings to Congress. The Governor shall also make such other reports at such other times as may be required by the Congress or under applicable Federal law. He shall also submit to the Congress, the Secretary of the Interior, and the cognizant Federal auditors a written statement of actions taken or contemplated on Federal audit recommendations within sixty days after the issuance date of the audit report. He shall have the power to issue executive orders and regulations not in conflict with any applicable law. He may recommend bills to the Legislature and give expression to his views on any matter before that body.

There is hereby established the office of Lieutenant Governor of Guam. The Lieutenant Governor shall have such executive powers and perform such duties as may be assigned to him by the Governor or prescribed by this chapter or under the laws of Guam.

SOURCE: Act of Aug. 1, 1950, c. 512, §6, codified as 48 U.S.C. 1422; amended by Public Law 90-497, §1, 82 Stat. 842 (Elective Governor Act); Public Law 97-357, §104, 96 Stat. 1706 (Omnibus Territories Act - 10/19/82).

COURT DECISIONS:

This Section did not authorize the Governor of Guam to issue an executive order establishing curfew regulations during the aftermath of Typhoon Pamela (1976). *Gayle v Government of Guam*, [1976 DC Guam] 414 F. Supp. 636.

The Governor of Guam, pursuant to his authority to enforce federal laws applicable to Guam, has the residual authority, in the absence of the appropriate federal enforcement office on Guam, to deport an alien who has overstayed his permit. *Ex parte Rogers*, [1952 DC Guam] 104 F. Supp. 393.

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Section 6 of the Organic Act does not permit the Legislature to take from the Governor all discretion in appointing members of the Guam Memorial Hospital Board of Trustees and, therefore, P.L. 14-9 is void as contrary to the Organic Act. *Bordallo v. Baldwin*, (C.A.9 1980) 624 F.2d 932.

P.L. 16-72, by limiting the reasons for removing the Territorial Prosecutor to certain, specific reasons, violates 6 of the Organic Act because, by so doing, the Governor "lacks substantial power to supervise and control the office." *People v. Perez, et al.*, (1982 Super.Guam) Cr. Case #59F-82; rehearing 9/82, decision sustained. *Aff'd.*, D.C.Guam App.Div. Case No. 82-0215 (1983). 2 Guam R. ____.

"... the Governor is authorized to exercise his executive prerogative in administering the expenditure of appropriated funds." Once a sum has been appropriated, the Legislature cannot administer it. *Santos v. Calvo*, (D.C. Guam, App. Div. 1982) Civ. #80-223A, 2 Guam R. ____.

Section 6 does not permit the Governor to act by Executive Order, where such act is in direct conflict with law -- Authorizing the Guam Memorial Hospital Authority to continue control over GMHP -- when the law divested the Authority of such power. *GMHA v. Health Management Int'l, et al.*, (Super.Guam 1982) Civ. #640-82.

"It seems reasonable to assume that if the Governor has authority to execute federal laws applicable in Guam, then execution of such laws becomes a 'subject of local application' which the Guam Legislature is empowered under the Organic Act to legislate in such matters to assist the Governor in the enforcement of his duties." *People v. Salas*, (Super.Guam 1982) Cr. #47F-82.

The supervision of all departments of the Government of Guam, including the Department of Education, rests with the Governor of Guam. Therefore, a 1972 collective bargaining agreement exceeds the authority given to the signatories where that agreement requires the prior approval of the union before any changes, or complete termination thereof, may be made after the termination date of the agreement. *People v. Guam Federation of Teachers Local 1581, Conrad Stinson, President, et al.* [DC Guam App. Div. 1978] 2 Guam Rep. 203.

Govt. Code §5105, coupled with P.L. 14-1, creating an elected school board, violate §20(b) of the Organic Act as of the time of the enactment of P.L. 14-1 by removing from the Governor the powers given him by this section. The amendments made to this section in 1986 are not retroactive. Therefore, the elected school board is null and void, and the Governor has the power to fire the Director and Deputy Director of Education. *Nelson & Wolf v. Ada, et al.*, Superior Court Case No. S.P. 192-87 (11/6/87); *aff'd*, 878 F.2d 277 (CA9, 1989).

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§1422a. Initiative, Referendum and Removal. (a) The people of Guam shall have the right of initiative and referendum, to be exercised under conditions and procedures specified in the laws of Guam.

(b) Any Governor, Lieutenant Governor, or member of the Legislature of Guam may be removed from office by a referendum election in which at least two-thirds of the number of persons voting for such official in the last preceding general election at which such official was elected vote in favor of a recall and in which those so voting constitute a majority of all those participating in the referendum election. The referendum election shall be initiated by the Legislature of Guam following (a) a two-thirds vote of the members of the Legislature in favor of a referendum, or (b) a petition for such a referendum to the Legislature by registered voters equal in number to at least 50 per centum of the whole number of votes cast at the last general election at which such official was elected preceding the filing of the petition.

SOURCE: §7 of the Act of Aug. 1, 1950 (Organic Act), codified as 48 U.S.C. 1422a; amended by Public Law 90- 497, §2, 82 Stat. 844 (Elective Governor Act); Public Law 97-357, §101, 96 Stat. 1705 (Omnibus Territories Act - 10/19/82).

§1422b. Vacancy in Office of Governor or Lieutenant Governor; Temporary Disability, or Temporary Absence of Governor. (a) **Temporary disability or temporary absence of Governor.** In case of the temporary disability or temporary absence of the Governor, the Lieutenant Governor shall have the powers of the Governor.

(b) **Permanent vacancy in office of Governor.** In case of a permanent vacancy in the office of Governor, arising by reason of the death, resignation, removal by recall, or permanent disability of a Governor-elect, or for any other reason, the Lieutenant Governor, or Lieutenant Governor-elect shall become the Governor, to hold office for the unexpired term and until he or his successor shall

have been duly elected and qualified at the next regular election for Governor.

(c) Temporary disability or temporary absence of Lieutenant Governor. In case of the temporary disability or temporary absence of the Lieutenant Governor, or during any period when the Lieutenant Governor is acting as Governor, the Speaker of the Guam Legislature shall act as Lieutenant Governor.

(d) Permanent vacancy in office of Lieutenant Governor. In case of a permanent vacancy in the office of Lieutenant Governor, arising by reason of the death, resignation, or permanent disability of the Lieutenant Governor, or because the Lieutenant Governor or Lieutenant Governor-elect has succeeded to the office of Governor, the Governor shall appoint a new Lieutenant Governor, with the advice and consent of the legislature, to hold office for the unexpired term and until he or his successor shall have been duly elected and qualified at the next regular election for Lieutenant Governor.

(e) Temporary disability or temporary absence of both Governor and Lieutenant Governor. In case of the temporary disability or temporary absence of both the Governor and the Lieutenant Governor, the powers of the Governor shall be exercised, as Acting Governor, by such person as the laws of Guam may prescribe. In case of a permanent vacancy in the offices of both the Governor and Lieutenant Governor, the office of Governor shall be filled for the unexpired term in the manner prescribed by the laws of Guam.

(f) Additional compensation. No additional compensation shall be paid to any person acting as Governor or Lieutenant Governor who does not also assume the office of Governor or Lieutenant Governor under the provisions of this chapter.

SOURCE: §8 of Act of Aug. 1, 1950 (Organic Act), codified as 48 U.S.C. §1422b; amended by Public Law 87-419, §1, 76 Stat. 34 (Mar.

16, 1962); Public Law 90-497, §3, 82 Stat. 844 (Sept. 11, 1968) (Elective Governor Act). For implementation see 5 GCA §1101, et seq.

§1422c. Executive agencies and instrumentalities. (a) **Appointment of heads; merit system.** The Governor shall, except as otherwise provided in this chapter or the laws of Guam, appoint, by and with the advice and consent of the legislature, all heads of executive agencies and instrumentalities. The legislature shall establish a merit system and, as far as practicable, appointments and promotions shall be made in accordance with such merit system. The Government of Guam may by law establish a Civil Service Commission to administer the merit system. Members of the Commission may be removed as provided by the laws of Guam.

(b) **Powers and duties of officers.** All officers shall have such powers and duties as may be conferred or imposed upon them by law or by executive regulation of the Governor not inconsistent with any law.

(c) **Reorganization.** The Governor shall, from time to time, examine the organization of the executive branch of the government of Guam, and shall determine and carry out such changes therein as are necessary to promote effective management and to execute faithfully the purposes of this chapter and the laws of Guam.

(d) **Continuation in office of incumbents.** All persons holding office in Guam on August 1, 1950 may, except as otherwise provided in this chapter, continue to hold their respective offices until their successors are appointed and qualified.

SOURCE: §9 of Act of Aug. 1, 1950 (Organic Act, as amended), codified as 48 U.S.C. §1422c; amended by Elective Governor Act, Pub.L. 90-947, §4, 82 Stat. 845. §9(a) amended by Pub.L. 99-396, sec. 18, Act of Aug. 27, 1986.

COURT DECISIONS:

The power to reorganize the executive branch does not extend to creation, by Executive Order, new agencies of the government. Creation of new agencies is the prerogative of the Legislature. *Laguana*

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v. Guam Visitors Bureau, D.C. Guam 1983, Civ. No. 83-0008. Aff'd. C.A.9., 725 F.2d 519 (1984). See also Bordallo v. Reyes, et al., 610 F.Supp. 1128; aff'd 763 F.2d 1098 (1985).

Because of the doctrine of "separation of powers", the Legislature may not hire an attorney to represent the government of Guam in the institution of a suit by and on behalf of the territory. Such an act is the prerogative of the executive branch, as an act "executing the laws" applicable to Guam. *Government of Guam v. United States, D.C. Guam 1982, Civ. No. 82-0001.*

The doctrine of "separation of powers" does not permit the Legislature to enact a law by which the Judiciary appoints a person to undertake a purely executive branch function, namely, the prosecution of criminal cases. *People v. Camacho, 1 Guam Rep. 501.*

Governor's Memorandum 33-52, authorizing inspection of persons entering Guam is not inconsistent with, but properly supplements customs law which refers only to the inspection of a person's baggage. *People v. Sugiyama, (C.A. Guam 1988) 846 F.2d 570.*

§1422d. Inspector General: Functions; Duties.

(a) Functions, powers, duties transferred. The following functions, powers, and duties heretofore vested in the government comptroller for Guam are hereby transferred to the Inspector General, Department of Interior, for the purpose of establishing an organization which will maintain a satisfactory level of independent audit oversight of the government of Guam:

(1) The authority to audit all accounts pertaining to the revenue and receipts of the government of Guam, and of funds derived from bond issues, and the authority to audit, in accordance with law and administrative regulations, all expenditures of funds and property pertaining to the government of Guam including those pertaining to trust funds held by the government of Guam.

(2) The authority to report to the Secretary of the Interior and the Governor of Guam all failures to collect amounts due the government, and expenditures of funds or uses of property which are irregular or not pursuant to law.

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(b) Scope of authority transferred. The authority granted in paragraph (a) shall extend to all activities of the government of Guam, and shall be in addition to the authority conferred upon the Inspector General by the Inspector General Act of 1978 (92 Stat. 1101), as amended.

(c) Transfer of Office of Comptroller General's Office, etc. In order to carry out the provisions of this section, the personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of the office of the government comptroller for Guam related to its audit function are hereby transferred to the Office of Inspector General, Department of the Interior.

SOURCE: Added by Public Law 90-497, (Elective Governor Act), §5, 82 Stat. 845 Sept. 11, 1968; amended by Public Law 95-134, Title II, §203(a), Oct. 15, 1977, 91 Stat. 1161. Repealed and re-enacted in its present form by Public Law 97-357, §104 (Omnibus Territories Act - 10/19/82), 96 Stat. 1706. Codified as 48 U.S.C. §1422d.

SUBMERGED LANDS AND CONCURRENT JURISDICTION

- §1704. Concurrent Jurisdiction; Exceptions**
- §1705. Tidelands, etc., Conveyed to Guam**
- §1706. Reserved Rights - Establishment of Defensive Sea Areas**
- §1707. Payment of Rents to Local Governments**
- §1708. Discrimination Prohibited**

§1704. Concurrent Jurisdiction; exceptions.

(a) Except as otherwise provided by law, the governments of the Virgin Islands, Guam, and American Samoa, shall have concurrent civil and criminal jurisdiction with the United States with regard to property owned, reserved, or controlled by the United States in the Virgin Islands, Guam, and American Samoa respectively. A judgment of conviction or acquittal on the merits under the laws of Guam, the Virgin Islands, or American Samoa shall be a bar to any prosecution under the criminal laws of the United States for the same act or acts, and a judgment of conviction or acquittal on the merits under the laws of the United States shall be a bar to any prosecution under the laws of Guam, the Virgin Islands, or American Samoa for the same act or acts.

(b) Notwithstanding the provisions of subsection (a) of this section, the President may from time to time exclude from the concurrent jurisdiction of the government of Guam persons found, acts performed, and offenses committed on the property of the United States which is under the control of the Secretary of Defense to such extent and in such circumstances as he finds required in the interest of the national defense.

SOURCE: Enacted by Public Law 88-183, §4, 77 Stat. 339, Nov. 20, 1963; amended by Pub. L. 99-396, Act of Aug. 27, 1986.

§1705. Tidelands, etc. Conveyed to Guam. (a) Subject to valid existing rights, all right, title, and interest of the United States in lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward to a line three geographical miles distant from the coastlines of the territories of Guam, the Virgin Islands, and American Samoa, as heretofore or hereafter modified by accretion, erosion, and reliction, and in artificially made, filled in, or reclaimed lands which were formerly permanently or periodically covered by tidal waters, are hereby conveyed to the governments of Guam, the Virgin Islands, and American Samoa, as the case may be, to be administered in trust for the benefit of the people thereof.

(b) There are excepted from the transfer made by subsection (a) hereof:

(i) all deposits of oil, gas, and other minerals, but the term "minerals" shall not include coral, sand and gravel,

(ii) all submerged lands adjacent to property owned by the United States above the line of mean high tide,

(iii) all submerged lands adjacent to property above the line of mean high tide acquired by the United States by eminent domain proceedings, purchase, exchange, or gift, after October 5, 1974, as required for completion of the Department of the Navy Land Acquisition Project relative to the construction of the Ammunition Pier authorized by the Military Construction Authorization Act, 1971 (64 Stat 1204), as amended by section 201 of the Military Construction Act, 1973 (86 Stat. 1135);

(iv) all submerged lands filled in, built up, or otherwise reclaimed by the United States before October 5, 1974, for its own use;

(v) all tracts or parcels of submerged land containing on any part thereof any structures or improvements constructed by the United States;

(vi) all submerged lands that have heretofore been determined by the President or by the Congress to be of such scientific, scenic, or historic character as to warrant preservation and administration under the provisions of sections 1 and 2 to 4 of Title 16;

(vii) all submerged lands designated by the President within one hundred and twenty days after October 5, 1974;

(viii) all submerged lands that are within the administrative responsibility of any agency or department of the United States other than the Department of the Interior;

(ix) all submerged lands lawfully acquired by persons other than the United States through purchase, gift, exchange, or otherwise;

(x) [land in the Virgin Islands]; and

(xi) [land in Buck Island Reef National Monument].

Upon request of the Governor of Guam, the Virgin Islands, or American Samoa, the Secretary of the Interior may, with or without reimbursement, and subject to the procedure specified in subsection (c) of this section convey all right, title, and interest of the United States in any of the lands described in clauses (ii), (iii), (iv), (v), (vi), (vii), or (viii) of this subsection to the government of Guam, the Virgin Islands, or American Samoa, as the case may be, with the concurrence of the agency having custody thereof.

(c) No conveyance shall be made by the Secretary pursuant to Subsection (a) or (b) of this section until the expiration of sixty calendar days (excluding days on which the House of Representatives or the Senate in not

in session because of adjournment of more than three days to a day certain) from the date on which the Secretary of the Interior submits to the Committees of Interior and Insular Affairs of the House of Representatives and the Senate an explanatory statement indicating the tract proposed to be conveyed and the need therefor, unless prior to the expiration of such sixty calendar days both Committees inform the Secretary that they wish to take no action with respect to the proposed conveyance.

(d)(1) The Secretary of the Interior shall, not later than sixty (60) days after the date of enactment of this Subsection, convey to the governments of Guam, the Virgin Islands and American Samoa, as the case may be, all right, title and interest of the United States in deposits of oil, gas and other minerals in the submerged lands conveyed to the government of such territory by Subsection (a) of this Section.

(2) The conveyance of mineral deposits under Paragraph (1) of this Subsection shall be subject to any existing lease, permit or other interest granted by the United States prior to the date of such conveyance. All rentals, royalties or fees which accrue after such date of conveyance in connection with any such lease, permit or other interest shall be payable to the government of the territory to which such mineral deposits are conveyed

SOURCE: Enacted by Public Law 93-435, §1, 88 Stat. 1210, Oct. 5, 1974. See Proclamation No. 4347, Feb. 1, 1975, 40 F.R. 5129 relative to lands reserved under this Section for the United States by the President. Amended by adding Subsection (d)(1) and (d)(2) in P.L. 96 205:607.

NOTE: Pursuant to the authority given the President to reserve certain lands from transfer under this section, the following was issued by President Ford:

PROCLAMATION NO. 4347
< Feb. 1, 1975, 40 F.R. 5129 >

**RESERVING CERTAIN SUBMERGED LANDS ADJACENT TO ROSE
ATOLL NATIONAL WILDLIFE REFUGE IN AMERICAN SAMOA AND
CERTAIN SUBMERGED LANDS FOR DEFENSE NEEDS OF UNITED
STATES IN GUAM AND VIRGIN ISLANDS**

The submerged lands surrounding the Rose Atoll National Wildlife Refuge in American Samoa are necessary for the protection of the Atoll's marine life, including the green sea and hawksbill turtles. The submerged lands in Apra Harbor and those adjacent to Inapsan Beach and Urano Point in Guam, and certain submerged lands on the west coast of St. Croix, United States Virgin Islands are required for national defense purposes. These submerged lands in American Samoa, Guam and the United States Virgin Islands will be conveyed to the Government of those territories, on February 3, 1975, pursuant to Section 1(a) of Public Law 93-435 (88 Stat. 1210) [subsec. (a) of this section], unless the President, under Section 1(b)(vii) of that Act [subsec. (b)(vii) of this section], designates otherwise.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, by virtue of authority vested in me by Section 1(b)(vii) of Public Law 93-435 (88 Stat. 1210) [subsec. (b)(vii) of this section], do hereby proclaim that the lands hereinafter described are excepted from the transfer to the Government of American Samoa, the Government of Guam and the Government of the United States Virgin Islands under Section 1(a) of Public Law 93-435 [subsec. (a) of this section].

American Samoa. The submerged lands adjacent to Rose Atoll located 78 miles east-southeast of Tau Island in the Manua Group at latitude 14 degrees 32'52" south and longitude 168 degrees 08'34" west, which lands shall be under the joint administrative jurisdiction of the Department of Commerce and the Department of the Interior.

Guam. (1) The submerged lands of inner and outer Apra Harbor; and, (2) the submerged lands adjacent to the following uplands: (a) Unsurveyed land, Municipality of Machanao, Guam, as delineated on Commander Naval Forces, Marianas Y & D Drawing Numbered 597-464, lying between the seaward boundaries of Lots Numbered 9992 through 9997 and the mean high tide, containing an undetermined area of land, (b) unsurveyed land, Municipality of Machanao, Guam, as delineated on Commander Naval Forces, Marianas Y & D Drawing Numbered 597-464, lying between the seaward boundary of Lot Numbered 10080 and the line of mean high tide, containing an undetermined amount of land, and (c) Lot Numbered PO 4.1 in the Municipality of Machanao, Guam, as delineated on Y & D Drawing Numbered 597-464, more particularly described as surveyed land bordered on the north by Lot Numbered 10080, Machanao, east by Northwest Air Force Base, south by U.S. Naval Communication Station (Finegayan) and west by the sea containing a computed area of 125.50 acres, more or less. All of the

above lands within the territory of Guam shall be under the administrative jurisdiction of the Department of the Navy.

The Virgin Islands. (1) The submerged lands as described in the Code of Federal Regulations revised as of July 1, 1974, cited as 33 CFR 207.817 areas "A" & "B", (2) the submerged lands seaward of the 100 fathom curve off the coast of St. Croix beginning at a point 17 degrees 40'30" N and ending at a point 17 degrees 46'30" North as depicted on Coast and Geodetic Survey Chart Numbered 25250, Third Edition; Title: St. Croix, Virgin Islands Underwater Range, and (3) the submerged lands seaward of the Underwater Range Operational Control Center, St. Croix, Virgin Islands presently leased to the Department of the Navy and described as Plot #18 of Estate Sprat Hall subdivision, located in northside Quarter "A", St. Croix containing 4.84 acres of land. All of the above lands within the territory of the Virgin Islands shall be under the administrative jurisdiction of the Department of the Navy.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of February, in the year of our Lord nineteen hundred seventy-five, and of the Independence of the United States of America the one hundred and ninety-ninth.

GERALD R. FORD

[Boldface added by Compiler to note Guam material]

COURT DECISIONS: Before enactment of this section, the District Court of Guam held, with respect to the submerged lands surrounding Guam adjacent to the Naval Communications Station:

In light of the above, the waters adjacent to the Naval Communications Station, and below the low water mark, like the remainder of the Guam territorial waters, must be held to be outside the exclusive jurisdiction of the United States and a proper subject of legislation by the Guam Legislature. *U.S. v. Borja, et al.*, D.C.Guam 1961, 191 F.Supp. 563, 566.

§1706. Reserved Rights -- Establishment of Defensive Sea Areas. (a) Nothing in Sections 1705 to 1708 of this Title shall affect the right of the President to establish naval defensive sea areas and naval defensive airspace reservations around and over the islands of Guam, American Samoa, and the Virgin Islands when deemed necessary for national defense.

(b) Nothing in Sections 1705 to 1708 of this Title shall effect the use, development, improvement, or control by or under the constitutional authority of the United States of lands transferred by section 1705 of this Title, and the navigable waters overlying such lands, for the purpose of navigation or flood control or the production of power, or be construed as the release or relinquishment of any rights of the United States arising under the constitutional authority of Congress to regulate or improve navigation, or to provide for flood control or the production of power.

(c) The United States retains all of its navigational servitude and rights in and powers of regulation and control of the lands conveyed by Section 1705 of this Title, and the navigable waters overlying such lands, for the constitutional purposes of commerce, navigation, national defense, and international affairs, all of which shall be paramount to, but shall not be deemed to include, proprietary rights of ownership, or the rights of management, administration, leasing, use, and development of the lands and natural resources which are specifically conveyed to the government of Guam, the Virgin Islands, or American Samoa, as the case may be, by Section 1705 of this Title.

(d) Nothing in Sections 1705 to 1708 of this Title shall affect the status of lands beyond the three-mile limit described in Section 1705 of this Title.

SOURCE: Enacted by Public Law 93-435, §2, 88 Stat. 1211, Oct. 5, 1974.

§1707. Payment of Rents, to Local Governments.

On and after October 5, 1974, all rents, royalties, or fees from leases, permits, or use rights, issued prior to October 5, 1974, by the United States with respect to the land conveyed by Sections 1705 to 1708 of this Title, or by Section 1545(b) of this Title, and rights or action for damages for trespass occupancies of such lands shall

accrue and belong to the appropriate local government under whose jurisdiction the land is located.

SOURCE: Enacted by Public Law 93-435, §4, 88 Stat. 1212, Oct. 5, 1974.

§1708. Discrimination Prohibited. No person shall be denied access to, or any of the benefits accruing from, the lands conveyed by Sections 1705 to 1708 of this Title, or by Section 1545(b) of this Title, on the basis of race, religion, creed, color, sex, national origin, or ancestry. Provided, however, that this section shall not be construed in derogation of any of the provisions of the April 17, 1900 cession of Tutuila and Aunuu or of the July 16, 1904 cession of the Manus Islands, as ratified by the Act of February 20, 1929 (45 Stat. 1253) and the Act of May 22, 1929 (46 Stat. 4).

SOURCE: Enacted by Public Law 93-435, §6, 88 Stat. 1212, Oct. 5, 1974.

GOVERNMENT OF GUAM

AGANA, GUAM 96910

June 20, 1978

Memorandum

To: Director, Bureau of Planning

Via: Attorney General

From: Special Assistant Attorney General

Subject: Rule Making and Regulatory Authority of the (Territorial Land Use Commission)

You have asked our opinion as to the ability of the Territorial Land Use Commission ("TLUC") to promulgate rules and regulations implementing certain passages of a Coastal Zone Management Program ("CZM Program") as described in the Coastal Zone Management Act of 1972 as amended (16 U.S.C. §§1451-64). In particular, you desire to know if Section 13204 of the Government Code of Guam (1970) as amended, has vested the TLUC with authority to promulgate rules and regulations categorizing all lands of the Territory of Guam in one of four major land use districts, providing for zoning within those districts, establishing standards for development within the districts, establishing mechanisms for reassigning lands from one district to another, and designating areas of particular concern.

Section 13204 reads as follows:

The Territorial Land Use Commission is authorized to make reasonable rules, not inconsistent with the provisions of this Title, for the conduct of its business.

Although we are unable to give a definitive answer, we are of the opinion that the section is a mere delegation of an authority to promulgate procedures and rules concerning those matters over which the TLUC has been given jurisdiction by the Legislature. We do not believe that the Legislature intended to delegate any power to make good policy decisions by enacting the provision

and we believe that the quoted statutory provision constitutes authority too slender to support the program which is contemplated. Ordinarily, it must be clear on its face that the Legislature intended to delegate authority for the administrative action taken, or the action is highly suspect.

However, in recent discussions with Bureau of Planning personnel, it has been suggested that

Section 18003 of the Government Code of Guam (1970) as amended, may constitute sufficient authority for promulgation of the desired regulations. We agree.

Section 18003 provides in pertinent part that:

("T")he Commission shall prescribe and adopt such rules and regulations, which shall include, but not be limited to, specifications and standards for development of subdivision, as are, in its judgment, necessary to effectuate the purposes and intent of this Title. Such rules and regulations may provide for delegation of functions of review and inspection of proposed, tentative and final plans and maps, and of subdivisions, to other agencies and departments of the Government.

Section 18001 of the Government Code of Guam (1970) as amended, sets forth the intent of the Legislature in enacting the Title XIX in the following language:

"The purpose of this Title and of any rules, regulations, specifications and standards adopted, pursuant thereto, is to control and regulate the development and/or subdivision of any land for any purpose whatsoever. Such control and regulation is determined to be necessary to provide for the orderly growth and harmonious development of the territory; to assure adequate traffic circulation through coordinated street, road and highway systems; to achieve individual property lots of maximum utility and livability; to secure adequate provisions for water supply, drainage, sanitary sewerage and other health requirements; to permit the conveyance of land by accurate legal descriptions; and to provide logical procedures for the achievement of this purpose."

We think that the delegation accords the TLUC a broad range of choices in approach to the problems it must solve, and we find nothing in the Zoning Code or the Subdivision Law which would preclude the TLUC from adopting the mechanism required by the statute as a CZM Program. It already has promulgated broad regulations governing land development and land use and these regulations might well form the nucleus of a CZM Program. Introduction of the concept of the area of particular concern into the structure seems entirely permissible.

Similarly, we think that the TLUC can base its regulatory decisions on the tentative land use map, even though the Legislature has not yet given final approval to the map. Any subsequent legislative action approving, amending or disapproving the map would be binding on the TLUC from that point on, but as an interim measure we find nothing that would preclude the TLUC from adopting the map as a basis for its decisions.

/S/
MILES O. SMITH

**DEPARTMENT OF PARKS AND RECREATION
HISTORIC RESOURCES DIVISION
REGISTERED HISTORIC PLACES**

HISTORIC FEATURE	MUNICIPALITY	NATIONAL REGISTER DATE	GUAM REGISTER DATE
AGANA CLIFFLINE FORT (E)	AGANA	03/14/1991	06/16/1988
SHIMIZU HOUSE	AGANA		04/02/1984
AGANA PILLBOX	AGANA	03/14/1991	06/16/1988
DR. MESA HOUSE	AGANA		04/02/1984
AGANA HISTORIC DISTRICT	AGANA	02/08/1985	02/08/1985
AGANA SPANISH BRIDGE	AGANA	09/06/1974	12/03/1974
US NAVAL CEMETARY FORT	AGANA	03/14/1991	06/16/1988
AGANA JAPANESE FORTIFICATIONS	AGANA	03/14/1991	08/21/1979
JAPANESE CAVES	AGANA		08/21/1979
UNGACTA HOUSE	AGANA	02/08/1985	04/02/1984
AGANA CLIFFLINE FORT (F)	AGANA	03/14/1991	06/16/1988
GARRIDO HOUSE	AGANA		04/02/1984
PLAZA DE ESPANA	AGANA	05/01/1974	01/21/1975
GUAM INSTITUTE/JOSE P. LUJAN HOUSE	AGANA	10/06/1977	05/04/1977
TOVES HOUSE	AGANA	02/08/1985	04/02/1984
AGANA CLIFFLINE FORT (A)	AGANA	03/14/1991	06/16/1988
AGANA CLIFFLINE FORT (D)	AGANA	03/14/1991	06/16/1988
CORMORAN MONUMENT	AGANA		07/24/1974
AGANA CLIFFLINE FORT (C)	AGANA	03/14/1991	06/16/1988
AGANA CLIFFLINE FORT (B)	AGANA	03/14/1991	06/16/1988
FORT SANTA AGUEDA	AGANA HGTS.	08/30/1974	01/21/1975
FENA MASSACRE SITE	AGAT		07/22/1993
HILL 40	AGAT	03/04/1975	10/15/1974
MT. ALIFAN BATTLE SITE	AGAT		02/20/1975
AGAT INVASION BEACH	AGAT	03/04/1975	10/15/1974
TALEYFAC SPANISH BRIDGE	AGAT	09/10/1974	12/03/1974
TAELAYAG SPANISH BRIDGE	AGAT	10/10/1974	12/03/1974

HISTORIC FEATURE	MUNICIPALITY	NATIONAL REGISTER DATE	GUAM REGISTER DATE
MABINI PRISONER OF WAR CAMP SITE	ASAN		07/12/1979
MATGUE RIVER BATTLEFIELD AREA	ASAN	04/03/1975	10/15/1974
ASAN INVASION BEACH	ASAN	02/14/1979	02/20/1975
ASAN RIDGE BATTLE AREA	ASAN	07/18/1975	04/17/1975
FORTE PLATEAU, NIMITZ HILL	ASAN		06/05/1975
LAST JAPANESE HIGH COMMAND POST, NIMITZ HILL	ASAN		06/05/1975
WAR CRIMES TRIAL SITE, NIMITZ HILL	ASAN		08/21/1979
WAR IN THE PACIFIC NATIONAL HISTORICAL PARK	ASAN	08/18/1978	08/18/1978
MEMORIAL BEACH PARK	ASAN	08/07/1974	01/21/1975
ANA GUZMAN WATER CATCHMENT	BARRIGADA		05/06/1994
PAGO PILLBOX I	CHALAN PAGO	03/14/1991	06/16/1988
PAGO PILLBOX II	CHALAN PAGO	03/14/1991	06/16/1988
SOUTH FINEGAYAN LATTE STONE PARK	DEDEDO	09/05/1975	07/24/1974
RITIDIAN	DEDEDO		08/14/1974
HILAAN	DEDEDO		07/24/1974
HAPUTO BEACH SITE, FINEGAYAN	DEDEDO	11/20/1974	11/20/1974
FALCONA BEACH SITE	DEDEDO		07/03/1974
URUNO SITE	DEDEDO	12/27/1974	07/24/1974
URUNO BEACH SITE	DEDEDO	12/27/1974	06/05/1974
INARAJAN VILLAGE ARCHITECTURAL & HISTORICAL DISTRICT	INARAJAN	11/07/1977	03/23/1977
WEST ATATE	INARAJAN	12/04/1974	08/14/1974
ASIGA BEACH	INARAJAN		08/14/1974
INARAJAN RIDGE	INARAJAN	12/04/1974	08/14/1974
ADJOULAN PILLBOX	INARAJAN	03/14/1991	06/16/1988
NOMNA BAY	INARAJAN	12/27/1974	07/03/1974
INARAJAN PILLBOX	INARAJAN	03/14/1991	06/16/1988
NORTH INARAJAN SITE	INARAJAN	02/21/1975	11/12/1974
GADAO'S CAVE	INARAJAN	11/19/1974	09/04/1974
ST. JOSEPH'S CATHOLIC CHURCH	INARAJAN		11/12/1974
INARAJAN BAPTIST CHURCH	INARAJAN		12/03/1974
ASMAILE POINT	INARAJAN	11/07/1978	09/21/1977

HISTORIC FEATURE	MUNICIPALITY	NATIONAL REGISTER DATE	GUAM REGISTER DATE
INARAJAN FALLS	INARAJAN		07/24/1974
TALOFOFO RIVER VALLEY SITE	INARAJAN	12/27/1974	07/24/1979
MALOLOS SITE	INARAJAN	04/08/1980	10/05/1977
HALAIHA POINT	INARAJAN		08/14/1974
INARAJAN RIDGE	INARAJAN	12/04/1974	08/14/1974
TAOGAM COMPLEX	MANGILAO	04/15/1980	05/19/1978
SOUTH MOCHOM	MANGILAO		07/03/1974
MOCHOM	MANGILAO	12/04/1974	06/05/1974
MERLYN COOK SCHOOL COMPLEX	MERIZO	11/29/1979	02/21/1978
MERIZO PILLBOX	MERIZO	03/14/1991	06/16/1988
TINTA MASSACRE SITE	MERIZO	11/26/1991	
MERIZO BELL TOWER	MERIZO	05/29/1975	02/20/1975
FAHA MASSACRE SITE	MERIZO	11/22/1991	
MERIZO CONBENTO	MERIZO	09/17/1974	02/20/1975
AGANA SPANISH DIKES	MONGMONG-TOTO-MAITE	11/19/1974	09/04/1974
TOKAI MARU, NAVAL STATION	PITI	07/14/1988	07/14/1988
ATANTANO SHRINE	PITI		06/05/1975
PITI COASTAL DEFENSE GUNS	PITI	06/18/1975	04/17/1975
MT. TENJO FORTIFICATIONS	PITI	03/13/1979	09/21/1977
WEST BONA SITE (A)	SANTA RITA		10/05/1977
WEST BONA SITE	SANTA RITA	03/26/1979	03/26/1979
EAST BONA (B)	SANTA RITA		10/05/1977
FENA MASSACRE SITE	SANTA RITA		08/19/1993
OROTE HISTORICAL COMPLEX	SANTA RITA	10/23/1979	10/23/1979
SMS COMORAN, APRA HARBOR	SANTA RITA	04/04/1975	07/24/1974
SUMAY CEMETERY, NAVAL STATION	SANTA RITA		09/04/1974
PAN AMERICAN HOTEL, NAVAL STATION	SANTA RITA		10/15/1974
CABLE STATION, NAVAL STATION	SANTA RITA	09/06/1979	10/15/1974
OROTE AIRFIELD, NAVAL STATION	SANTA RITA	06/18/1975	02/20/1975
JAPANESE SUBMARINE, NAVAL STATION	SANTA RITA		09/21/1977
ARATAMA MARU	TALOFOFO	06/02/1988	06/02/1988

HISTORIC FEATURE	MUNICIPALITY	NATIONAL REGISTER DATE	GUAM REGISTER DATE
TALOFOFO PILLBOX	TALOFOFO	03/14/1991	06/16/1988
TALOFOFO SITE	TALOFOFO		07/03/1974
SOUTH TALOFOFO SITE	TALOFOFO	02/24/1975	11/12/1974
ASQUIROGA CAVE	TALOFOFO	05/06/1976	06/05/1975
YOKOI'S CAVE	TALOFOFO	03/16/1980	10/05/1977
MATALA POINT PILLBOX	TALOFOFO	03/14/1991	06/16/1988
MANA PILLBOX	TALOFOFO	03/14/1991	06/16/1988
TOGCHA PILLBOX I	TALOFOFO	03/14/1991	06/16/1988
DUNGCA BEACH DEFENSE GUNS	TAMUNING	11/19/1974	09/24/1974
OKA FORTIFICATION	TAMUNING	03/14/1991	06/16/1988
FAIFAI BEACH	TAMUNING	11/19/1974	09/24/1974
NATON HEADLAND FORT I	TAMUNING	03/14/1991	06/16/1988
NATON HEADLAND FORT II	TAMUNING	03/14/1991	06/16/1988
TUMON CLIFFLINE FORT I	TAMUNING	03/14/1991	06/16/1988
YPAO ARCHAEOLOGICAL SITE	TAMUNING/TUMON	05/24/1984	04/02/1984
DUNGCA'S BEACH DEFENSE GUN, TAMUNING	TAMUNING/TUMON	12/22/1976	10/02/1975
AS SOMBRERO PILLBOX I	TAMUNING/TUMON	03/14/1991	06/16/1988
AS SOMBRERO PILLBOX II	TAMUNING/TUMON	03/14/1991	06/16/1988
AS SOMBRERO PILLBOX III	TAMUNING/TUMON	03/14/1991	06/16/1988
YPAO PILLBOX I	TAMUNING/TUMON	03/14/1991	06/16/1988
TUMON PILLBOX III	TAMUNING/TUMON	03/14/1991	06/16/1988
YPAO PILLBOX II	TAMUNING/TUMON	03/14/1991	06/16/1988
SAN VITORES MARTYRDOM SITE, TUMON	TAMUNING/TUMON	10/31/1975	08/14/1974
NATON HEADLAND CAVES	TAMUNING/TUMON	03/14/1991	06/16/1988
TUMON CLIFFLINE FORT II	TAMUNING/TUMON	03/14/1991	06/16/1988
GOGNA BEACH GUN EMPLACEMENT	TAMUNING/TUMON	03/14/1991	06/16/1988
GOGNA BEACH MOUNT PILLBOX	TAMUNING/TUMON	03/14/1991	06/16/1988
GOGNA BEACH GUN MOUNT	TAMUNING/TUMON	03/14/1991	06/16/1988
SAN VITORES BEACH FORT	TAMUNING/TUMON	03/14/1991	06/16/1988
TUMON PILLBOX I	TAMUNING/TUMON	03/14/1991	06/16/1988
TUMON PILLBOX II	TAMUNING/TUMON	03/14/1991	06/16/1988

HISTORIC FEATURE	MUNICIPALITY	NATIONAL REGISTER DATE	GUAM REGISTER DATE
TUMON FORTIFICATION	TAMUNING/TUMON	03/14/1991	06/16/1988
YPAO PILLBOX III	TAMUNING/TUMON	03/14/1991	06/16/1988
TUMON CLIFFLINE FORT III	TAMUNING/TUMON	03/14/1991	06/16/1988
ACHUGAO BAY SITE	UMATAC	08/19/1975	04/17/1975
AGAGA BEACH	UMATAC	06/11/1975	04/17/1975
SELLA BAY SITE	UMATAC	11/08/1974	09/24/1974
ABONG BEACH	UMATAC		08/14/1974
CETTI BAY	UMATAC	11/21/1974	09/24/1974
FOUHA BAY	UMATAC	11/21/1974	09/24/1974
UMATAC RIDGE	UMATAC		06/05/1975
NORTH CETTI BAY	UMATAC		06/05/1975
FORT SAN JOSE	UMATAC	05/01/1974	07/24/1974
SELLA BAY SPANISH BRIDGE	UMATAC		07/24/1974
SELLA BAY SPANISH OVEN	UMATAC		09/24/1974
MAGELLAN MONUMENT	UMATAC		06/05/1975
SAN DIONISIO CHURCH RUINS	UMATAC	08/30/1974	11/12/1974
FORT NUESTRA DE SOLEDAD	UMATAC	10/18/1974	01/21/1975
FORT SANTO ANGEL	UMATAC	08/30/1974	05/08/1975
UMATAC PILLBOX	UMATAC	03/14/1991	06/16/1988
MACHADGAN POINT	UMATAC	11/07/1978	09/21/1977
TOGUAN BAY	UMATAC		05/08/1975
CRETO SITE	UMATAC	11/07/1978	08/03/1977
LUJUNA	YIGO		06/05/1974
PAGAT SITE	YIGO	03/13/1974	06/05/1974
TARAGUE BEACH, AAFB	YIGO		08/14/1985
PATI POINT	YIGO		07/24/1974
ANAO SITE	YIGO		05/04/1977
HANUM SITE	YIGO	11/07/1978	08/03/1977
PAJON POINT	YIGO		07/03/1974
INAPSAN	YIGO		07/03/1974
JINAPSAN SITE	YIGO	12/27/1974	12/27/1974

HISTORIC FEATURE	MUNICIPALITY	NATIONAL REGISTER DATE	GUAM REGISTER DATE
MATAGUAC HILL COMMAND POST	YIGO	06/10/1975	04/17/1975
TORRE WATER CATCHMENT (HATSUHO GOLF)	YIGO		09/20/1990
IGNACIO CRUZ CRUZ WATER CATCHMENT (AGAFA GUMAS)	YIGO		05/06/1994
SOUTH PULANTAT	YONA	03/26/1979	08/03/1977
YLIIG RIVER	YONA		08/14/1974
LIGHT MODEL TANK NO. 95	YONA	12/19/1979	08/21/1979
YLIIG RIVER FORTIFICATION II	YONA	03/14/1991	06/16/1988
YLIIG RIVER FORT I	YONA	03/14/1991	06/16/1988

**GOVERNMENT OF GUAM
DEPARTMENT OF AGRICULTURE
Aquatic and Wildlife Resources Division**

**Guam Endangered Species List
1992**

Pursuant to the authority vested in the Director of Agriculture by Section 63205(c) of the Guam Code Annotated, P.L. 15-36, "The Endangered Species Act of Guam", the following list of endangered species has been approved.

<u>Chamorro Name</u>	<u>English Name</u>	<u>Scientific Name</u>	<u>Status</u>
<u>Birds</u>			
Koko	Guam Rail	<i>Rallus owstoni</i>	Endangered
Pulattat	Common Moorhen	<i>Gallinula chloropus guami</i>	Endangered
Totot	Mariana Fruit-Dove	<i>Ptilinopus roseicapilla</i>	Endangered
Puluman apaka/Puluman fache	White-throated Ground-Dove	<i>Gallicolumba x. xanothura</i>	Endangered
Yayaguak	Island Swiftlet	<i>Aerodramus vanikorensis bartschi</i>	Endangered
Sihék	Micronesian Kingfisher	<i>Halcyon c. cinnamomina</i>	Endangered
Aga	Mariana Crow	<i>Corvus kubaryi</i>	Endangered
Chuguangguang	Guam Flycatcher	<i>Myiagra freycineti</i>	Endangered
Chichirika	Rufous Fantail	<i>Rhipidura rufifrons uraniae</i>	Endangered
Sali	Micronesian Starling	<i>Aplonis opaca guami</i>	Endangered
Egigi	Micronesian Honeyeater	<i>Myzomela rubratra saffordi</i>	Endangered
Nossa	Bridled White-eye	<i>Zosterops c. conspicillata</i>	Endangered
<u>Mammals</u>			
Fanihi	Marianas Fruit Bat	<i>Pteropus m. mariannus</i>	Endangered
Fanihi	Little Marianas Fruit Bat	<i>Pteropus tokudae</i>	Endangered
Payesyes	Sheath-tailed Bat	<i>Emballonura semicaudata</i>	Endangered
<u>Plants</u>			
Tsatsa	Tree-Fern	<i>Cyathea lunulata</i>	Endangered
Hayun-lago		<i>Serianthes nelsonii</i>	Endangered
Ufa-halomtano		<i>Heritiera longipetiolata</i>	Endangered

GOVERNMENT OF GUAM
DEPARTMENT OF AGRICULTURE
DIVISION OF AQUATIC & WILDLIFE RESOURCES

Endangered & Threatened Species of Guam

<u>Chamorro Name</u>	<u>English Name</u>	<u>Scientific Name</u>	<u>U.S. List</u>	<u>Guam List</u>	<u>Comments</u>
Reptile					
Haggan	Green Sea Turtle	<i>Chelonia mydas</i>	T	T	
Haggan kara	Hawksbill Sea Turtle	<i>Eretmochelys imbricata</i>	E	E	
Birds					
Nganga	Mariana Mallard	<i>Anas platyrhynchos oustaleti</i>	E	E	May be extinct
Sasangat	Micronesian Megapode	<i>Megapodius laperouse</i>	E	E	Extinct on Guam
Koko	Guam Rail	<i>Rallus owstoni</i>	E	E	
Pulattat	Mariana Gallinule	<i>Gallinula chloropus guami</i>	E	E	
Totot	Mariana Fruit-Dove	<i>Ptilinopus roseicapilla</i>		E	
Paluman apaka/Puluman fache	White-throated Ground-Dove	<i>Gallicolumba x. xanthonura</i>		E	May be extinct on Guam
Yayaguak	Vanikoro Swiftlet	<i>Aerodramus vanikorensis bartschi</i>	E	E	
Sihek	Micronesian Kingfisher	<i>Halcyon c. cinnamomina</i>	E	E	
Aga	Mariana Crow	<i>Corvus kubaryi</i>	E	E	
Ga-kariso	Nightingale Reed-Warbler	<i>Acrocephalus luscini</i>	E	E	Extinct on Guam.
Chichirika	Rufous Fantail	<i>Rhipidura rufifrons uraniae</i>		E	May be extinct.
Chuguangguang	Guam Flycatcher	<i>Myiagra freycineti</i>	E	E	May be extinct.
Sali	Micronesian Starling	<i>Aplonis opaca guami</i>		E	
Egigi	Cardinal Honeyeater	<i>Myzomela cardinalis saffordi</i>		E	May be extinct on Guam.
Nossa	Bridled White-eye	<i>Zosterops c. conspicillatus</i>	E	E	May be extinct.
Mammals					
Fanihi	Mariana Fruit Bat	<i>Pteropus m. mariannus</i>	E	E	
Fanihi	Little Mariana Fruit Bat	<i>Pteropus tokudae</i>	E	E	May be extinct.
Payesyes	Sheath-tailed Bat	<i>Emballonura semicaudata</i>		E	May be extinct on Guam.
	Dugong	<i>Dugong dugon</i>	E	E	Rare unverified sightings.
Plants					
Tsatsa	Tree-Fern	<i>Cyathea lunulata</i>		E	
Hayun-lago		<i>Serianthes nelsonii</i>	E	E	One tree left on Guam.
Ufa-halomtano		<i>Heritiera longipetiolata</i>		E	

Status Key: E = Endangered
T = Threatened

CHECK LIST OF TERRESTRIAL VETERBRATES AND SELECTED TERRESTRIAL INVERTEBRATES OF GUAM

Revised August 1993

Division of Aquatic & Wildlife Resources

Department of Agriculture

P.O. Box 2950, Agana, Guam 96910

Legend:

EG = Endemic to Guam	C = Common
EM = Endemic to Marianas	U = Uncommon
N = Native resident	R = Rare
I = Introduced resident	A = Accidental visitor
M = Migratory	E = Extinct on Guam
	SU = Status unknown
	H = Hypothetical

Listed as endangered (@) or threatened (‡) on the U.S. Endangered Species List
Listed as endangered (*) or threatened (**) on the Guam Endangered Species List

<u>FAMILY AND SCIENTIFIC NAMES</u>	<u>ENGLISH NAME</u>	<u>CHAMORRO NAME</u>	<u>STATUS</u>
Tree Snails (selected species included)			
<i>Partula gibba</i>	Tree Snail	Akaleha'	N,R
<i>Partula salifera</i>	Tree Snail	Akaleha'	EG,E
<i>Partula radiolata</i>	Tree Snail	Akaleha'	EG,R
<i>Samoana fragillis</i>	Tree Snail	Akaleha'	N,R
Land Snails (selected species included)			
<i>Melampus flava</i>	Land Snail	Akaleha'	N,UC
<i>Pythia scarabaeus</i>	Land Snail	Akaleha'	N,R
<i>Succinea guamensis</i>	Land Snail	Akaleha'	N,E
<i>Himeroconcha lamellamensis</i>	Land Snail	Akaleha'	N,SU
<i>Himeroconcha rotula</i>	Land Snail	Akaleha'	N,SU
<i>Himeroconcha quadrasi</i>	Land Snail	Akaleha'	N,SU
<i>Himeroconcha fusca</i>	Land Snail	Akaleha'	N,SU
<i>Landonellum mariannarum</i>	Land Snail	Akaleha'	N,SU
<i>Semperdon heptaptychius</i>	Land Snail	Akaleha'	N,SU
<i>Semperdon rotanus</i>	Land Snail	Akaleha'	N,SU
<i>Lampryocystis denticulata</i>	Land Snail	Akaleha'	N,SU
<i>Lampryocystis misella</i>	Land Snail	Akaleha'	N,SU
<i>Lampryocystis fastigata</i>	Land Snail	Akaleha'	N,SU
<i>Liardetia sculpta</i>	Land Snail	Akaleha'	N,SU
<i>Liardetia doliolum</i>	Land Snail	Akaleha'	N,SU
<i>Achatina fulica</i>	African Land Snail	Akaleha'	I,C
<i>Gonaxis kibweziensis</i>	Carnivore Snail	Akaleha'	I,E
<i>Gonaxis quadrilateralis</i>	Carnivore Snail	Akaleha'	I,E
<i>Euglandina rosea</i>	Carnivore Snail	Akaleha'	I,E
<i>Camaenid</i> sp.	Land Snail	Akaleha'	I,C
<i>Subulina octonia</i>	Land Snail	Akaleha'	I,SU

CRUSTACEANS

PAGURIDAE

<i>Coenobita spp.</i>	Hermit Crab	Duk'duk, Umag	N,C
<i>Birgus latro</i>	Coconut Crab	Ayuyu	N,U

XANTHIDAE

<i>Cardisoma carnifex</i>	Land Crab	Pang'lao	N,C
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AMPHIBIANS

BUFONIDAE (Toads)

<i>Bufo marinus</i>	Marine Toad	Kairo	I,C
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HYLIDAE (Tree Frogs)

<i>Litoria fallax</i>	Eastern Dwarf Tree Frog	Kairo'	I,C
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REPTILES

CHELONIDAE (Sea Turtles)

<i>Chelonia mydas</i>	Green Sea Turtle	Haggan	N,R±**
<i>Eretmochelys imbricata</i>	Hawksbill Sea Turtle	Haggan Karai	N,R@*
<i>Lepidochelys olivacea</i>	Olive Ridley		A@

DERMOCHELYIDAE (Leatherback Sea Turtle)

<i>Dermochelys coriacea</i>	Leatherback Sea Turtle		A@
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GEKKONIDAE (Geckos)

<i>Gehyra oceanica</i>	Oceanic Gecko	Achiak	N,R
<i>Gehyra mutilata</i>	Mutilated Gecko	Gual'ek	N,C
<i>Nactus pelagicus</i>	Pacific Slender-toed Gecko	Gual'ek	N,E
<i>Hemidactylus frenatus</i>	House Gecko	Gual'ek	I,C
<i>Lepidodactylus lugubris</i>	Mourning Gecko	Gual'ek	N,C
<i>Perochirus ateles</i>	Speckle-bellied Gecko	Gual'ek	N,R

IGUANIDAE (True Iguanas)

<i>Anolis carolinensis</i>	Green Anole	Gual'ek	I,U
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SCINCIDAE (Skinks)

<i>Carlia fusca</i>	Curious Skink	Gual'ek Halom Tano'	I,C
<i>Cryptoblepharus poecilopleurus</i>	Snake-eyed Skink	Gual'ek Halom Tano'	N,R
<i>Emoia slevini</i>	Slevin's Skink	Gual'ek Halom Tano'	EM,R
<i>Emoia caeruleocauda</i>	Pacific Blue-tailed Skink	Gual'ek Halom Tano'	N,C
<i>Emoia cyanura</i>	Azure-tailed Skink	Gual'ek Halom Tano'	N,R
<i>Emoia atrocostata</i>	Tide Pool Skink	Gual'ek Kantun Tasi	N,R
<i>Lipinia noctua</i>	Moth Skink	Gual'ek Halom Tano'	N,R

VARANIDAE (Monitor Lizards)

<i>Varanus indicus</i>	Monitor Lizard	Hilitai	I,C
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TYPHLOPIDAE (Blind Snakes)

<i>Ramphotyphlops braminus</i>	Blind Snake	Ulo' Attilong	I,C
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COLUBRIDAE (Colubrid Snakes)

<i>Boiga irregularis</i>	Brown Tree Snake	Kolepbla	I,C
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BIRDS**DIOMEDEIDAE (Albatrosses)**

<i>Diomedea nigripes</i>	Black-footed Albatross		H
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PROCELLARIIDAE (Shearwaters and Petrels)

<i>Pterodroma externa</i>	Juan Fernandez Petrel		A
<i>Pseudobulweria rostrata</i>	Tahiti Petrel		A
<i>Calonectris leucomelas</i>	Streaked Shearwater		A
<i>Puffinus pacificus</i>	Wedge-tailed Shearwater		U
<i>Puffinus tenuirostris</i>	Short-tailed Shearwater		M,C
<i>Puffinus newelli</i>	Newell's Shearwater		A
<i>Puffinus lherminieri</i>	Audubon's Shearwater		A

HYDROBATIDAE (Storm-Petrels)

<i>Oceanodroma leucorhoa</i>	Leach's Storm-Petrel		A
<i>Oceanodroma matsudaira</i>	Matsudaira's Storm-Petrel		U

PHAETHONTIDAE (Tropicbirds)

<i>Phaethon lepturus</i>	White-tailed Tropicbird	Fakpe, Utag	N,R
<i>Phaethon rubricauda</i>	Red-tailed Tropicbird	Fakpe, Utag	A

SULIDAE (Boobies and Gannets)

<i>Sula dactylatra</i>	Masked Booby	Lu'an	R
<i>Sula leucogaster</i>	Brown Booby	Lu'an	U
<i>Sula sula</i>	Red-footed Booby	Lu'an	U

PHALACROCORACIDAE (Cormorants)

<i>Phalacrocorax carbo</i>	Great Cormorant		H
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FREGATIDAE (Frigatebirds)

<i>Fregata minor</i>	Great Frigatebird	Payaaya, Gaga Moa	R
<i>Fregata ariel</i>	Lesser Frigatebird	Payaaya, Gaga Moa	H

ARDEIDAE (Egrets, Herons, and Bitterns)

<i>Ixobrychus sinensis</i>	Yellow Bittern	Kakkak	N,C
<i>Dupetor flavicollis</i>	Black Bittern		A
<i>Ardea cinerea</i>	Gray Heron		A

<i>Casmerodius albus</i>	Great Egret	Chuchuko	A
<i>Egretta sacra</i>	Pacific Reef-Heron	Chuchuko	N,C
<i>Egretta intermedia</i>	Intermediate Egret	Chuchuko	M,U
<i>Egretta garzetta</i>	Little Egret	Chuchuko	M,R
<i>Ardeola bacchus</i>	Chinese Pond-Heron		A
<i>Bubulcus ibis</i>	Cattle Egret	Chuchuko	M,U
<i>Butorides striatus</i>	Green-backed Heron		A
<i>Nycticorax nycticorax</i>	Black-crowned Night-Heron		A

ANATIDAE (Ducks, Geese, and Swans)

<i>Anas crecca</i>	Green-winged Teal	Nganga	A
<i>Anas platyrhynchos oustaleti</i>	Mariana Mallard	Nganga	EM,E@*
<i>Anas poecilorhyncha</i>	Spot-billed Duck	Nganga	A
<i>Anas acuta</i>	Northern Pintail	Nganga	M,U
<i>Anas querquedula</i>	Garganey	Nganga	M,R
<i>Anas clypeata</i>	Northern Shoveler	Nganga	M,U
<i>Anas penelope</i>	Eurasian Wigeon	Nganga	A
<i>Anas americana</i>	American Wigeon	Nganga	A
<i>Anas strepera</i>	Gadwall	Nganga	A
<i>Aythya ferina</i>	Common Pochard	Nganga	A
<i>Aythya fuligula</i>	Tufted Duck	Nganga	M,U

ACCIPITRIDAE (Hawks and Eagles)

<i>Pandion haliaetus</i>	Osprey		A
<i>Accipiter gularis</i>	Asiatic Sparrowhawk		A
<i>Accipiter soloensis</i>	Chinese Goshawk		A
<i>Buteo buteo</i>	Common Buzzard		H

FALCONIDAE (Falcons)

<i>Falco peregrinus</i>	Peregrine Falcon		A@
<i>Falco subbuteo</i>	Northern Hobby		H

MEGAPODIIDAE (Megapodes)

<i>Megapodius laperouse</i>	Micronesian Megapode	Sasangat	N,E@*
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PHASIANIDAE (Quails, Pheasants, and Allies)

<i>Francolinus francolinus</i>	Black Francolin		I,C
<i>Coturnix chinensis</i>	Blue-breasted Quail	Bengbeng	I,U

RALLIDAE (Rails, Gallinules, and Coots)

<i>Rallus owstoni</i>	Guam Rail	Koko	EQ,E@*
<i>Porzana cinerea</i>	White-browed Crake	Bako	N,E
<i>Gallinula chloropus</i>	Common Moorhen	Pulattat	N,U@*
<i>Fulica atra</i>	Eurasian Coot		A

CHARADRIIDAE (Plovers)

<i>Pluvialis squatarola</i>	Black-bellied Plover	Dulili	M,U
<i>Pluvialis dominica</i>	Lesser Golden-Plover	Dulili	M,C
<i>Charadrius mongolus</i>	Mongolian Plover	Dulili	M,C
<i>Charadrius leschenaultii</i>	Greater Sand-Plover	Dulili	M,U
<i>Charadrius alexandrinus</i>	Snowy Plover	Dulili	A

<i>Charadrius hiaticula</i>	Common Ringed Plover	Dulili	M,R
<i>Charadrius dubius</i>	Little Ringed Plover	Dulili	A
HAEMATOPODIDAE (Oystercatchers)			
<i>Haematopus ostralegus</i>	Eurasian Oystercatcher		A
RECURVIROSTRIDAE (Avocets and Stilts)			
<i>Himantopus himantopus</i>	Black-winged Stilt		A
SCOLOPACIDAE (Sandpipers, Snipe, and other waders)			
<i>Tringa nebularia</i>	Common Greenshank	Dulili	M,R
<i>Tringa guttifer</i>	Nordmann's Greenshank	Dulili	H@
<i>Tringa totanus</i>	Common Redshank	Dulili	A
<i>Tringa erythropus</i>	Spotted Redshank	Dulili	H
<i>Tringa stagnatilis</i>	Marsh Sandpiper	Dulili	M,R
<i>Tringa glareola</i>	Wood Sandpiper	Dulili	M,U
<i>Heteroscelus brevipes</i>	Gray-tailed Tattler	Dulili	M,C
<i>Heteroscelus incanous</i>	Wandering Tattler	Dulili	M,U
<i>Actitis hypoleucos</i>	Common Sandpiper	Dulili	M,U
<i>Xenus cinereus</i>	Terek Sandpiper	Dulili	A
<i>Numenius minutus</i>	Little Curlew	Kalalang	A
<i>Numenius phaeopus</i>	Whimbrel	Kalalang	M,C
<i>Numenius tahitiensis</i>	Bristle-thighed Curlew	Kalalang	A
<i>Numenius madagascariensis</i>	Far Eastern Curlew	Kalalang	A
<i>Numenius arquata</i>	Eurasian Curlew	Kalalang	A
<i>Limosa limosa</i>	Black-tailed Godwit	Kalalang	A
<i>Limosa lapponica</i>	Bar-tailed Godwit	Kalalang	M,R
<i>Arenaria interpres</i>	Ruddy Turnstone	Dulili	M,C
<i>Calidris tenuirostris</i>	Great Knot	Dulili	A
<i>Calidris alba</i>	Sanderling	Dulili	M,R
<i>Calidris ruficollis</i>	Rufous-necked Stint	Dulili	M,U
<i>Calidris subminuta</i>	Long-toed Stint	Dulili	A
<i>Calidris acuminata</i>	Sharp-tailed Sandpiper	Dulili	M,U
<i>Calidris melanotos</i>	Pectoral Sandpiper	Dulili	A
<i>Calidris alpina</i>	Dunlin	Dulili	A
<i>Calidris ferruginea</i>	Curlew Sandpiper	Dulili	A
<i>Philomachus pugnax</i>	Ruff	Dulili	A
<i>Gallinago megala</i>	Swinhoe's Snipe	Dulili	M,R
<i>Gallinago gallinago</i>	Common Snipe	Dulili	A
LARIDAE (Gulls and Terns)			
<i>Larus ridibundus</i>	Common Black-headed Gull		A
<i>Larus schistisagus</i>	Slaty-backed Gull		A
<i>Sterna bergii</i>	Great-crested Tern		A
<i>Sterna hirundo</i>	Common Tern		M,R
<i>Sterna nilotica</i>	Gull-billed Tern		A
<i>Sterna sumatrana</i>	Black-naped Tern		A
<i>Sterna albifrons</i>	Little Tern		M,R
<i>Sterna fuscata</i>	Sooty Tern		R
<i>Chlidonias hybridus</i>	Whiskered Tern		A
<i>Chlidonias leucopterus</i>	White-winged Tern		M,R
<i>Anous stolidus</i>	Brown Noddy	Fahang	N,C
<i>Anous minutus</i>	Black Noddy	Fahang	C
<i>Gygis alba</i>	White Tern	Chunge	N,C

COLUMBIDAE (Pigeons and Doves)

<i>Ptilinopus roseicapilla</i>	Mariana Fruit-Dove	Totot	EM,E*
<i>Gallicolumba xanthonura</i>	White-throated Ground-Dove	Paluman Apaka (male)	N,E*
		Paluman Fachi (female)	
<i>Streptopelia bitorquata</i>	Philippine Turtle-Dove	Paluman Senesa	I,C
<i>Columba livia</i>	Rock Dove	Paluman Mansu	I,C

STRIGIDAE (Owls)

<i>Asio flammeus</i>	Short-eared Owl	Mongmo	A
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APODIDAE (Swifts)

<i>Aerodramus vanikorensis</i>	Island Swiftlet	Yayaguak	N,R@*
<i>Apus pacificus</i>	Fork-tailed Swift		A

ALCEDINIDAE (Kingfishers)

<i>Halcyon cinnamomina</i>	Micronesian Kingfisher	Sihek	N,E@*
<i>Alcedo atthis</i>	Common Kingfisher		A

HIRUNDINIDAE (Swallows)

<i>Hirundo rustica</i>	Barn Swallow		M,R
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DICRURIDAE (Drongos)

<i>Dicrurus macrocercus</i>	Black Drongo	Sali Taiwan	I,U
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CORVIDAE (Crows and Jays)

<i>Corvus kubaryi</i>	Mariana Crow	Aga	EM,R@*
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MUSCICAPIDAE (Old World Flycatchers and Warblers)

<i>Acrocephalus luscini</i>	Nightingale Reed-Warbler	Ga-kaliso, Ga-kirriso	EM,E@*
<i>Myiagra freycineti</i>	Guam Flycatcher	Chuguangguang	EG,E@*
<i>Rhipidura rufifrons</i>	Rufous Fantail	Chichirika	N,E*

MOTACILLIDAE (Wagtails and Pipits)

<i>Motacilla cinerea</i>	Gray Wagtail		A
<i>Motacilla alba</i>	White Wagtail		H

STURNIDAE (Starlings)

<i>Aplonis opaca</i>	Micronesian Starling	Sali	N,U*
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MELIPHAGIDAE (Honeyeaters)

<i>Myzomela rubrata</i>	Micronesian Honeyeater	Egigi	N,E*
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ZOSTEROPIDAE (White-eyes)

<i>Zosterops conspicillatus</i>	Bridled White-eye	Nossa'	N,E@*
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PASSERIDAE (Weavers)

<i>Passer montanus</i>	Eurasian Tree Sparrow		I,C
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ESTRILIDAE (Weaver Finches)

<i>Lonchura malacca</i>	Chestnut Munia	Rice Bird	I,R
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MAMMALS**SORICIDAE (Shrews)**

<i>Suncus murinus</i>	Musk Shrew	Cha'ka	I,U
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PTEROPODIDAE (Fruit Bats)

<i>Pteropus mariannus</i>	Marianas Fruit Bat	Fanihi	N,R@*
<i>Pteropus tokudae</i>	Little Marianas Fruit Bat	Fanihi	EG,E@*

EMBALLONURIDAE (Sheath-tailed Bats)

<i>Emballonura semicaudata</i>	Pacific Sheath-tailed Bat	Payesyes	N,E*
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MURIDAE (Old World rats and Mice)

<i>Rattus exulans</i>	Polynesian Rat	Cha'ka	I,U
<i>Rattus rattus</i>	Roof Rat	Cha'ka	I,C
<i>Rattus norvegicus</i>	Norway Rat	Cha'ka	I,U
<i>Mus musculus</i>	House Mouse	Cha'kan Halom Guma	I,C

CANIDAE (Dogs, Foxes, and Wolves)

<i>Canis familiaris</i>	Feral Dog	Ga'lagu	I,C
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FELIDAE (Cats)

<i>Felis catus</i>	Feral Cat	Katu	I,C
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SUIDAE (Pigs)

<i>Sus scrofa</i>	Feral Pig	Babui	I,C
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CERVIDAE (Deer)

<i>Cervus mariannus</i>	Philippine Deer	Benado	I,C
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BOVIDAE (Cattle, Sheep, Goats, and Antelope)

<i>Bubalus bubalis</i>	Feral Asiatic Water Buffalo	Carabao	I,U
<i>Capra hircus</i>	Feral Goat	Chiba	I,R

