Guam Coastal Management Program and Draft Environmental Impact Statement

U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Office of Coastal Zone Management

UNITED STATES DEPARTMENT OF COMMERCE

DRAFT ENVIRONMENTAL IMPACT STATEMENT

AND

PROPOSED COASTAL MANAGEMENT PROGRAM

FOR THE

TERRITORY OF GUAM

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LEGAL AUTHORITIES

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TITLE LXV [LXVI]

CHAPTER II

Comprehensive Planning

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§ 62010. Legislative findings. The people of Guam, finding that the island is experiencing unprecedented economic, physical and population growth without any comprehensive planning program, that this undisciplined growth jeopardizes the historic, cultural, and natural aspects of their island heritage, threatens to lower their quality of life, exploits their natural resources and often misdirects their fiscal resources, hereby declare that the Government of Guam shall initiate a systematic, continuous farsighted planning policy which shall utilize the best intelligence available to:

(a) identify territorial goals and objectives;

(b) propose long-range plans to reach these territorial goals and objectives;

(c) coordinate the planning of all governmental and non-governmental activities with a dynamic comprehensive development plan; and

(d) provide factual data, projections, and analyses to assist policy makers in the selection of programs and the establishment of priorities.

§ 62011. Comprehensive planning objectives. Initial objectives, which will be amended and expanded as conditions warrant, are:

(a) to determine the extent that our natural resources limit urban and rural develpment.

(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 generalized areas of use within an urban, rural, agriculture, conservation, and resort context.

(d) to provide a development pattern that enhances the comfort, convenience and economic welfare of the individual.

(e) to prepare land capability criteria as a basis for real property evaluation that tends to equalize the divergent qualities of location.

(f) to reappraise the total land tenure of the territory and provide guidelines for relocation of inefficient or inappropriate major uses.

(g) to plan for the development and extension of the 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 our varying activity centers.

(i) to prepare criteria of substandard neighborhoods and identify areas that meet criteria levels.

(j) to recommend creative legislation regulating our use of land for the protection of future generations.

§ 62012. Central Planning Council. Creation and membership.

(a) There is created in the Government of Guam a Central Planning Council (hereinafter referred to as 'Council'), consisting of seven members to be appointed by the Governor from heads of departments or agencies of the government of Guam. The Attorney General or his authorized designee shall act as legal counsel to the Council.

(b) The Director of Planning shall be the Chairman of the Council.

(c) Council members may be represented by designees at meetings but only members or those officially acting for the members may cast a vote.

§ 62013. Council responsibilities. The Council shall have the following responsibilities:

(a) to act as an advisory, reviewing, and coordinating body to harmonize, improve and assist in implementing planning activities at all levels of government;

(b) to insure that the current planning programs are consistent with the comprehensive developmet plan and the Comprehensive Program and Financial Plan (as referenced in the Executive Budget Act) and the policies enumerated in this Chapter;

(c) to adopt any rules or regulations in accordance with the Administrative Adjudication Act and exercise all other powers necessary and proper for the discharge of its responsibilities;

(d) to encourage the establishment of advisory committees from the village commissioners, legislative staff officers and the collective civic organizations, which Advisory committees will organize at their own discretion and meet on their own initiative or at the request of the Council:

(e) to review all comprehensive development plan elements, as referenced in § 60020 with the assistance of advisory committees, and the Bureau of Planning, and 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; and

(f) to report on the first Monday of December to the Governor or Governor-elect in an election year, a summary of the planning program and progress.

§ 62014. Coordination of functional responsibilities. All agencies, departments, boards, commissions and other instrumentalities of the Territorial government shall review their present statutory authority, administrative regulations and current planning policies and procedures to determine whether there is any duplication, any deficiencies or inconsistencies therein which prohibit or tend to prohibit full accommodations between them and the purposes and provisions of this Chapter and shall propose to the Council each January such measures as may be necessary to bring their planning authority and policies 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, will be required to 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 head of agency involved, planning staffs or portions thereof of staff or line agencies who shall prepare portions of the plan under the supervision of the Director of Planning.

§ 62015. Plan review. Comprehensive Plan Elements, prepared by the various public agencies, will be submitted to the Council for review. Following recommendation by the Council, Plan elements will be transmitted to the Territorial Planning Commission (hereinafter called TPC) for public hearing and subsequent transmittal to the Governor by the TPC with a summary of public hearing testimony and TPC recommendations.

§ 62016. Plan adoption. Comprehensive Plan elements received by the Governor from the TPC may be approved, disapproved or referred to the Council for further recommendation prior to approval. Following approval by the Governor, Plan elements shall be submitted to the Guam Legislature for adoption by resolution.

§ 62017. Bureau of Planning. There is created within the Office of the Governor, the Bureau of Planning, (hereinafter referred to as 'BP') to serve as staff for the Council and to administer central planning functions. The director of the BP will carry the title 'Director of Planning' and shall be a person who as a result of his 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's salary shall be not less than Twenty-Six Thousand Dollars ($26,000) per annum. He shall be responsible for the administration of this Chapter and shall supervise the BP staff which, in addition to its regular duties, shall serve the Council.

§ 62018. Same: staff organization. The BP Staff shall be organized into several divisions, sections, or units such as is sufficient to appraise, coordinate and assist in the preparation of long-range planning programs for the social, economic and physical development of the territory 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, and utilities. Preparation of planning elements, not the duty and function of staff and line agencies, shall be the responsibility of the BP staff.

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

(a) 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 the Territory;

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

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

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

(e) to prepare, or cause to be prepared in conjunction with the Comprehensive Program and Financial Plan, a comprehensive development plan (hereinafter called 'plan'), which shall provide long range guidance for the social, economic, and physical development of the territory, and which shall contain a statement of development objectives, standards and principles with respect to the most desirable use of land within the Territory 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;

(f) to submit the plan to the Territorial Planning Commission for public hearing as provided in Chapter 3, Title XIV of the Government Code of Guam;

(g) 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;

(h) to review, appraise and make such use as it sees fit of all existing plans and those presently being prepared; and

(i) to develop an information system and data bank for the continual collection and storage of public information utilized in the development plan process.

§ 62020. Plan content. The Plan shall consist of such maps, graphic materials, text and statement of findings, policies, and objectives as necessary. The plan shall contain at least the following specific elements:

(a) a land use element which designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, 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 and also includes a statement of the standards of population density and building intensity for the various districts and other areas covered by the plan, and regulatory devices governing the use, development and subdivision of land;

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

(c) a transportation element showing a comprehensive transportation and circulation system consisting of existing and proposed major routes, thoroughfares, highways and collector streets; locations of right-of-ways, 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) 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 and traffic;

(e) a public services and facilities element showing general plans for sewerage, refuse disposal, drainage, and local utilities, and right-of-ways, easements, and facilities for them;

(f) a public building element showing locations and arrangements 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;

(g) a housing element consisting of standards and plans for elimination of sub-standard dwelling conditions, the improvement of housing and for provision of adequate sites for housing;

(h) a redevelopment element for the elimination of slums and blighted areas and for community redevelopment including housing sites, business and industrial sites, public building sites, and for other purposes authorized by law;

(i) a conservation element for the conservation, development, and utilization of natural resources including forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources, which may also cover the following:

(1) Reclamation of land and waters,

(2) Flood control,

(3) Prevention and control of pollution of streams of other waters,

(4) Regulations of the use of land in stream channels and conservation plan,

(5) Prevention, control, and correction of the erosion of soils, beaches, and shores; and

(6) Protection of watersheds.

(j) a recreation element showing 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 Archeologic sites; and

(8) other recreation areas.

(k) a safety element for the protection of the community from fires and geologic 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;

(l) such additional elements dealing with other subjects which in the judgment of the Council relate to the physical development of the territory;

(m) a five-year socio-economic plan to include policy, opportunities, and programs to attack 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, and the like to include population characteristics and economic analysis with projections for each region and sub-region of the island;

(n) a five-year schedule of proposed capital improvements to be compiled from schedules of proposed capital improvements, and submitted to the Council by each department, agency, division, board, commission, branch and instrumentality of the government of Guam, which schedule shall include a policy for the balanced development of port, highway, and public transportation facilities including, but not limited to, the University of Guam, health and welfare facilities, correctional institutions, elementary and secondary schools, electric power, water, telephone, sewer, and other utility facilities; and

(o) a statement of specific policies for at least each of the following general areas: social and human resource development, natural resource development, and utilization of environment protection and quality, historical and cultural heritage preservation.

§ 62021. 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. [§§ 62010-62021 added as a new Chapter I of Title LXVI by P.L. 12-200, effective January 10, 1975.] [EDITOR'S NOTE: Title LXVI, Chapter I, §§ 62010-62021, added by P.L. 12-200, effective January 10, 1975, provided with new title and chapter numbers by Editor to retain numerical sequence.]

Public Law 13-89
Thirteenth Guam Legislature
(Bill 499)

AN ACT

An Act to amend Section 62012 A to increase the membership of the Central Planning Council, to repeal and reenact Section 62015, to add Sections 62015.1 and 62015.2, to amend Sections 62016, 62017, and 62019 and to repeal Sections 13205, 13206, 13207, 13208, and 13250 of the Government Code of Guam relative to withdrawing from the Territorial Planning Commission its functions concerning the development of a Comprehensive Plan for Guam and to requiring Legislative consent to the Director of the Bureau of Planning, and for other purposes.

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

Section 1. Section 62012 A of the Government Code of Guam is hereby amended to read as follows:

"A. Central Planning Council. Creation and membership. There is created in the Government Code of Guam a Central Planning Council (hereinafter referred to as 'Council'), consisting of eleven (11) members consisting of the members of the Territorial Planning Commission, two (2) to be appointed by the Governor from the heads of departments or agencies of the Government of Guam and two (2) to be appointed by the Speaker from among private citizens. The Attorney General or his authorized designee shall act as legal counsel to the Council."

Section 2. Section 62015 of the Government Code of Guam is hereby repealed and reenacted to read as follows:

"Section 62015. Plan review: public hearings. Comprehensive Plan elements, prepared by the various public agencies, 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 or more public hearings thereon. Announcements of such hearings shall be placed 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 BP and submitted to appropriate news or other media."

Section 3. A new Section 62015.1 is hereby added to the Government Code of Guam to read as follows:

"Section 62015.1. Plan submission. Within fifteen (15) days after the hearing of a plan element or elements, the Council shall submit to the Governor its recommendation thereon including a summary of testimony at the hearing."

Section 4. A new Section 62015.2 is hereby added to the Government Code of Guam to read as follows:

"Section 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."

Section 5. Section 62016 of the Government Code of Guam is hereby amended to read as follows:

"Section 62016. Plan adoption. Comprehensive Plan elements received by the Governor from the Council may be approved, disapproved or referred to the Council for further recommendation prior to approval. Following approval by the Governor, Plan elements shall be submitted to the Guam Legislature for adoption by resolution."

Section 6. Section 62017 of the Government Code of Guam is hereby amended to read as follows:

"Section 62017. Bureau of Planning. There is created within the Office of the Governor, the Bureau of Planning, (hereinafter referred to as 'BP') to serve as staff for the Council and to administer central planning functions. The director BP will carry the Title 'Director of Planning' and shall be appointed by the Governor with the consent of the Legislature. He shall be a person who as a result of his 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's salary shall be as provided by Section 4106 of the Government Code of Guam. He shall be responsible for the administration of this Chapter and shall supervise the BP staff which, in addition to its regular duties, shall serve the Council."

Section 7. Subsection F of Section 62019 of the Government Code of Guam is hereby amended to read as follows:

"F. to submit the plan to the Council for public hearings as provided in this Chapter;"

Section 8. Section 13205, 13206, 13207, 13208, and 13250 of the Government Code of Guam are hereby repealed in their entireties.

Section 9. Section 4106 of the Government Code of Guam is hereby amended by adding the following:

"Director of Planning 1 $26,000"

Section 10. Section 9 of this Act shall become effective only upon the implementation of Section 1 of Public Law 12-197.

November 5, 1975.

TITLE XVIII

Zoning Law

Chapter I. General Provisions.
II. Establishment of Zones and Boundries.
III. Use Regulations.
IV. Height Regulations.
V. Yard and Area Regulations.
VI. Accessory Buildings.
VII. Nonconforming Buildings and Uses.
VIII. Automobile Parking and Loading Space Regulations
IX. Sign Regulations.
X. Junk Yards.
XI. Administration and Enforcement.
XII. Appeals and Reviews.
XIII. Changes of Zones.
XIV. Recording: Submission to the Legislature.
XV. Fees.
XVI. Penalty for Violation.

CHAPTER I

General Provisions

§ 17000. Title.
§ 17001. Purpose.
§ 17002. Definitions.
§ 17003. Interpretation.

§ 17000. Title. This Title shall be known as "The Zoning Law of the Territory of Guam." [Included in Original Government Code of Guam enacted P.L. 1-88, 1952.]

§ 17001. Purpose. The purpose of this Title 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. [Included in Original Government Code of Guam enacted by P.L. 1-88,1952.]

§ 17002. Definitions. For the purpose of this Title, certain terms are defined as follows:

"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.

"Apartment House." Same as "dwelling, multiple."

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

"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.

"Building." Any structure built for the support, shelter or enclosure of persons, animals, chattels, or property of any kind.

"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.

"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. [Amended by P.L. 10-5, effective February 3, 1969.]

"Commission." Shall mean the "Territorial Planning Commission of Guam."

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

"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.

"Dwelling, One-Family." A detached building containing only one dwelling unit.

"Dwelling, Two-Family." A detached building containing two dwelling units.

"Dwelling,Multiple." A building containing three or more dwelling units.

"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.

"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.

"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.

"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 stripped on the premises of the garage or automobile repair business.[Added by P.L. 9-126, effective January 29, 1968.]

"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.

"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. [Amended by P.L. 9-252, effective August 29, 1968.]

"Lot Line, rear." The lot line which is opposite and most distant from the front lot line.

"Lot Line, side." Any lot line not a front lot line or a rear lot line.

"Lot Depth." The horizontal distance between the front and rear lot lines, measured in the mean direction of the sie lot lines.

"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.

"Lot Area." The total horizontal area within the lot lines of a lot.

"Noncomforming Building." A building or structure which does not conform to the regulations of this Title and which lawfully existed at the time the regulations, with which it does not conform, became effective.

"Nonconforming Use." A use of a building or land which does not conform to the regulations of this Title and which lawfully existed at the time the regulations, with which it does not conform, became effective.

"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. [Added by P.L. 9-232, effective August 10, 1968.]

"Story." That portion of a building between the surface of any floor and the surface of the floor or ceiling next above it.

"Structure." Anything constructed or erected which requires location on the ground or attached to something having a location on the ground.

"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.

"Yard." An open space on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this Title.

"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.

"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.

"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. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952: amended where indicated herein.]

§ 17003. Interpretation. In interpreting and applying the provisions of this Title, 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. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

CHAPTER II

Establishment of Zones and Boundries

§ 17050. Zone.
§ 17050.1 Zoning map: Agana: adopted.
§ 17051. Zone boundries.

§ 17050. Zones. In order to carry out the purposes and provisions of this Title, 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
"ML" Limited Industrial Zone
"M2" Industrial Zone
"LC" Limited Commercial Zone

The aforesaid zone symbols and the boundries 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. [Enacted 1952: repealed and added by P.L. 6-136, effective December 18, 1962.]

§ 17050.1. 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. [Repealed and added by P.L. 10-5, effective February 3, 1969; Amended by P.L. 12-160, effective August 26, 1974.]

§ 17051. Zone boundries. where the zone boundries indicated on the "Zoning Map," said map, and all notations, references and their extensions; such lines shall be construed to be the zone boundries.

Where the zone boundries indicated on said map are not street, alley or lot lines, or extensions thereof, the zone boundries 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 boundry, the Commission shall have the power and duty to determine its intended location. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

§ 17052. 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 § 17050 of this Title, 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. [Added by P.L. 10-106, effective February 6, 1970.]

§ 17053. Basic Lots Nos. 242, 243 and 269 REM, all in Maina in the municipality of Asan, are hereby rezoned to R-2, multiple dwelling. [Added by P.L. 12-111, effective March 15, 1974.]

§ 17053.1. Lots Nos. 235-REM-3-1 and 235-REM-3-2 in Maina in the municipality of Asan are hereby rezoned to C, commercial. [Added by P.L. 12-111, effective March 15, 1974.]

§ 17053.2. 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 established as commercial zone property. The Department of Land Management is hereby directed to amend its zoning maps accordingly. [Added by P.L. 12-160, effective August 26, 1974.]

§ 17053.4. 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. [Added by P.L. 12-160, effective August 26, 1974.]

§ 17053.3. 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. [Added by P.L. 12-160, effective August 26, 1974.]

CHAPTER III

Use Regulations

§ 17100. Conformance of uses to zone regulations.
§ 17101. Regulations along district boundries.
§ 17102. Conditional use.
§ 17103. "A" rural zone.
§ 17104. "R1" single family dwelling zone.
§ 17105. "R2" multiple dwelling zone.
§ 17106. "C" commercial zone.
§ 17107. "P" automobile parking zone.
§ 17108. "M1" light industrial zone.
§ 17109. "M2" heavy industrial zone.

§ 17100. 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.

§ 17101. Regulations along district boundries. Where a commercial or industrial use occurs in zones permitting 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.

§ 17102. Conditional use. In addition to permitted uses in each of the zones, specified uses will be permitted upon approval by the Commission of the site plan, including, but not limited to, disposal of sewage, access, parking, structure location and accompanying convenants that may include performance standards.

§ 17103. "A" rural zone.

(a) Use 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. 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 Use

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, cockpits, 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.

§ 17104. "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.

§ 17105. "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 use 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.

§ 17106. "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, 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.
15. Accessory structures for the above.

(b) Conditional Use

1. Hospital and clinics.
2. Public utility and other public buildings.
3. Shopping center
4. Recreation, including cockpits, marinas, amusement centers, drive-in theatres.
5. Multi-family.
6. Hotels, motels, tourist accommodations.
7. Air, bus, taxi, auto rental terminals.
8. Auto sales and car wash.
9. Parking garages and lots.
10. Service vehicle storage.
11. Laundries and cleaning and dyeing establishments.
12. Schools and churches.
13. Parks, playgrounds, community centers.
14. Utilities and public facilities.
15. Accessory uses and structures for the above.

§ 17107. "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.

§ 17108. "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 evidenced 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.

§ 17109. "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 Chapter X of this Title.
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, vibrations, 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.

[Original Chapter III, consisting of §§ 17100-17107, enacted 1952; original § 17108 added by P.L. 5-64, effective February 29, 1960; Chapter III was repealed and a new Chapter III added (§§ 17100-17109) by P.L. 9-252, effective August 29, 1968. Original § 17107 had been amended by P.L. 9-126, effective January 29, 1968.]

"Section 17110. 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 accomodate 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 pedestrial 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 250 or more parking spaces."

"Section 17111. All land excluding Ypao Beach Park and Lot No. 5140-1 Ypao, Tumon and Dededo consisting of 39,136.26 square meters all government recreational and multi-purpose lands in the area known as Tumon Bay from Ypao Beach to San Vitores Beach along the adjoining natural cliffline boundary seaward as designated by the Bureau of Planning on Orthographics Map Numbers 46, 47 and 51, at the effective date of this Act is hereby zoned "H" Resort-Hotel Zone pursuant to the provisions of this Act."

Section 3. Any property owner affected by the rezoning in this Act may, notwithstanding the provisions of this Act, and not more than ninety (90) days after the effective date of this Act, notify the Territorial Planning Commission that he desires that his land remain zoned as it is on the effective date of this Act, and his land shall then remain so zoned.

The Director of the Department of Land Management, as the Executive Secretary of the Territorial Planning Commission, shall, within 48 hours of the effective date of this Act, send each landowner affected herein with a written notice concerning the provisions of this Section of this Act.

IV HEIGHT REGULATIONS

§ 17150. Height limit established.
§ 17151. Buildings and structures permitted above height limit.

§ 17150. Height limit established. In the "A," "R1," "LC," "R2," "C," "M1," and "M2" Zones, no building or structures shall be erected or maintained, nor shall any existing building or structure be altered, enlarged, moved, or maintained, to exceed a height limit or two (2) stories (the two (2) 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 (6) stories shall not exceed a height of seventy-five (75) feet).[Enacted 1952; amended by P.L. 7-19, effective May 9, 1963.]

§ 17151. 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 (2) stories or thirty (30) feet, if such building is located at least a distance equal to two (2) 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 (2) 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 (2) 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). [Enacted 1952; subsection (e) added by P.L. 9-197, effective July 1, 1968.]

CHAPTER V
Yard and Area Regulations

§ 17200. Minimum yards and lot areas established.
§ 17201. General Yard and area requirements.
§ 17202. Exceptions to yard and area regulations.
§ 17203. Statements of purpose: building and building height restrictions in beach areas.

§ 17200. 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, 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 twenty (120) feet with an area of not less than forty thousand (40,000) square feet. The lot area per dwelling unit in the Rural Zone (A) shall be not less than ten thousand (10,000) square feet.

YARD AND LOT AREA

Use	Front Yard Depth	Rear Yard Depth	Side Yard Depth	Lot Width	Lot Area	Lot Area per Dwelling Unit
Single Family	15 ft.	10 ft.	8 ft.	50 ft.	5,000 sq. ft.	5,000 sq. ft.
Multi-Family	15 ft.	10 ft.	8 ft.	50 ft.	5,000 sq. ft.	1,250 sq. ft.
Commercial	. . .	20 ft.	. . .	20 ft.	2,000 sq. ft.	400 sq. ft.
Light Indus.	. . .	20 ft.	8 ft.	50 ft.	5,000 sq. ft.	1,250 sq. ft.
Heavy Indus.	25 ft.	25 ft.	15 ft.	120 ft.	40,000 sq. ft.	. . . .

Unless facilities are otherwise provided for loading, the rear yard must be not less than twenty (20) feet in depth. [Enacted1952; amended by P.L. 9-103, effective August 23, 1967; further amended by P.L. 9-252, effective August 29, 1968.]

§ 17201. 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 "Yards 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. [Amended by P.L. 10-5, effective February 3, 1969.]

§ 17202. 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, eves, belt courses, sills, canopies or other similar architectural features, may project into a required side yard not more than two (2) inches for each one (1) 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 four (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 (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 building 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. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

§ 17203. 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 untrammeled use of beach areas beyond the high water mark, and finally, that such construc i n destroys the natural beauty of Guam's beaches, one of the territ ry'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 t use the beaches of the territory to the maximum extent not incompatible with private ownership of the lands adjoining said beaches.

§ 17203 (b) Along any beach in the territory of Guam, no building may be constructed within thirty-five feet (35') of the mean high water-mark 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 the term 'building' included any structure except a retaining wall that cannot be seen. [Added by P.L. 9-163, effective March 7, 1968; amended by P.L. 12-19, effective April 24, 1973.]

CHAPTER VI

Accessory Buildings

§ 17250. Location of accessory buildings.

§ 17250. 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 (1/2) 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 be not 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 (1/2) of a lot, except on hillside lots where the topography makes it impractical to conform to the other regulations of this article. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

CHAPTER VII

Nonconforming Buildings and Uses

§ 17300. Nonconforming buildings.
§ 17301. Nonconforming use of buildings.
§ 17302. Nonconforming use of land.
§ 17303. Nonconforming by reclassification or change.

§ 17300. 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.

§ 17300(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 § 17203 of this Title 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. [Enacted 1952; subsection (e) added by P.L. 9-163, effective March 7, 1968.]

§ 17301. 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 a 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 non-conforming 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.]

§ 17302. 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 Title. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

§ 17303. Nonconforming by reclassification or change. The foregoing provisions of this Title 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 Title. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

CHAPTER VIII

Automobile Parking and Loading Space Regulations

§ 17350. Automobile parking space
§ 17351. General requirements
§ 17352. Loading space

§ 17350. Automobile parking space. Off-street automobile parking space shall be provided as follows:

(a) For dwelling, at least two (2) automobile parking spaces for each dwelling unit;

(b) For hotels, at least one (1) automobile parking space for each four (4) guest rooms;

(c) For places of assembly, such as churches, auditoriums or theaters with seating facilities, one (1) parking space for each four (4) seats;

(d) For places of assembly, such as restaurants or night clubs without fixed seating facilities, one (1) 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 (1) 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 (1) space for each one hundred and fifty (150) square feet or portion thereof of usable commercial floor area;

(g) For professional and business offices, public administration offices, one (1) 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 (1) space for each two (2) beds;

(j) Three (3) 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 Planning Commission. [Enacted 1952; Amended by P.L. 9-205, effective July 10, 1968; Amended by P.L. 11-60, effective June 10, 1971; Amended by P.L. 12-142, effective May 31, 1974;

§ 17351. General requirements. (a) Automobile parking space required by this Title 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 contain a minimum of one hundred and eighty (180) square feet and shall have adequate access to a public right of way. [Enacted 1952; Amended by P.L. 12-142, effective May 31, 1974.]

§ 17352. 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. [Enacted 1952; Repealed and reenacted by P.L. 12-142, effective May 31, 1974.]

CHAPTER IX

Sign Regulations

§ 17400. Restriction of use.
§ 17401. Erection of signs.

§ 17400. 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 indentification 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 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 (1) 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 (1) 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 therin.

(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:
(a) Individual signs shall be non-flashing and non-moving.
(b) 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.
(c) Individual signs shall not cover an area in excess of five percent (05%) of the surface of the wall to which they are attached.
(2) Free Standing, double-faced signs identifying organized commercial shopping centers housing a variety of uses, provided that:
(a) Such sign shall not exceed forty (40) square feet in area on each face nor twelve (12) feet in height.
(b) Such structure shall not be placed closer than ten (10) feet to any street or highway right of way.
(c) Such signs shall be non-moving and non-flashing.
(d) One (1) such sign shall be permitted for each such shopping center.

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

(1) Signs indicating the name of the person, or the type of industry occupying the premises or the name of the building, provided that:
(a) Individual signs shall be non-flashing and non-moving.
(b) 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.
(c) 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:
(a) Such sign shall not exceed sixty (60) square feet in area nor twelve feet (12) in height.
(b) Such structure shall not be placed closer than ten (10) feet to any street or highway right of way.
(c) Such signs shall be non-moving and non-flashing.
(d) One (1) such sign shall be allowed for each industrial structure, or complex of 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.

§ 17401. 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 (Title XXXII Government Code of Guam).

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. [Original Chapter IX, consisting of §§ 17400-17403 as enacted in 1952 and added by P.L. 2-12, effective February 17, 1953, was repealed and New Chapter IX (§§ 17400-17401) added by P.L. 8-176, effective August 19, 1966.]

CHAPTER X
Junk Yards

§ 17425. Permits required.
§ 17426. Improvement standards.
§ 17427. Application required.
§ 17428. Hearing required.
§ 17429. Permit issued or denied.
§ 17420. Nonconforming junk yards.

§ 17425. Permits required. No person shall establish a junk yard or extend the boundries of an existing junk yard without obtaining a permit from the Territorial Planning Commission. Junk yards which are established on the effective date of this Chapter shall be governed by the provisions of § 17430.

§ 17426. 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.

§ 17427. Application required. The owner shall make application for the issuance of a permit under this Chapter to the Territorial Planning 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

§ 17428. Hearing required. Within one (1) month of the first regularly scheduled Territorial Planning Commission meeting after receipt of an application, the Territorial Planning Commission shall hold a public hearing on the proposed junk yard. The Territorial Planning 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 appear in a newspaper of general circulation throughout the territory at least ten (10) days prior to the hearing.

§ 17429. Permit issued or denied. After such public hearing, if the Territorial Planning Commission determines that the standards set forth in § 17451 are met, the Territorial Planning Commission shall issue a permit. Any person aggrieved by a decision of the Territorial Planning Commission under this section shall have the right to appeal to the Island Court as provided in § 17506 of this Title.

§ 17430. 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 Chapter VII of this Title, provided that it is made to conform to the provisions of § 17426 within the (1) year of the effective date of this Chapter. If such action is not taken, the provisions of subparagraph (a) shall apply. [Original Chapter X, consisting of §§ 17450-17453 renumbered to Chapter XI by P.L. 9-126, approved January 29, 1968, effective March 29, 1968. New Chapter X, consisting of §§ 17425-17430, added by P.L. 9-126, approved January 29, 1968, effective March 29, 1968.]

CHAPTER XI
Administration and Enforcement

§ 17450. Enforcement.
§ 17451. Building permit required.
§ 17452. Building permit not to be issued.
§ 17453. License approval required.

§ 17450. Enforcement. The Building Official designated in Title XXXII of the Government Code of Guam shall have the power and duty to enforce the provisions of this law. All authority granted to him by Title XXXII of this Code may be used in furtherance of these enforcement activities, whenever such authority is necessary and applicable. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

§ 17451. **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 Title XXXII of the Government Code of Guam; 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 XXVI of this Code. [Amended by P.L. 2-21, effective June 23, 1953; included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

§ 17452. **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 Title, shall be null and void. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

§ 17453. **License approval required.** No license pertaining to the use ofland 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 Title. Any license issued in conflict with the provisions of this Title shall be null and void. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.] [Renumbered to Chapter XI from original Chapter X by P.L. 9-126, approved January 29, 1968, effective March 29, 1968.]

CHAPTER XII
Appeals and Reviews

§ 17500. Appeals involving administration enforcement.
§ 17501. Variances.
§ 17502. Variance requirements.
§ 17503. Variance application - form and contents.
§ 17504. Hearing date - notice.
§ 17505. Decision by Territorial Planning Commission.
§ 17506. Decision final - appeal.
§ 17507. Jurisdiction.

§ 17500. **Appeals involving administration enforcement.** The Territorial Planning 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 administration official in the administration of this Title; 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 Title.

The procedure for filing such appeals as well as the procedure governing the actions of the Commission theron, shall be similar as that set forth in §§ 31062-31071 inclusive of Title XXXII of the Government Code of Guam. [Enacted 1952; amended by P.L. 7-91, effective February 13,1964.]

§ 17501. **Variances.** Where practical difficulties, unnecessary hardships, or results inconsistent with the general purposes of this Title would occur from its strict literal interpretation or enforcement, the Territorial Planning 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 and 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 of 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 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 purpose of this Title;

(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 theyare prohibited by this Title: 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 § 17203 of this Title. [Enacted 1952; Subsection (j) added by P.L. 9-163, effective March 7, 1968.]

§ 17501 (k). [§ 17501 (j)]. "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." [Subparagraph (k) added as (j) by P.L. 10-173, effective August 15, 1970; relettered to (k) by Editor.]

§ 17502. **Variance requirements.** No variance shall be granted by the Commission unless it finds:

(a) That the strict application of the provisions of this Title 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 granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in th zone or neighborhood in which the property is located; and

(d) That the granting 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 § 17203 of this Title, 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 untrammeled use of the beach and its natural beauty. [Subsection (e) added by P.L. 9-163, effective March 7, 1968.]

The above requirements need not apply to the types of uses specified in § 17501 (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. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

§ 17503. **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. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

§ 17504. **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 according to rules established by the Commission, but any party in interest may appear in person, or by designated attorney or agent.[Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

§ 17505. **Decision by Territorial Planning 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 § 17502, 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 § 17502, 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. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

§ 17506. **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 Island 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. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

§ 17507. **Jurisdiction.** The Island Court of Guam shall have jurisdiction over all actions arising from the provisions of this Title. [added by P.L. 7-91, effective February 13, 1964.] [Chapter XII renumbered from original Chapter XI by P.L. 9-126, approved January 29, 1968, effective March 29, 1968.]

CHAPTER XIII
Changes of Zones

§ 17600. Requirements for changes.
§ 17601. Procedure.
§ 17602. Application - form and contents.
§ 17603. Hearing date - notice.
§ 17604. Decision by Commission.
§ 17605. Planned development districts.
§ 17606. Change of "Zoning Map."

§ 17600. **Requirements for changes.** The Commission may, with the approval of the Governor, change the zones established under this Title whenever it finds that the public necessity, convenience and general welfare justify such action. [Enacted 1952; repealed and added by P.L. 6-136 effective December 18, 1962.]

§ 17601. **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. [Enacted 1952; repealed and added by P.L. 6-136, effective December 18, 1962.]

§ 17602. **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. [enacted 1952; repealed and added by P.L. 6-136, effective December 18, 1962.]

§ 17603. **Hearing date - notice.** Upon the filing of an application for change of zone, the Commission shall hold at least one (1) 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 this 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, 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. [Amended by P.L. 10-158, effective July 3, 1970.]

§ 17604. **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 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. [Enacted 1952; repealed and added by P.L. 6-136, effective December 18, 1962.]

§ 17605. **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 Planning Commission. The application shall be accompanied by the appropriate fee and the detailed plan, or revision thereof. The Territorial Planning 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 that 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 Planning Commission may impose such regulations of yards, open space, lot coverage, density, and height as are reasonably required to permit the foregoing findings. [Enacted 1952; repealed and added by P.L. 6-136, effective December 18, 1962; repealed and added by P.L. 9-232, effective August 10, 1968.]

§ 17606. **Change of "Zoning Map."** Any change of zones or approval of comprehensive community plan pursuant to this Chapter shall be endorsed and delineated upon the "Zoning Map" and shall constiture an amendment of said map. [Added by P.L. 6-136, effective December 18, 1962.] [Chapter XIII renumber from original Chapter XII by P.L. 9-126, approved January 29, 1968, effective March 29, 1968.]

§ 17607. 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. [Added by P.L. 12-208, effective January 23, 1975.]

CHAPTER XIV
Recording - Submission to the Legislature

§ 17625. Recording.
§ 17626. Inspection.
§ 17627. Submission to the Legislature.
§ 17628. Failure to submit.

§ 17625. **Recording.** Upon the approval of any "Zoning Map" or amendment thereto, a copy of same shall be recorded in the Department of Land Management.

§ 17626. Inspection. Any "Zoning Map" or amendment thereto recorded pursuant to this Chapter shall be open to public inspection during normal government business hours.

§ 17627. Submission to the Legislature. The "Zoning Map" or amendment 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.

§ 17628. Failure to submit. The "Zoning Map" or any amendments thereto not submitted to the Legislature in accordance with this Chapter shall become automatically inoperative and void at midnight of the last day of the session to which it should have been submitted.
[Editor's Note: Chapter XIV was added as new Chapter XIII by P.L. 6-136, effective December 18, 1962. Original Chapter XIII, as enacted in 1952, was renumbered to Chapter XIV by P.L. 6-136, effective December 18, 1962. New Chapter XIII and old Chapter XIV were renumbered to present Chapters XIV and XV respectively by P.L. 9-126, approved January 29, 1968, and effective March 29, 1968.]

CHAPTER XV
Fees

§ 17650. Filing fees for appeals - variances - changes of zones.

§ 17650. Filing fees for appeals - variances - changes of zones. 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

[Amended by P.L. 10-156, effective July 3, 1970.]

CHAPTER XVI
Penalty for Violation

§ 17700. Penalty

§ 17700. Penalty. Any person, firm, corporation or officer thereof, violating any of the provisions of this Title shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not more than one hundred dollars ($100.00) or by imprisonment in jail for a period of not more than one (1) month, or by both such fine and imprisonment. Such person, firm or corporation shall be deemed quilty for each day during any portion of which any violation is committed, continued, or permitted and shall be punishable as herein provided. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952, as Chapter XIV; renumbered to Chapter XV by P.L. 6-136, effective December 18, 1962; further renumbered to Chapter XVI by P.L. 9-126, approved January 29, 1968, effective March 29, 1968.]

TITLE XIX
Subdivision Law

Chapter I. General Provisions.
II. Procedure for Subdividing Land.
III. Lot Parcelling and Agricultural Subdivisions.
IV. Requirements for Plans and Maps.
V. Improvements.
VI. Variances and Appeals.
VII. Penalties, Amendments, Interpretation and Separability.

CHAPTER I
General Provisions

§ 18000. Title.
§ 18001. Purpose and intent.
§ 18001.5 Decedents' estates.
§ 18002. Definitions.
§ 18003. Authority of the Commission.
§ 18004. Commission approval.
§ 18005. General requirements for subdivisions.

§ 18000. Title. This Title shall be known as "The Subdivision Law." [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18001. Purpose and intent. 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 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. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962; Amended by P.L. 12-90, effective January 16, 1974.]

§ 18001.1. 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. [Added by P.L. 12-90, effective January 16, 1974.]

§18001.5 (a) Chapter V of this Title shall not apply to land which is an asset of the estate of a descendant, provided however, that before the distribution of any such land by the Court, the Territorial Planner or the Commission shall requie street and utility easements on said land to insured lot division, consistent with the general plan; further provided however, that the minimum size of each lot shall be no less than 10,000 square feet.

(b) Chapter V of this Title shall 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 clases to the effect that the children or descendants in fee simple and said deeds shall contain alienation clauses to the effect that the children or descendants shall not sell, lease or otherwise alienate such lots for a period of at least five (5) years, and further provided that before 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 divisions consistent with the general plan and that the minimum size of each lot shall be not less than 10,000 square feet."

§ 18002. 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 forty thousand (40,000) square feet and in which all lots, parcels or sites are used principally for agriculture, single family residence 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 Section 18001.5(a) or Section 18001.5(b) of this Title 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 Planning 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 shallbe 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 subdivison 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 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 of 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, ded 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 effective date of this Title into no more than five (5) parcels. Lot parcelling of a lot shall include all methods of such action whether by sale, desigh, 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 for 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. [Enacted 1952; repealed and added by P.L. 6-134,effective December 18, 1962; (o) amended by editor pursuant to P.L. 7-101, effective July 11, 1964, and P.L. 9-147, effective February 16, 1968.]

§ 18003. 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 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. Such rules and regulations shall become effective upon approval by the Governor. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18004. 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 Title and any applicable rules, regulations, specifications or standards adopted by the Commission. No subdivider shall subdivide any land except in accordance with this Title, or sell, lease or assign, or offer for sale, any subdivision or a proposed subdivision or any part thereof, or any lot, parcel or site therein until the record map has been officially recorded. [Enacted 1952; repealed and added by P. L. 6-134, effective December 18, 1962.]

§ 18005. General requirements for subdivisions. In all subdivisions presented for recording under this Title, the subdivider shall:
(a) Not subdivide or develop land for any purpose contrary to the provisions of the Zoning Law, Title XVIII, Government Code of Guam.
(b) Cause every lot to abut a roadway right of way having a minimum width of forty (40) feet, except that the Commission may, where circumstances warrant, permit the subdivider to utilize roadway rights-of-way less than forty (40) feet but in no case less than twenty (20) feet in width. [Subparagraph (b) amended by P.L. 10-157, effective July 3, 1970.]
(c) Except as may be provided for pursuant to § 21208.3, Title XXII, Government Code of Guam, 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 and 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. [Added by P.L. 6-134, effective December 18, 1962.]

CHAPTER II

Procedure for Subdividing Land

§ 18100. Application to establish subdivision.
§ 18101. Fees.
§ 18102. Review of tentative plans.
§ 18103. Action by Commission.
§ 18104. Submission of final plans.
§ 18105. Final plans approval and recordation.
§ 18106. Reversion to acreage, maps and plats.
§ 18107. Building permits.
§ 18108. Revocation of tentative plans.

§ 18100. Application to establish subdivision. A subdivider desiring to subdivide or develop land pursuant to this Title 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 § 18300 of this Title. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18101. 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. [Enacted 1952; repealed and added by P. L. 6-134, effective December 18, 1962.]

§ 18102. 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. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18103. 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. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18104. Submission of final plans. Within one (1) year after approval of tentative subdivison plans, the subdivider shall file with the Territorial Planner the final plans prepared in accordance with § 18301 of this Title. The final plans shall be accompanied by a written application for approval thereof in a form prescribed by the Commission [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18105. 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 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 Article IV, Chapter II, Title XIV, Government Code of Guam. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18106. 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. [Enacted 1952;repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18107. 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. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18108. Revocation of tentative plans. The Commission shall not consider or approve final plans for a subdivision which are submitted after one (1) year, or after any extension of time granted by the Commission during such year, following approval of tentative plans. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

CHAPTER III

Lot Parcelling and Agricultural Subdivisions

§ 18200. General.
§ 18201. Application to establish lot parcelling or agricultural subdivisions.
§ 18202. Lot parcelling approval.
§ 18203. Parcelling map recordation.
§ 18204. Survey required for parcelling map.
§ 18205. Resubdivisions.
§ 18206. Certificate of ownership required (Repealed).
§ 18207. Action on final map (Repealed).
§ 18208. Effective recordation of final map (Repealed).

§ 18200. General. The requirements of Chapter II and Chapter V of this Title shall not apply to lot parcelling subdivisions and agricultural subdivisions. [enacted 1952; repealed and added by P. L. 6-134, effective December 18, 1962.]

§ 18201. 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 § 18204 of this Title. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18202. Lot parcelling approval. Within fifteen (15) days following receipt of an application to establish a lot parcelling or agricultural dubdivision, 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 § 18400 of this Title. 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. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18203. 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 Article IV, Chapter II, Title XIV, Government Code of Guam, which map shall not be effective until recorded. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18204. 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. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18205. Resubdivisions. Resubdivisions of regular or lot parcelling subdivision shall be initiated and acted upon subject to the procedures of the Chapter, provided, however, that resubdivisions involving six (6) or more lots or resubdivisions requiring subdivision improvements shall be initiated and acted upon as a new subdivision in accordance with the provisions of Chapter II of this Title. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.[[Repeealed by P.L. 6-134, effective December 18, 1962.]

CHAPTER IV

Requirements for Plans and Maps

§ 18300. Form of tentative plans.
§ 18301. Form of final plans.

§ 18300. 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 emprovement plans.

(a) The subdivider shall cause the tentative subdivision map to be prepared by and 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 boundries 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 on 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 ground slope is five percent (5%) or less or contour intervals of five feet (5') where the ground slope is more than five per cent (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. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18301. 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 and 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 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 makde and shall be in such condition when filed tha good, legible prints can be made therefrom.
(2) The map shall contain the tract number in letters no less than one-half (½") 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 street, 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 of all subdivision improvements. The details of the 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. [Added by P.L. 6-134, effective December 18, 1962.]

CHAPTER V
Improvements

§ 18400. Required improvements.
§ 18401. Utilities extensions - planned areas.
§ 18402 Utilities extensions - unplanned areas.
§ 18403 Time allowed for completion of improvements.

§ 18400. Required improvements. The subdivider shall provide the following improvements and improvement areas within time limits specified by the Commission:

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

All street 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 a 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. [Added by P.L. 11-134, effective April 26, 1972.]

(b) Street 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 land.

(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 depts 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 Title shall conform thereto.

(f) Survey Monuments. Permanent concrete monuments shall be installed at all point of direction change in the subdivision perimeter and in the exterior lines of blocks. [enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18401. 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. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18402. Utilities extensions - 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 § 18401 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. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18403. 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 per cent (115%) of total work costs as verified by the Director of Public Works. On approval of the bond, the final plans may be filed. [Added by P.L. 6-134, effective December 18, 1962.]

CHAPTER VI
Variances and Appeals

§ 18500. Petition for variances.
§ 18501. Variance subdivisions.
§ 18502. Unit development.
§ 18503. Judicial review.

§ 18500. 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 plan for the territory, and of this Title. [Enacted 1952, repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18501. 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 Title. 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. [Added by P.L. 6-134, effective December 18, 1962.]

§ 18502. Unit development. The standards and requirements of this Title 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. [Added by P.L. 6-134, effective December 18, 1962.]

§ 18503. 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 Island 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 or any improvement relatingthereto 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 the matter to the Commission for further action in accordance with the evidence. [Added by P.L. 6-134, effective December 18, 1962.]

CHAPTER VII

Penalties, Amendments, Interpretation and Separability

§ 18600. Violation penalties.
§ 18601. Separability.
§ 18602. Repeal.

§ 18600. Violation penalties.
(a) Any individual agent, partnership, firm, association, corporation or any other legal entity violatingany of the provisions of this Title shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more that five hundred dollars ($500.00) for each offense. Such individual agent, partnership, firm, association, corporation or other legal entity shall be deemed guilty of an offense for each day or portion thereof in which any violation is committed, continued or permitted, and shall be punishable as herein provided for each such day or portion thereof.
(b) The imposition of any sentence made under this section shall not exempt the offender from compliance with the requirements of this Title. [Repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18601. Separability. If any section, subsection, sentence, clause, phrase or portion of this Title is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Title. The Legislature hereby declares that it would have passed and does hereby pass this Title and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, phrases, or portions therof, be declared invalid. [Repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18602. Repeal. All Acts or parts of Acts which are inconsistent with the provisions of this Title are hereby repealed to the extent of such inconsistency. [Original Chapter 7, consisting of §§ 18600-18606, as added by P.L. 5-142, effective September 8, 1960, repealed by P.L. 6-134, effective December 18, 1962.]

Public Law 13-69
Thirteenth Guam Legislature
(Bill 48)

AN ACT

An Act to add a new subparagraph (h) to Section 18005 of the Government Code of Guam relative to requiring the developer of a subdivision to provide adequate public access to recreational lands.

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

Section 1. Statement of Legislative Finding. The Legislature finds there is a great need for the establishment and preservation of public access to many areas in the territory. There are miles of coastal shorelines and waters under the jurisdiction of the territory which are inaccessible to the public due to the absence of public rights-of-way; the absence of public rights-of-way is a contributing factor to acts of hostility against private shoreline properties; the population of the island is increasing while the now accessible beach and shoreline areas remain fixed; and the absence of public access to Guam's coastal shoreline constitutes an infringement upon the fundamental right of free movement in public space and of access to and use of the sea. The Legislature further finds that urbanization also may prevent or impede public access to hill and jungle lands which have areas for hiking, hunting, fruit-picking and other recreational purposes.

Section 2. Section 18005 of the Government Code of Guam is amended by the addition of a new Subparagraph (h) to read as follows:

"(h) In cases where public access is not already provided, dedicate land for public access by right-of-way for pedestrain 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."

Section 3. This Act shall have immediate effect and shall apply to the plan of any subdivision or development which has not been approved prior to the date it shall take effect.

Approved October 22, 1975.

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 belonging 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 of 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 employees;

(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 preservation, 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 reserve 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 detraction 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 provision 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 1. Section 13413 of the Government 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 days' 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 disavantage 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
§ 13454. 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 throwmet 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 recognizes that over the years the public has made frequent and uninterrupted use of such ocean shore and recognizes, further, that where such use 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 untrammeled 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 (2) 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 §§ 13454 and 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 file.**

(a) In any court proceedings involving prescriptive rights of the public over unregistered 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 Areas", by P.L. 12-109, 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.
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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.
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§ 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 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 Subdivision (i) or any combination of such uses, and compatible uses as designated by the department.

(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 of land within the preserve and subject to contract. 'Compatible use' includes agricultural use, recreational use, 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 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 therewith in 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 disestablish 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 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 Commission. 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 exist 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 (10) 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 of 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 cancelled 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 the 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 19312.2 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 cancelled, 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 cancelled 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 cancelled 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 judgment 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 cancelled 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 cancelled 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 one (1) mile of the exterior boundary of the land upon which the contract is proposed to be cancelled.

§ 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 cancelled 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
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§ 26004. Commission: Purposes
§ 26005. Same: Composition: Compensation: Meetings
§ 26006. Same: Duties
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§ 26009. Same: Classification
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§ 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 two divisions, to be known as the Parks Division and the Recreation Division.

§ 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 assistants, 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, State Liaison Officer for Historic Preservation and State Liaison Officer for Forestry and Conservation Programs.

§ 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 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 approve or disapprove those properties to be included within the Territorial Park System, within thirty (30) legislative days following receipt of such a list and failure to so act shall be deemed consent by the Legislature.

§ 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 preservation of their natural features;

(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 Recreation 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 municipalty 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 on 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: Proviso. Money or the proceeds of any property donated, granted or bequeathed generally for the benefit of the Guam Territorial Park System shall be deposited in 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 one (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.]

RECEIVED
OCT 17 1977
BUREAU OF PLANNING

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 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:

(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 Historic preservation and restoration. The department in cooperation with the Central Planning Council 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 sites 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 1 of each year, with recommendations for programs of historic preservation and restoration.

§ 13985.3. Administration. All territorial projects and programs relating to historic preservation and restoration shall come under the authority of the Department.

§ 13985.4. Acquisitions 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 interest 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 convenant, 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 convenants, 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 convenant 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, treatise, 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 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 investigation on sites owned or controlled by the territory, its agencies, 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 improvement, 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 Review Board for Historic Preservation.

§ 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. Monuments: reservation of land; relinquishing of private claims. Upon the recommendation of the Department, the Governor may declare by executive order historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the territory to be territorial monuments and may reserve as a part thereof

parcels of land the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected. When such objects are situated upon a tract covered by a bona fide unperfected claim or held in private ownership, the tract, or so much thereof as may be necessary for the proper care and management of the object, may be relinquished to the territory, and the Governor is authorized to accept the relinquishment of such tracts on behalf of the territory.

§ 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 site is diminished by the excavation or removal of 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.

(2) The Department, upon notification or determination that scientific, historical, or archaeological data including relics and specimens, is or may be adversely affected, shall, after reasonable notice to the responsible agency, conduct or cause to be conduted a survey and other investigations to recover and preserve or otherwise protect such data, including analysis and publication, which in its opinion should be recovered in the public interest.

(3) The Department shall initiate actions within sixty (60) days of notification under Paragraph (1) and within such time as agreed upon in other cases. The responsible agency is authorized and directed to expend agency funds for the purpose of recovering such data, including analysis and publications, and such costs shall be included as part of the contractor's costs if the adverse affect is caused by work being done under contract to a territorial agency.

§ 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. Penalties. It shall be unlawful for any person to take, appropriate, excavate, 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 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.

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.

§ 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 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 signicance 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 living 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 of 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 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. All 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 to 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 Institue 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 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 bylaws, 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 to execute all instruments necessary and appropriate to carry out the purposes of the foundation;

(17) To approve all designations of particular places as places of historical interest;

(18) To establish and maintain an inventory, and certification and evaluation system for portable artifacts signicant 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 museum 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 Territo rial Agencies

§ 13985.41. Declaration of legislative intent
§ 13985 42. Responsibilities of territorial agencies

§ 13985.41. **Declaration of legislative intent.** The Legisla ture declares it to be the public policy of this territory to provide leadershi p in preserving, restoring, and maintaining the historic, architectural, ar- chaeological, and cultural environment of this territory and that there- fore it is the purpose of this part to provide that the instrumentaliti es of the territory administer the historic properties under their control in a spirit of stewardship and trusteeship for future generations and con duct their activities, plans, and programs in a manner consistent with p res- ervation 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 Institute of Spanish-Chamorro Culture 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.

(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,

CHAPTER IV

Game and Fish, Forestry and Conservation

ARTICLE I

Game and Fish

§ 12300. Definitions.
§ 12301. Authority of Department.
§ 12302. Chief Conservation Officer: deputies.
§ 12303. Taking fish with explosives.
§ 12304. Use of explosives unlawful.
§ 12305. Taking fish by means of poisonous or intoxicating substance unlawful.
§ 12306. Use of poison or intoxicating substance unlawful.
§ 12307. Possession of dynamite, explosive, poisonous or intoxicating substance.
§ 12308. Fishing equipment and methods.
§ 12309. Illegally taken fish.
§ 12310. Fish weirs.
§ 12311. Taking of fish.
§ 12312. Unprotected wild animals.
§ 12313. Unprotected wild birds.
§ 12314. Protection of wild birds.
§ 12315. Protection of wild animals.
§ 12316. License to take certain wild animals.
§ 12317. Special license.
§ 12318. Importation: harboring.
§ 12319. Possession of loaded rifle, shotgun, or other firearm in vehicle: definition: exception.
§ 12320. Use of artificial light prohibited.
§ 12321. Regulations.
§ 12322. Confiscation.
§ 12323. Penalty.
§ 12324. Wildlife Conservation Fund.

§ 12300. Definitions. For the purpose of this Article, certain terms and words are defined as follows:

(a) "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.

(b) "Game" means all native or introduced species of wild birds or wild animals.

(c) "Fish" means any aquatic life of whatever nature, including, but not limited to, oysters, clams, mollusks, mussels, crustaceans and shell fish.

§ 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. The Chief Conservation Officer and the Deputy Conservation 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.

§ 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.

§ 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; provided, however, that such regulations shall not prohibit the traditional method of catching local fish such as monahag, tiao and stulai, by means of cast nets (lagua or talaya) or drag nets (chenchulo).

§ 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. A fee of one dollar ($1.00) per weir shall be paid to the Department for such a license which shall be valid for only one (1) year from the date of issuance. The owner shall remove such weir from the water within thirty (30) days after the expiration of the license unless the license is otherwise renewed.

(b) It shall be unlawful for an owner of a fish weir to leave such weir in the waters of Guam unattended for a period of fifteen (15) days.

(c) It shall be unlawful for any person to violate the conditions of any license issued under this section.

§ 12311. Taking of fish. Fish may be taken by lawful means at any time except as prohibited by regulation made under § 12321.

§ 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) Crows.
(b) Marianas starlings.
(c) Woodpeckers (kingfishers).
(d) Black-headed manikins.
(e) European tree sparrows.
(f) Java sparrows. [Amended by P.L. 7-29, effective May 10, 1963.]

§ 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, 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, shotgun 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 reasonably 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 game;

(e) To regulate the size and type of any device 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 dollars ($5.00); and

(i) To otherwise implement or carry out the purposes of this Article. [Amended by P.L. 7-46, effective July 8, 1963.]

§ 12322. **Confiscation.** Upon conviction of any offense under this Article, the court shall also order confiscated any firearm, trap, or device used in such violation and shall order the same assigned to the Director of Agriculture for destruction used under the control of the Department of Agriculture, or public sale. The net proceeds of any such sale be paid into the Wildlife Conservation Fund. [Amended by P.L. 8-43, effective July 30, 1965, and by P.L. 8-182, effective August 23, 1966.]

§ 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 more than two hundred fifty dollars ($250.00), or by imprisonment of not less than fifteen (15) days nor more than ninety (90) days, or by both such fine and imprisonment. Provided that a violation of §§ 12303, 12304, 12305 and 12306 shall be punished by a fine of not less than fifty dollars ($50.00), nor more than five hundred dollars ($500.00) or by imprisonment of not more than ninety (90) days or by both such fine and imprisonment. Provided further that if a person violating §§ 12303, 12304, or 12307 is also guilty of violating § 8935 of Chapter XI, Title IX of the Government Code of Guam, the penalty of said latter section shall control in lieu of the penalty imposed herein, thereby making such a violation of said sections a felony as set out in said § 8935. [Amended by P.L. 7-18, effective May 9, 1963, and by P.L. 7-107, effective February 28, 1964.]

§ 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 said 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 II

Forestry

§ 12325. Improving resources: responsibility.
§ 12326. Unlicensed tree-cutting on public land prohibited.
§ 12327. Same: penalty.

§ 12325. **Improving resources: responsibility.** The promotion of improved planting, protection, and cutting of forest trees as a means of developing and conserving the forest resources of Guam shall be a responsibility of the Department. At the discretion of the Director, tree seeds and seedlings may be made available by the Department for planting on private as well as public lands, either on a free distribution basis or at a price to be determined by the Director. [Added by P.L. 3-103, effective August 1, 1956.]

§ 12326. **Unlicensed tree-cutting on public lands prohibited.** The cutting of trees on unassigned public lands without a license is prohibited. All applicants for such license shall make a written request to the Director designating the kind and amount of timber to be cut, and the use to be made thereof. When the Director is of the opinion that such cutting will not materially injure the forest resources of Guam, he shall issue a license stating the conditions of cutting, any required planting of trees, and provisions for inspection of the operation. [Added by P.L. 3-103, effective August 1, 1956.

§ 12327. **Same: penalty.** Any violation of the provision of § 12326 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. [Added by P.L. 3-103, effective August 1, 1956.]

ARTICLE III

Wild Life Conservation

§ 12350. Reservations.
§ 12351. Fires: unlawful.

§ 12350. Reservations. The Department, in cooperation with other agencies of the government, shall control and manage land and water areas which have been set aside by the government of Guam as conservation areas. Such control and management shall have as its objective the preservation of natural soil and water conditions and native plants and animals of the general area. Consistent with this objective, the Director may establish and enforce rules for the use of conservation areas for recreational, educational and economic purposes. [Added by P.L. 3-103, effective August 1, 1956.]

§ 12351. Fires: unlawful. It shall be unlawful for any person to start or allow a fire to extend onto government land or the land of another causing damage or destruction to plant or animal life or to any property thereon. Any person violating this section shall be guilty of a misdemeanor. [Added by P.L. 3-103, effective August 1, 1956.]

ARTICLE IV

Soil and Water Conservation

§ 12375. Conservation program: responsibility.
§ 12376. Same: authorization.
§ 12377. Reservation of government land.
§ 12378. Compliance with Federal programs.

§ 12375. Conservation program: responsibility. The Department of Agriculture shall be responsible for the development of a program for the conservation, development and utilization of water and soil resources, and for the control and prevention of soil erosion.

§ 12376. Same: authorization. In carrying out its responsibilities under this Article, the Department is authorized to:

(a) Develop plans for the conservation of soil and water resources and the control and prevention of erosion, and to publish or otherwise bring such plans to the attention of land owners and occupiers of land in Guam.

(b) Conduct surveys, investigations and research relating to soil and water conservation and 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 and the prevention and control of erosion, and carry out preventive and control measures on government land.

(d) Cooperate with other land owners and occupiers in the development of erosion control and water resources conservation programs.

(e) Construct, improve and maintain any structure necessary for carrying out the purposes of this Article.

§ 12377. Reservation of government land. The Department shall consult with and advise the Director of Land Management with respect to the reservation of government land pursuant to § 13301 of the Government Code.

§ 12378. Compliance with Federal programs. With the approval of the Governor, the Department of Agriculture shall serve as the appropriate agency for compliance with the terms of any Federal program concerning the development of plans for conservation, development, and utilization of water and related land resources. [Article IV added by P.L. 6-84, effective March 12, 1962.]

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: net, 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 Director 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 may 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 may use nets of smaller mesh to take only manahac during all months of the year. Manahac is defined as the post-larval stage (total length of less than 2½" of the rabbitfish, Family Teuthididae.)

(b) Persons may use small mesh cast nets (talaya) for the taking of fish other than the manahac during all months of the year.

(c) Persons catching live fish for aquarium purposes may obtain permits from the Director of Agricuture for the use of small mesh nets to capture aquarium type fish only. For purposes of this regulation, the manahac, tiao (juvenile goatfish), ee (juvenile carangid), and aguas (juvenile mullet), are not considered aquarium type fishes. Also a small scoop net is defined as a framed net, usually with a handle attached and the greatest frame opening not exceeding twelve (12) inches.

(d) Persons engaging in tuna fishing may apply for permits from the Director of Agriculture to capture live bait fish such as menis (*Spratelloides sp*), ginyo (*Atherinidae*), fadya (*Engraulidae*), and other suitable bait fish; but will not include the aguas, tiao, ee, and manahac except as allowed by provisions of (a) and (b).

(e) That the above provisions stipulated in (a), (b), (c), and (d) are not applicable in any areas designated as conservation areas where the taking of all seasonal fishes are prohibited.

(f) The native inhabitants shall at all times enjoy their traditional rights to conduct gadi and lalago fishing.

Any violation of this Act shall be punished as prescribed in §§ 12322 and 12323 of the Government Code of Guam. [Added by P.L. 12-215, effective January 29, 1975.]

Public Law 13-83
Thirteenth Guam Legislature
(Bill 180)

AN ACT

An Act to add a new Section 12325 to Chapter IV Title XIII of the Government Code of Guam to provide for the conservation of endangered and threatened species of fish, wildlife, and plants, and to authorize an appropriation to carry out the purposes of this Act.

WHEREAS, the Government of Guam, being a territory of the United States, and self-regulatory body, adopts and agrees to uphold the "Endangered Species Act of 1973," U.S. Public Law 93-205 of the 93rd U.S. Congress, December 28, 1973; and agrees to establish its own regulatory laws to enhance and implement this Act to meet the needs of Guam and its territory pursuant to this Act; and

WHEREAS, the purposes of this Act are to provide authorization whereby the ecosystems upon which endangered species and threatened species depend may be conserved; to provide a program for the conservation of such endangered and/or threatened species: and to take such steps and agreements as may be appropriate to achieve the purposes of the Endangered Species Act of 1973, U.S. Public Law 93-205, U.S. Congress December 28, 1973; now, therefore

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

Section 1. A new Section 12325 is hereby added to Chapter IV Title XIII of the Government Code of Guam to read as follows:

"Section 12325. Policy. (a) It is declared to be the policy of the Government of Guam that all its departments and agencies shall seek to conserve endangered species and threatened species, and shall utilize their authority in furtherance of the purposes of this Act.

(b) 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 conservation of fish, wildlife and forestry resources within the territory of Guam.

(c) It shall be the responsibility of said 'Department', to determine by rules and regulations on the basis of the best scientific and commercial data available and with consultation with other agencies, if appropriate, whether or not any species is an endangered species or threatened species because of but not limited to any of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its 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) Further, it shall be the responsibility of the 'Department' to promulgate rules and regulations in accordance with the Administrative Adjudication Act to improve and enhance the status of endangered species or threatened species and to protect them from all probable deleterious causes, if possible; and, to submit to the Governor of Guam plans, programs, remedies or recommendations which will carry out the purposes of this Act, and which would also appropriately achieve and utilize assistance becoming available through U.S. Public Laws.

(e) Such sums as are necessary to carry out the provisions of this Section of the Code are hereby authorized to be appropriated annually."

Approved October 27, 1975.

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 slopes of Guam's mountains, both areas having been referred to as *Monte Sina 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 Divison 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."] [EDITOR'S NOTE: Chapter XII-A has been renumbered to Chapter XII-B to maintain numerical sequence.]

§ 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 purpose 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.]

RECEIVED
FEB 11 1974
ATTORNEY GENERAL'S OFFICE

TWELFTH GUAM LEGISLATURE
1974 (SECOND) Regular Session

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 4:05 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, Development and Agriculture by request.

AN ACT RELATIVE TO THE ESTABLISHMENT OF THE GUAM ENERGY OFFICE AND AUTHORIZING 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 available 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

existing personnel of the government of Guam who are temporarily assigned or loaned to the office.

Section 4. Same: duties. The functions and responsibilities of the office are as follows:

(1) To implement the "Emergency Petroleum Allocation Act of 1973" and regulations adopted pursuant to said Act;

(2) To receive, hold, expend, or transfer Federal and local funds, subject to applicable Federal and local rules;

(3) To enforce or delegate to the proper agency involved the power to enforce laws enacted by the Federal Government, or the government of Guam relative to petroleum products price stabilization;

(4) To review present statutory authority, regulations, procedures and programs in order to determine what changes may be required to assure conformity with the policies and purposes of this Act and to report its findings, with recommendations for necessary changes to the Governor and to the Legislature at the earliest possible date;

(5) To study and review energy conservation measures and practices which reduce energy consumption thereby assuring adequate supplies of energy and fuels for necessary uses and to disseminate such information to the people of the territory of Guam.

Section 5. Same: rules and regulations. The office shall adopt reasonable rules and regulations governing its operations, said rules and regulations to be promulgated in accordance with the requirements set forth in the Administrative Adjudication Law (Section 2400 et seq. of the Government Code of Guam).

Section 6. There is hereby authorized to be appropriated from any available funds in the Unappropriated Surplus of the General Fund the sum of One Hundred Thousand Dollars ($100,000)

for the operation of the Guam Energy Office for the fiscal year ending June 30, 1974. Amended by P.L. 13-70

Section 7. The Guam Energy Office shall cease to exist when the purposes and objectives of this Act have been accomplished, subject, however, to the further condition that the office and powers granted it pursuant to this Act shall terminate not later than one (1) year following the effective date of this Act.

Section 8. The reporting date for the Ad Hoc Committee which was created by Public Law 11-208 is hereby extended to August 15, 1974.

Section 9. The reporting date for the Political Status 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

NOV 20 1978
BUREAU OF PLANNING

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 sewering, 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 extend 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

RECEIVED SEP 12 1978 BUREAU OF PLANNING

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 Agana, Guam this 8th day of September, 1978.

RICARDO J. BORDALLO
Governor of Guam

COUNTERSIGNED:

RUDOLPH G. SABLAN
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 the 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, 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, water, 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 and 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 tis 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 a 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 non-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 functions under this Section, including extending time periods alloted 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

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, 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 <u>Zoning Within Districts</u>

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 zoning 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 facia 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

RECEIVED SEP 8 1978 BUREAU OF PLANNING

EXECUTIVE ORDER NO. 78-21

PROTECTION OF WETLANDS

WHEREAS, Guam's wetlands are 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; and

WHEREAS, the wetlands of Guam, including swamps, marshes, mangroves, natural ponds, surface springs, and estuaries, are natural habitats of high biological productivity and significant resource value; and

WHEREAS, the wetlands of Guam are extremely fragile, limited in number and difficult to restore once damaged; and

WHEREAS, wetlands provide a critical habitat for maintenance of native plant and animal life, including endangered and threatened species, and are valuable as locations for scientific and educational investigation; and

WHEREAS, wetlands act as floodplains during periods of excessive water flow and a source of fresh water for domestic and agricultural purposes; and

WHEREAS, mangrove wetlands act as a shoreline stabilization mechanism and prevent shoreline erosion and stormwave damage; and

WHEREAS, increased management attention to wetlands is essential in order to reflect the intent and effect of Presidential Executive Order 11990, regarding protection of wetlands, on non-federally owned property;

NOW THEREFORE, by virtue of the authority vested in me by the Organic Act of Guam, wetlands 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 hereby directed to officially designate, consistent with Guam's Land Use Plan and Coastal Management Program, Guam's wetland areas, and promulgate such rules and regulations as are necessary for the balanced development, protection, and conservation of such wetlands, consistent with procedures of the Administrative Adjudication Act.

This Executive Order shall be effective this date. Dated at Agana, Guam, this 7th day of September, 1978.

RICARDO J. BORDALLO
Governor of Guam

COUNTERSIGNED:

RUDOLPH D. SABLAN
Lieutenant Governor of Guam

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 G. SABLAN
Lieutenant Governor

JUL 7 1978
BUREAU OF PLANNING

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 huntingin 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, Governorof Guam, by virtue of the authority vested in me by the OrganicAct of Guam, as amended, and Section 12007 and 12321 of the Governmet 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 G. 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 ALCHOHOL 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 artifical 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
(b) Wild (feral) cats
(c) Rodents
(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 <u>only</u> 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:

	DAILY LIMIT	POSSESSION	SEASON LIMIT	SEASON
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.

RUFO J. LUJAN
Director of Agriculture

GOVERNMENT OF GUAM
OFFICE OF THE GOVERNOR
AGANA, GUAM

EXECUTIVE ORDER NO. 78-2

RECEIVED FEB 7 1978 BUREAU OF PLANNING

THE GOVERNMENT OF GUAM SUBDIVISION AND DEVELOPMENT REVIEW COMMITTEE; REPEAL OF EXECUTIVE ORDER NO. 75-2

WHEREAS, there is a need for an effective inter-governmental mechanism for review and analysis of various development activities brought before the Territorial Planning Commission; and

WHEREAS, it is desirable that such review be coordinated through a committee composed of various representatives of government agencies involved in land use related activities; and

WHEREAS, changes in the responsibilities and titles of certain agencies since issuance of Executive Order No. 75-2, establishing such a committee, require issuance of this new 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, do hereby order that Executive Order No. 75-2 be rescinded and replaced by this Executive Order which hereby establishes the Government of Guam Subdivision and Development Review Committee with the following duties and responsibilities:

1. (A) Requesting, compiling, coordinating, and providing official position statements by Government of Guam agencies on applications for:
   1. All subdivisions requiring improvements.
   2. All zone changes.
   3. All zone variances requesting more than a 10% variance from the applicable zoning provision.

4. Such agricultural subdivisions as deemed appropriate for review by the Territorial Planner or by a majority of the Committee members.

5. Such conditional use applications as:

   (a) Directed by the Territorial Planning Commission to be reviewed by the Committee; or

   (b) Deemed appropriate for review by the Director of Land Management.

(B) Ad vising applicants of the procedures and requirements regarding proposed subdivisions, zone changes, and variances.

(C) Assisting government agencies in the establishment and adoption of policies, standards, rules and regulations relating to land use.

(D) Promoting and assuring the compliance of land development with all appropriate governmental land use policies and plans.

2. To establish such rules and regulations as necessary to effectively carry out those duties and responsibilities as outlined above.

The Committee shall be composed of representatives appointed by the respective agency directors from the following agencies or departments:

1. Planning Division, Department of Land Management, the Chief Planner of which shall be the Chairperson.
2. Building Permit Section, Department of Public Works.
3. Department of Public Works (other than Building Permits Section).
4. Guam Environmental Protection Agency.
5. Department of Parks and Recreation.
6. Public Utility Agency of Guam.
7. Bureau of Planning.

The Committee may designate as ex-officio members any other government agency or department it determines should be involved in the Committee's activities.

This order shall be effective upon approval of the Governor and upon filing of said Order with the Legislative Secretary of the Guam Legislature.

Signed and promulgated at Agana, Guam this 2th day of FEBRUARY, 1978.

RICARDO J. BORDALLO
Governor of Guam

COUNTERSIGNED:

RUDOLPH G. SABLAN
Lieutenant Governor

TERRITORIAL PLANNING COMMISSION

WETLANDS RULES AND REGULATIONS

Contents:

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Section IV. Standards for Development and Conservation of Wetlands

Section V. Designation of Wetland 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 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 Departments 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 SDRC, 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 SDRC. 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 should 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 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 "R1 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 widths 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 ($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 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 Subdivision and Development Review Committee as established under Executive Order 78-2, and the Department of Agriculture, Division of Aquatic and Wildlife Resources.

E. The Subdivision and 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 Resources, 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 SDRC 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 revelant 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 50% 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 comment 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 SDRC 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 SDRC 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 Commissioner'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 SDRC member agencies.

TERRITORIAL PLANNING 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 of vegetative or aquatic life that requires saturated or seasonally saturated conditions for growth or 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 floodproofing 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-damaged 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 and 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 increased flood velocity. (Note: Channelization can particularly increase flood velocity due to a reduction in natural impediments to flow. Thus, channeled 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 at 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. Posts, 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 ballparks 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 SDRC 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 SDRC 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 newspaper 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 SDRC 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 PLANNING COMMISSION

INTERIM "H" RESORT-HOTEL ZONE

RULES AND REGULATIONS

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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 within "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 defined elsewhere in the Government Code, the following definitions shall apply:

1. Amusement Activity: An indoor or outdoor 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 within 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 or depth of the Island's economy; but to specifically exclude confidential or sensitive financial data such as forecasted operating cost breakdowns, revenues, cash-flows, 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 (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.

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 Subdivision and Development Review Committee for their review and recommendation. The Subdivision and Development Review Committee (SDRC) findings shall be presented at the public hearing.

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 (2-1/2) acres in size.

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 scale.
3. A kep map locating the deve lopment relation to surrounding areas.
4. The e xact length and bearing of the exterior boundaries of the d evelopment which data shall be referenced to the "Gua m Geodetic Triangulation Control Network" or such alt ernative system of triangulation control as the Territorial Su rveyor may direct.
5. T he accurate placement and outline of structures existing o n the site.

6. The locaton, names, and existing widths of adjacent street rights ofway.
7. The locatio 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 s torm waters. The storm drainage disposal area or channel must have a demonstrated ability to accept additional water in vi ew of capacity of area or channel and of capacity of existing imp rovements confining the channel.

The tentative pla n shall be prepared in sufficient detail for analysis by the Commissio n as to sufficiency and most suitable location. The Commission may require the submission of detailed construction drawings as work is ini tiated to permit detailed analysis of construction conformity to law and the rules and regulations of the Commission, and to facilitat e inspections.

B. Upon certi fication by the Territorial Planner that such complete and accurate information as requested has been provided, such tentative plan sha ll be submitted to the Subdivision and Development Review Committe e for review and recommendations.

C. The Ter ritorial Planning Commission shall either approve, including approva l with conditions, or disapprove in whole or in part the propos ed tentative development plan. Upon approval, appropriate permi ts 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 in 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 zoned "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 SDRC 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 forseeable 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) Front	Side	Rear	Lot Area per Dwelling	(5) Maximum Building Height
Single	4 d.u./acre	9,000 W/Sewer 10,000 W/O Sewer (929 M²)	(4) 15 ft. (5m)	(4) 8 ft. (3m)	10 ft. (3m)	5,000 W/Sewer 10,000 W/O Sewer (929 M²)	2 Stories
Zero Lot Line	5 d.u./acre	4000 sq.ft. (371.5 m²)	(4) 15 ft. (5m)	(4) 16 ft. (5m)	10 ft. (5m)	4,000 W/Sewer 8,000 W/O Sewer 8,005 (744 m²)	3 Stories
Zero Lot Line Semi Attached	6 d.u./acre	3000 sq.ft. (279 m²)	(4) 5 ft. (5m)	(4) 16 ft. (5m)	10 ft. (5m)	3,000 W/Sewer 6,000 W/O Sewer 6,666 (620 m²)	3 Stories
Row Four to eight	10 d.u./acre	2,500 sq.ft. (232.5 m²)	(4) 20 ft. (5m)	16 ft. (5m)	16 ft. (5m)	2,000 W/Sewer 4,000 W/O Sewer (372 m²)	2 Stories
Multi-Family	15 d.u./acre	10,890 sq.ft. (1012 m²)	10 ft. (3m)	10 ft. (3m)	13 ft. (4m)	1012 W/Sewer 2722 W/O Sewer (253 m²)	3 Stories
Multi-Family	20 d.u./acre	29,999 sq.ft. (2,788 m²)	13 ft. (4m)	10 ft. (3m)	20 ft. (6m)	2217 sq ft. (206 m²)	(Lot Length + Lot Width) ÷ 10 m
Multi-Family	22 d.u./acre	50,002 sq.ft. (4,647 m²)	23 ft. (7m)	23 ft. (7m)	33 ft. (10m)	2001 sq.ft. (185 m²)	"
Multi-Family	26 d.u./acre	70,005 sq ft. (6,506 m²)	33 ft. (10m)	Total Combined Side Yards equals (30%) Lot width, or 33ft. (10m)	49 ft. (15m)	1,688 sq.ft. (155m²)	"
Hotel Small	32 d.u./acre	90,000 sq.ft. (8365 m²)	33 ft. (10m)	Total combined side yards equals 40% lot width, or 33ft. (10m)	75 ft. (23m)	1,361 sq.ft. (126.5m²)	"
Hotel Large	38 d.u./acre	200,00 sq.ft. (18,586 m²)	33 ft. (10m)	Total combined side yards equals 50% lot width, one side min. 33 ft. (16m)	75 ft. (25m)	1141 sq.ft. (106m²)	"
Resort Commercial	NA	9,996 sq.ft. (929 m²)	10 ft. (3m)	(5) 10 ft. (3m)	10 ft. (3m)	NA	3 Stories

FOOTNOTES:

(1) Landspace/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 (75') for two story and ETC.

(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.

$$MBH = \frac{(LL + LW)}{10}$$

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 Planning Commission and the members shall hold office so long as they remain members of the Territorial Planning Commission. 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 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 restrain 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;

(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 Planning 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 ennumerated 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 Planning 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 Planning 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 Subdivision and Development Review Committee prior to public hearing. All comments and evaluations of the Subdivision and 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.

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.

ESTEBAN U. TORRES, ADMINISTRATOR

GUAM, VIRGIN ISLANDS, AMERICAN SAMOA LAND JURISDICTION

PUBLIC LAW 93-435; 88 STAT. 1210

[H. R. 11859]

An Act to place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

(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 the date of enactment of this Act, 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 (84 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 the date of enactment of this Act, 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 the Congress to be of such scientific, scenic, or historic character as to warrant preservation and administration under the provisions of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.);

(vii) all submerged lands designated by the President within one hundred and twenty days after the date of enactment of this Act;

(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) all submerged lands within the Virgin Islands National Park established by the Act of August 2, 1956 (16 U.S.C. 398 et seq.), including the lands described in the Act of October 5, 1962 (16 U.S.C. 398c-398d); and

(xi) all submerged lands within the Buck Island Reef National Monument as described in Presidential Proclamation 3448 dated December 28, 1961.

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 this section until the expiration of sixty calendar days (excluding days on which the House of Representatives or the Senate is not in session because of an adjournment of more than three days to a day certain) from the date on which the Secretary of the Interior submits to the Committees on 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.

Sec. 2. (a) Nothing in this Act shall affect the right of the President to establish naval defensive sea areas and naval airspace reservations around and over the islands of Guam, American Samoa, and the Virgin Islands when deemed necessary for national defense.

(b) Nothing in this Act shall affect the use, development, improvement, or control by or under the constitutional authority of the United States of the lands transferred by the first section of this Act, and the navigable waters overlying such lands, for the purposes 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 the first section of this Act, 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 the first section of this Act.

(d) Nothing in this Act shall affect the status of lands beyond the three-mile limit described in section 1 of this Act.

Sec. 3. Subsection (b) of section 31 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1573(b))[18] is amended to read as follows:

"(b) All right, title and interest of the United States in the property placed under the control of the government of the Virgin Islands by section 4(a) of the Organic Act of the Virgin Islands of the United States (48 U.S.C. 1405c(a)), not reserved to the United States by the Secretary of the Interior within one hundred and twenty days after the date of enactment of this subsection, is hereby conveyed to such government. The conveyance effected by the preceding sentence shall not apply to that land and other property which on the date of enactment of this subsection is administered by the Secretary of the Interior as part of the National Park System and such lands and other property shall be retained by the United States."

Sec. 4. On and after the date of enactment of this Act, all rents, royalties, or fees from leases, permits, or use rights, issued prior to such date of enactment by the United States with respect to the land conveyed by this Act, or by the amendment made by this Act, and rights of 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.

Sec. 5. The first section, and sections 2 and 3 of the Act entitled "An Act to authorize the Secretary of the Interior to convey certain submerged lands to the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes", approved November 20, 1963 (48 U.S.C. 1701-1703),[19] are repealed.

Sec. 6. No person shall be denied access to, or any of the benefits accruing from, the lands conveyed by this Act, or by the amendment made by this Act, 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 the July 16, 1904 cession of the Manu'a Islands, as ratified by the Act of February 20, 1929 (45 Stat. 1253) and the Act of May 22, 1929 (46 Stat. 4).

Approved Oct. 5, 1974.

Public Law 86-664

AN ACT

July 14, 1960
[H. R. 10997]

To grant to the Government of Guam certain filled lands, submerged lands, and tidelands.

Guam.
Grant of lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby granted to the Government of Guam, without reimbursement, all of the right, title, and interest of the United States in and to all of those lands, including filled lands, submerged lands, and tidelands, together with all structures and improvements thereon, located in Guam, and constituting a portion of the area known as the Paseo de Susana, more particularly described as follows:

Paseo de Susana.

Beginning at a point, the coordinates of which are east 50,368.842 meters, north 50,439.428 meters, Land and Claims Commission 1945 triangulation system, said point of beginning being also on the mean lower low water line—

thence due south a distance of 30.78 meters;

thence north 81 degrees 35 minutes west a distance of 17.48 meters;

thence north 81 degrees 44 minutes west a distance of 11.20 meters;

thence north 81 degrees 44 minutes west a distance of 11.20 meters;

thence north 78 degrees 15 minutes west a distance of 18.91 meters;

thence north 79 degrees 56 minutes west a distance of 14.65 meters;

thence north 73 degrees 20 minutes west a distance of 29.91 meters;

thence north 72 degrees 57 minutes west a distance of 18.35 meters;

thence north 60 degrees 57 minutes west a distance of 13.09 meters;

thence north 72 degrees 55 minutes west a distance of 22.27 meters;

thence north 60 degrees 03 minutes west a distance of 11.14 meters;

thence north 44 degrees 56 minutes west a distance of 10.93 meters;

thence north 80 degrees 07 minutes west a distance of 6.29 meters;

thence north 78 degrees 50 minutes west a distance of 12.03 meters;

thence north 72 degrees 29 minutes west a distance of 17.11 meters;

thence south 86 degrees 48 minutes west a distance of 13.25 meters;

thence south 73 degrees 58 minutes west a distance of 17.53 meters;

thence south 73 degrees 07 minutes west a distance of 11.19 meters;

thence south 64 degrees 44 minutes west a distance of 13.05 meters;

thence south 74 degrees 52 minutes west a distance of 19.69 meters;

thence south 70 degrees 16 minutes west a distance of 16.35 meters;

thence south 66 degrees 12 minutes west a distance of 14.15 meters;

thence south 58 degrees 43 minutes west a distance of 12.71 meters;

thence south 67 degrees 55 minutes west a distance of 12.02 meters;

thence south 69 degrees 46 minutes west a distance of 6.57 meters;

thence south 76 degrees 32 minutes west a distance of 6.44 meters;

thence south 69 degrees 49 minutes west a distance of 4.56 meters;

thence south 15 degrees 39 minutes west a distance of 14.61 meters;

thence south 03 degrees 13 minutes west a distance of 11.92 meters;

thence south 88 degrees 30 minutes west a distance of 24.95 meters;

thence south 32 degrees 24 minutes east a distance of 3.21 meters;

thence south 23 degrees 07 minutes east a distance of 2.83 meters;

thence south 02 degrees 26 minutes east a distance of 3.05 meters;

thence south 17 degrees 10 minutes west a distance of 4.88 meters;

thence north 89 degrees 19 minutes west a distance of 11.69 meters;

thence south 84 degrees 34 minutes west a distance of 30.74 meters;

thence south 84 degrees 40 minutes west a distance of 6.57 meters;

thence south 66 degrees 07 minutes west a distance of 12.32 meters to a point on the northerly right-of-way line of Marine Drive;

thence westerly along said line north 88 degrees 04 minutes west a distance of 10.05 meters;

thence leaving said right-of-way line, north 14 degrees 09 minutes west a distance of 5.17 meters to a point on the seaward side of the Agana Boat Basin wall, said point being also on the mean lower low water line;

thence northeasterly and southeasterly along said mean lower low water line to the point of beginning;

containing an area of 106,560 square meters or 26.33 acres, more or less.

Condition.

SEC. 2. The property conveyed by the section 1 of this Act shall be subject to the condition that the property shall be used solely for civic, park, and recreational purposes, and if it shall ever cease to be used for such purposes, or if the Government of Guam should ever sell or otherwise dispose of such land or any part thereof, title thereto shall revert to the United States, which shall have the right of immediate entry thereon.

Agana Boat Basin.

SEC. 3. There is hereby granted to the Government of Guam all of the right, title, and interest of the United States in and to all of those lands, including filled lands, submerged lands, and tidelands, together with all structures and improvements thereon, located in Guam, and known as the Agana Boat Basin, more particularly described as follows:

Beginning at a point, the coordinates of which are east 49,927.762 meters, north 50,379.618 meters, Land and Claims Commission 1945 triangulation system, said point being common to the boundary of Paseo de Susana and described as a point on the seaward side of the Agana Boat Basin wall, said point also being on the mean lower low water line—

thence along said wall, being also along said mean lower low water line, south 88 degrees 53 minutes west a distance of 4.09 meters;

thence north 04 degrees 13 minutes west a distance of 15.35 meters;

thence south 89 degrees 22 minutes west a distance of 17.38 meters;

thence leaving said wall and mean lower low water line south 12 degrees 17 minutes west a distance of 18.15 meters;

thence south 00 degrees 21 minutes east a distance of 1.39 meters to a point on the northerly right-of-way line of Marine Drive;

thence westerly along said right-of-way line north 88 degrees 04 minutes west a distance of 207.11 meters;

thence leaving said northerly right-of-way line north 01 degrees 56 minutes east a distance of 126.95 meters;

thence south 88 degrees 04 minutes east a distance of 309.36 meters, more or less, to a point on the boundary of Paseo de Susana and being on the mean lower low water line;

thence southerly and westerly along said mean lower low water line and Agana Boat Basin wall to the point of beginning;

containing an area of 33,635.52 square meters, or 8.23 acres, more or less.

Condition.

SEC. 4. The property conveyed by section 3 of this Act shall be subject to the condition that the property shall be used solely for civic, park, and recreational purposes, and as a boat basin, and if it shall ever cease to be used for such purposes, or if the Government of Guam should ever sell or otherwise dispose of such land or any part thereof, title thereto shall revert to the United States, which shall have the right of immediate entry thereon.

Approved July 14, 1960.

THE EXECUTIVE BRANCH

§ 1422. Governor and Lieutenant Governor; term of office; qualifications; powers and duties; annual report to Congress. 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 candidates receive 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 (4) years at the general election. The Governor and Lieutenant Governor shall hold office for a term of four (4) years and until their successors are elected and qualified.

No person who has been elected Governor for two (2) full successive terms shall again be eligible to hold that office until one (1) full term has intervened.

The term of the elected Governor and Lieutenant Governor shall commence on the first Monday of 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 (5) 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 (30) 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 that 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 summoh the posse comitatus or call out the militia or request 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 a two-thirds (⅔) vote, revoke such proclamation.

The Governor shall make to the Secretary of the Interior an annual report of the transactions of the government of Guam for transmission to the Congress and such other reports at such other times as may be required by the Congress or under applicable Federal law. 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. [As amended September 11, 1968, Pub.L. 90-497, § 1, 82 Stat. 842.]

Introduced by_____

AN ACT TO ABOLISH THE CENTRAL PLANNING COUNCIL.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. Sections 62012 and 62013 of the Government Code of Guam, establishing the Central Planning Council, are hereby repealed.

Section 2. Sections 62014, 62015 and 62016 are hereby renumbered respectively 62012, 62013 and 62014 and all references to "Council" in such sections are amended to "Bureau."

Section 3. Section 62017 is hereby renumbered to 62015 and amended as follows:

"Section 62017~~5~~. Bureau of Planning. There is created within the Office of the Governor, the Bureau of Planning, (hereinafter referred to as 'BP') ~~to serve as staff for the Council and~~ to administer central planning functions. The director of the BP will carry the title 'Director of Planning' and shall be a person who as a result of his 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~~ Bureau in accordance with the policies set forth in this Chapter. The Director's salary shall be not less than ~~Twenty-Six Thousand Dollars ($26,000)~~ Twenty-Nine Thousand Nine Hundred Dollars ($29,900) per annum. He shall be responsible for the administration of this Chapter and shall supervise the BP staff. ~~which, in addition to its regular duties, shall serve the Council.~~"

Section 4. Section 62019 is hereby renumbered to 62017 and subpart (f) of such section is repealed.

Subsections 62013(a), (c), (d) and (f) are hereby renumbered respectively to 62017 (f), (j), (k) and (l).

Section 5. Sections 62018, 62020 and 26021 are hereby renumbered respectively to 62016, 62018 and 62019.

Bill No.

Introduced by_____

AN ACT TO AMEND THE DEFINITION OF THE
SEASHORE RESERVE.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. Section 13412(c) of the Government Code of Guam 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 offshore islands within the Government's jurisdiction in their entirety and extending inland to such boundaries as are delineated on the official Seashore Reserve Map."

GOVERNMENT OF GUAM
AGANA, GUAM 96910

June 20, 1978

RECEIVED
JUN 27 1978
BUREAU OF PLANNING

Memorandum

To: Director, Bureau of Planning

Via: Attorney General

From: Special Assistant Attorney General

Subject: Rule Making and Regulatory Authority of the Territorial Planning Commission

You have asked our opinion as to the ability of the Territorial Planning Commission ("TPC") 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 TPC 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 Planning 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 of the section is a mere delegation of an authority to promulgate procedures and rules concerning those matters over which the TPC 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 whatsover. 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 TPC 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 TPC 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 permissable.

Similarly, we think that the TPC 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 TPC from that point on, but as an interim measure we find nothing that would preclude the TPC from adopting the map as a basis for its decisions.

MILES O. SMITH

APPENDIX 2. SUMMARY TABLES, CZM LAND-USE OPINION SURVEY

Table 1: Regional Attitudes Concerning Shoreline Development (in percentages)

Questions	North			South			Total		
	Yes	No	No Op	Yes	No	No Op	Yes	No	No Op
1. Residential Development should be strictly limited	58	28	14	54	26	20	57	28	15
2. Tourism Development should be strictly limited	46	43	11	46	31	23	46	41	13
3. Business and Industrial Development should be strictly limited	52	36	12	48	35	17	52	36	12

Table 2: Regional Attitudes Concerning the Adequacy of the Shoreline Protection Act (in percentages)

Shoreline Protection Act	North	South	Total
1. 30 feet is enough	6	11	7
2. The distance should depend on things like type of land, existing buildings, or road locations.	40	43	40
3. Should be 300 feet	26	18	25
4. No permit should be required	3	4	4
5. No Opinion	25	24	24

Table 3: A Comparison of the 1976 and 1977 Surveys
(in percentages)

Questions	1976 Totals Yes	1976 Totals No	1976 Totals No Op	1977 Totals Yes	1977 Totals No	1977 Totals No Op
1. Limit Residential Development	59	26	16	57	28	15
2. Limit Tourist Development	38	40	22	46	41	13
3. Limit Business and Industrial Development	57	27	16	62	36	12

Table 4: Regional Attitudes Concerning the Location of Specific Land Uses
(in percentages)

Questions	North Yes	North No	North No Op	South Yes	South No	South No Op	Total Yes	Total No	Total No Op
1. Object to hotel development near home	49	44	7	39	53	8	47	45	8
2. Object to other Resort Facilities near home	36	58	6	32	61	7	35	58	7
3. Object to a new housing development near home	27	65	8	32	58	10	28	64	8
4. Object to major business establishment near home	30	63	7	31	63	6	30	63	7

Table 5: Regional Attitudes Concerning Beach Access
(in percentages)

Questions	North Yes	North No	North No Op	South Yes	South No	South No Op	Total Yes	Total No	Total No Op
1. Public Access should be guaranteed along the coastline	76	12	12	63	12	25	73	13	15
2. Owners of coastal property should be allowed to refuse access to adjacent beaches	30	54	16	23	61	16	29	55	16
3. Have you ever been turned away from private beaches	27	69	3	30	65	5	28	68	4

Table 6: Regional Attitudes Concerning the Quantity and Quality of Recreational Facilities and Areas
(in percentages)

Questions	North Yes	North No	North No Op	South Yes	South No	South No Op	Total Yes	Total No	Total No Op
1. Are there enough coastal recreational facilities now	19	72	9	14	73	13	18	72	10
2. Have you gone to a beach or park in the past month	62	35	3	72	25	3	64	34	2
3. Should there be more beaches and swimming areas	80	13	7	76	8	16	79	12	9
4. Should there be more parks and picnic areas	89	6	5	88	1	11	89	5	6
5. Should we build more walking trails and scenic overlooks	86	8	6	85	5	10	86	7	7
6. Should the government spend tax money to build marinas and boat launching ramps	48	32	20	43	30	27	47	32	21
7. Are public beaches and shorelines dirty and littered	76	16	8	72	14	14	75	16	9
8. Should military beaches be opened to the public	63	24	13	75	12	13	65	22	13
9. Should the government spend tax money to clean-up public beaches	75	14	11	59	26	15	72	16	12

Table 7: Regional Attitudes Concerning Fishing and Fish Control
(in percentages)

Questions	North Yes	North No	North No Op	South Yes	South No	South No Op	Total Yes	Total No	Total No Op
1. Does any member of your household go fishing regularly	29	68	3	51	45	4	32	65	3
2. Should there be laws that restrict fishing and coral collecting	45	42	13	32	58	10	43	45	12

Table 8: Regional Attitudes Toward Compensation For Losses Incurred Through Development Controls (in percentages)

Questions	North NA*	North Yes	North No	North No Op	South NA*	South Yes	South No	South No Op	Total NA*	Total Yes	Total No	Total No Op
1. Should government pay for losses	28	58	7	7	27	56	7	10	27	58	7	8
2. Should government exchange land for losses	28	59	6	7	27	59	4	10	28	59	6	7

* Those answering "no" on the question relating to compensating property owners are affected by government controls.

Table 9: Some Reasons for Not Attending Public Hearings (in percentages)

Why Didn't You Attend?	North	South	Total
1. Not Applicable	19	32	21
2. Waste of Time	6	10	7
3. My Opinion Would Not be Used	4	3	3
4. Inconvenient Time	25	25	25
5. Did Not Affect Me Personally	13	13	13
6. Too Technical	2	2	2
7. Other	31	15	29

Table 10: Appropriate Time for Public Hearings (in percentages)

Questions	North Yes	North No	North No Op	South Yes	South No	South No Op	Total Yes	Total No	Total No Op
1. Weekday Evenings	48	32	20	40	41	19	46	34	20
2. Weekends	51	31	18	52	28	21	51	30	19

Table 11: Regional Attitudes Toward Participation Mechanisms (in percentages)

Questions	North Yes	North No	North No Op	South Yes	South No	South No Op	Total Yes	Total No	Total No Op
1. Do public hearings provide opportunities to voice opinions	38	24	38	35	35	30	37	26	37
2. Does your village commissioner know your opinion	23	65	12	32	59	9	25	64	11

Table 12: Regional Attitudes Toward Various Participatory Mechanisms (in percentages)

How Should Planners Identify Future Village Needs	North Yes	North No	North No Op	South Yes	South No	South No Op	Total Yes	Total No	Total No Op
1. Ask commissioner	74	18	8	74	12	14	74	17	9
2. Ask church	36	49	15	20	57	23	33	50	17
3. Village meetings	87	4	9	79	6	15	85	5	10
4. Appoint a village representative	67	20	13	56	22	22	65	20	15
5. Ask civic groups	65	19	16	40	37	23	61	22	17
6. Form special advisory committees	73	13	14	50	27	23	70	15	15

APPENDIX 3. NATIONAL AND GUAM REGISTERS OF HISTORIC PLACES

NATIONAL REGISTER OF HISTORIC PLACES

	NAME	DATE	NO.
INCLUDED:	Pagat Site, Yigo	Mar 13, 1974	66-04-0022
	Plaza de Espana, Agana	May 01, 1974	66-01-1070
	Fort San Jose, Umatac	May 01, 1974	66-02-1001
	Memorial Beach Park, Asan	Aug 07, 1974	66-01-1091
	Fort Santa Agueda, Agana	Aug 30, 1974	66-01-1068
	San Dionisio Church Ruins, Umatac	Aug 30, 1974	66-02-1024
	Fort Santo Angel, Umatac	Aug 30, 1974	66-02-1074
	Agana Spanish Bridge	Sep 06, 1974	66-01-1069
	Taleyfac Spanish Bridge, Agat	Sep 10, 1974	66-02-1071
	Merizo Conbento	Sep 17, 1974	66-06-1067
	Taelayag Spanish Bridge, Agat	Oct 10, 1974	66-02-1072
	Fort Soledad, Umatac	Oct 18, 1974	66-02-1073
	Sella Bay, Umatac	Nov 08, 1974	66-02-0125
	Spanish Dikes, Agana	Nov 19, 1974	66-01-1006
	Fafai Beach, Tumon	Nov 19, 1974	66-04-0002
	Gadao's Cave, Inarajan	Nov 19, 1974	66-05-0142
	Haputo Site, Dededo	Nov 20, 1974	66-08-0007
	Cetti Bay, Umatac	Nov 21, 1974	66-02-0127
	Fouha Bay, Umatac	Nov 21, 1974	66-02-0128
	Mochom Site, Mangilao	Dec 04, 1974	66-04-0025
	Inarajan Ridge Site	Dec 04, 1974	66-05-0075
	West Atate Site, Inarajan	Dec 04, 1974	66-09-0109
	Nomna Bay, Inarajan	Dec 27, 1974	66-05-0092
	Uruno Site, Dededo	Dec 27, 1974	66-08-0010
	Uruno Beach Site, Dededo	Dec 27, 1974	66-08-0011
	Jinapsan Site, Yigo	Dec 27, 1974	66-08-0014
	Talofofo River Valley Site, Inarajan	Dec 27, 1974	66-09-0077
	North Inarajan Site	Feb 21, 1975	66-05-0107
	South Talofofo Site	Feb 24, 1975	66-09-0068
	Hill 40, Agat	Mar 04, 1975	66-02-1048
	Agat Invasion Beach	Mar 04, 1975	66-02-1054
	Matgue Valley, Asan-Piti	Apr 03, 1975	66-01-1050
	SMS Cormoran, Apra Harbor	Apr 04, 1975	66-03-1037
	Merizo Bell Tower	May 29, 1975	66-06-1013
	Piti Coastal Defense Guns	Dec 04, 1975	66-03-1046
	Orote Air Field, Naval Station	Jun 18, 1975	66-03-1066
	Asan Ridge Battle Area	Jul 18, 1975	66-01-1056
	Achugao Bay, Umatac	Aug 19, 1975	66-02-0123
	South Finegayan Latte Stone Park	Sep 05, 1975	66-08-0141
	Padre San Vitores Site, Tumon	Oct 31, 1975	66-04-1007
	Agaga Beach, Umatac	Jun 11, 1975	66-02-0124
	Mataguac Hill Command Post	Jun 10, 1975	66-08-1062
	Asquiroga Cave	May 06, 1976	66-09-0069
	Dungca's Beach Defense Guns, Tamuning	Dec 22, 1976	66-01-1105
	Jose P. Lujan House, Agana	Oct 06, 1977	66-01-1115
	Inarajan Village	Nov 06, 1977	66-05-2001
NOMINATED:	Asan Invasion Beach	Mar 10, 1975	66-01-1055
	Pan American Hotel, Naval Station	Apr 01, 1975	66-03-1042
	Cable Station, Naval Station	Apr 01, 1975	66-03-1043
	Hilaan Site, Dededo	Apr 01, 1975	66-08-0005
	Anao Site	May 04, 1977	66-07-0018
	South Pulantat Site	Aug 04, 1977	66-09-0037B
	Janum Site	Aug 04, 1977	66-07-0019
	Cueto Site	Aug 04, 1977	66-06-0140
	Asmaile Point Site	Sep 21, 1977	66-05-0112
	Machadgon Point Site	Sep 21, 1977	66-06-0130
	Japanese Submarine	Sep 21, 1977	66-03-1088
	Mt. Tenjo Fortifications	Sep 21, 1977	66-03-1086
	Malolos Site	Oct 05, 1977	66-09-0091
	Orote Historical Complex	Oct 05, 1977	66-03-1009
	Bona Site (Naval Magazine)	Oct 05, 1977	66-02-0145
	Yokoi's Cave	Oct 05, 1977	66-09-1047
	Taogam Complex	Aug 03, 1977	66-01-0148

GUAM REGISTER OF HISTORIC PLACES

	NAME	DATE	NO.
INCLUSION:	Lujuna Site, Yigo	Jun 05, 1974	66-04-0020
	Pagat Site, Yigo	Jun 05, 1974	66-04-0022
	Mochom Site, Mangilao	Jun 05, 1974	66-04-0025
	Haputo Site, Dededo	Jun 05, 1974	66-08-0007
	Uruno Beach Site, Dededo	Jun 05, 1974	66-08-0011
	South Mochom Site, Mangilao	Jul 03, 1974	66-04-0030
	Nomna Bay Site, Inarajan	Jul 03, 1974	66-05-0092
	Falcona Beach Site, Dededo	Jul 03, 1974	66-08-0009
	Pajon Point Site, Yigo	Jul 03, 1974	66-08-0013
	Jinapsan Site, Yigo	Jul 03, 1974	66-08-0014
	Talofofo Site	Jul 03, 1974	66-09-0053
	Cormoran Monument, Agana	Jul 24, 1974	66-01-1039
	Fort San Jose, Umatac	Jul 24, 1974	66-02-1001
	Sella Bay Spanish Bridge, Umatac	Jul 24, 1974	66-02-1002
	SMS Cormoran, Apra Harbor	Jul 24, 1974	66-03-1037
	Inarajan Falls Site	Jul 24, 1974	66-05-0105
	Pati Point Site, Yigo	Jul 24, 1974	66-07-0016
	Hilaan Site, Dededo	Jul 24, 1974	66-08-0005
	Uruno Site, Dededo	Jul 24, 1974	66-08-0010
	NCS Latte Site, Dededo	Jul 24, 1974	66-08-0141
	Talofofo River Valley Site	Jul 24, 1974	66-09-0077
	Abong Beach, Umatac	Aug 14, 1974	66-02-0126
	Padre San Vitores Shrine, Tumon	Aug 14, 1974	66-04-1007
	Tarague Beach Site, Yigo	Aug 14, 1974	66-07-0015
	Ritidian Site, Dededo	Aug 14, 1974	66-08-0012
	Jalaiha Point Site, Inarajan	Aug 14, 1974	66-09-0093
	West Atate Site, Inarajan	Aug 14, 1974	66-09-0109
	Asiga Beach, Inarajan	Aug 14, 1974	66-09-0110
	Ylig River Site, Yona	Aug 14, 1974	66-09-0139
	Inarajan Ridge Site	Aug 14, 1974	66-05-0075
	Spanish Dikes, Agana	Sep 04, 1974	66-01-1006
	Sumay Cemetery, Naval Station	Sep 04, 1974	66-03-1041
	Gadao's Cave, Inarajan	Sep 04, 1974	66-05-0142
	Sella Bay Spanish Oven, Umatac	Sep 24, 1974	66-02-1008
	ella Bay, Umatac	Sep 24, 1974	66-02-0125
	Cetti Bay, Umatac	Sep 24, 1974	66-02-0127
	Fouha Bay, Umatac	Sep 24, 1974	66-02-0128
	Fafai Beach, Tumon	Sep 24, 1974	66-04-0002
	Matgue Valley, Asan-Piti	Oct 15, 1974	66-01-1050
	Hill 40, Agat	Oct 15, 1974	66-02-1048
	Agat Invasion Beach	Oct 15, 1974	66-02-1054
	Pan American Hotel, Naval Station	Oct 15, 1974	66-03-1042
	Cable Station, Naval Station	Oct 15, 1974	66-03-1043
	San Dionisio Catholic Church, Umatac	Nov 12, 1974	66-02-1024
	North Inarajan Site	Nov 12, 1974	66-05-0107

GUAM REGISTER OF HISTORIC PLACES
(cont.)

	NAME	DATE	NO.
INCLUDED:	St. Joseph's Catholic Church, Inarajan	Nov 12, 1974	66-05-1021
	South Talofofo Site	Nov 12, 1974	66-09-0068
	Agana Spanish Bridge	Dec 03, 1974	66-01-1069
	Taleyfac Spanish Bridge, Agat	Dec 03, 1974	66-02-1071
	Taelayag Spanish Bridge, Agat	Dec 03, 1974	66-02-1072
	Inarajan Baptist Church	Dec 03, 1974	66-05-1034
	Fort Santa Agueda, Agana	Jan 21, 1975	66-01-1068
	Plaza de Espana, Agana	Jan 21, 1975	66-01-1070
	Memorial Beach Park, Asan	Jan 21, 1975	66-01-1091
	Fort Soledad, Umatac	Jan 21, 1975	66-02-1073
	Asan Invasion Beach	Feb 20, 1975	66-01-1055
	Mt. Alifan Battle Site	Feb 20, 1975	66-02-1049
	Orote Field	Feb 20, 1975	66-03-1066
	Merizo Bell Tower	Feb 20, 1975	66-06-1013
	Merizo Conbento	Feb 20, 1975	66-06-1067
	Asan Ridge Battle Area	Apr 17, 1975	66-01-1056
	Achugao Bay	Apr 17, 1975	66-02-0123
	Agaga Beach	Apr 17, 1975	66-02-0124
	Mataguac Hill Command Post	Apr 17, 1975	66-08-1062
	Piti Coastal Defense Guns	Apr 17, 1975	66-03-1046
	Fort Santo Angel	May 08, 1975	66-02-1074
	San Dionisio Church	May 08, 1975	66-02-1024
	Toguan Bay Site	May 08, 1975	66-06-0131
	Fonte Plateau	Jun 05, 1975	66-01-1057
	Last Japanese High Command Post	Jun 05, 1975	66-01-1063
	Magellan Monument	Jun 05, 1975	66-02-1011
	Umatac Ridge	Jun 05, 1975	66-02-0133
	North Cetti Bay	Jun 05, 1975	66-02-0134
	Atantano Shrine	Jun 05, 1975	66-03-1012
	Asquiroga Cave	Jun 05, 1975	66-09-0069
	Dungca's Beach Guns	Oct 02, 1975	66-01-1105
	Inarajan Village	Mar 23, 1977	66-05-2001
	Jose P. Lujan House	May 4, 1977	66-01-1115
	Anao Site	May 4, 1977	66-07-0018
	South Pulantat Site	Aug 3, 1977	66-09-0037B
	Janum Site	Aug 3, 1977	66-07-0010
	Creto Site	Aug 3, 1977	66-06-0140
	Asmaile Point Site	Sep 21, 1977	66-05-0112
	Machadgon Point Site	Sep 21, 1977	66-06-0130
	Japanese Submarine	Sep 21, 1977	66-03-1088
	Mt. Tenjo Fortifications	Sep 21, 1977	66-03-1086
	Malolos Site	Oct 05, 1977	66-09-0091
	Orote Historical Complex	Oct 05, 1977	66-03-1009
	Bona Site (Naval Magazine)	Oct 05, 1977	66-02-0145
	Yokoi's Cave	Oct 05, 1977	66-09-1047
	Merlyn G. Cook School	Feb 21, 1978	66-06-1123
	Taogam Complex	May 09, 1978	66-01-0148

APPENDIX 4. LISTS OF ENDANGERED AND THREATENED PLANT AND ANIMAL SPECIES ON GUAM

Local List of
Endangered and Threatened Plant Species on Guam*

A. Endangered Species - taxa whose numbers have been reduced to a critical level or whose habitats have been so drastically reduced that they are deemed to be in immediate danger of extinction.**

B. Threatened Species - taxa believed likely to move into the endangered category in the near future if serious adverse factors continue operating.

Endangered Species	Threatened Species
Alyxia torresiana	Avicennia marina var. alba
Angiopteris durvilleana	Bruguiera gymnorrhiza
Barringtonia samoensis	Cerbera dilitata
Barringtonia racemosa	Elaeocarpus sphaericus
Calanthe furcata	Heritiera longipetiolata
Canthium odoratum	Leucaena insularum var. guamense
Capparis cordifolia	Lumnitzera littorea
Cyathea lunulata	Nephrolepis acutifolia
Derringia amaranthoides	Ophioglossum pendulum
Dendrocnide latifolia	Rhizophora apiculata
Dodonaea viscosa	Rhizophora mucronata
Drypetes dolichocarpa	Suriana maritima
Eugenia bryanii	Tacca leontopetaloides
Excoecaria agalocha	Vigna marina
Fagraea galilai	
Grewia crenata	
Hernandia labyrinthica	
Lycopodium phlegmaria	
Maesa sp.	
Melothria guamensis	
Merrilliodendron megacarpum	
Morinda umbellata	
Myoporum boninense	
Nervilia aragoana	
Pisonia umbellifera	
Portulaca pilosa	
Potamogeton lucens	
Psychotria rotensis	
Serianthes nelsonii	
Streblus pendulinus	
Strongylodon sp.	
Tabernaemontana rotensis	
Tarenna sambucina	
Terminalia littoralis	
Trema orientalis var. viridis	
Tristiropsis acutangula	
Xylosma nelsonii	

*List prepared by Philip H. Moore.

** Red Data Book Categories, International Union for the Conservation of Nature

Rare Native Wildlife Species of Guam
(Possible Candidates for Protection Under the Endangered Species Act of 1973)

Mammals

Pteropodidae - Fruit Bats

Pteropus mariannus mariannus - Marianas Fruit Bat
Pteropus tokudae - Little Marianas Fruit Bat

Emballonuridae - Sheath-tailed Bats

Emballonura sulcata - Short-tailed Emballonura

Birds

Rallidae - Rails, Gallinules and Coots

Rallus owstoni - Guam Rail
Gallinula chloropus - Common Gallinule

Muscicapidae - Thrushes, Old World Flycatchers & Warblers

Miagra oceanica - Micronesian Broadbill

Zosteropidae - White-eyes

Zosterops conspicillata - Bridled White-eye

Columbidae - Pigeons and Doves

Gallicolumba xanthanura - White-throated Ground Dove
Ptilinopus roseicapillus - Marianas Fruit Dove

Apodidae - Swifts

Callocalia vanikorensis bartschi - Edible Nest Swiftlet

Corvidae - Crows and Jays

Corvus kubaryi - Marianas Crow

Alcedinidae - Kingfishers

Halcyon cinnamomina - Micronesian Kingfisher

Native Species Possibly Extinct on Guam

Antidae - Ducks, Geese and Swans

**Anas oustaleti* - Marianas Mallard

Megapodidae - Megapodes

**Megapodius laperouse* - Micronesian Megapode

Rallidae - Rails, Gallinules and Coots

Poliolimnas cinereus - White-browed Rail

Muscicapidae - Thrushes, Old World Flycatchers and Warblers

**Acrocephalus luscinia* - Nightingale Reed Warbler

Reptiles
(See Following Page)

*Currently on the Federal List of Endangered and Threatened Wildlife

1. The list of Endangered and Threatened Wildlife in 50 CFR § 17.11 is amended by adding the green, loggerhead and olive (Pacific) ridley sea turtles to the list, alphabetically, under "Reptiles" as indicated below:

		RANGE				
Common Name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
Reptiles:							
Turtle, Leatherback sea *							
Turtle, Green Sea	Chelonia mydas	Wherever found except in those areas where it is listed as endangered as set forth below	Circumglobal in tropical and temperate seas and oceans	Entire	T		50 CFR § 17.42(b) and Parts 220 and 227
Turtle, Green Sea	Chelonia mydas	Breeding colony populations in Florida and on the Pacific coast of Mexico	All state waters of Florida including Northwestern and Inner islands, and Pacific coast of Mexico including the Gulf of California	Entire	E		
Turtle, Loggerhead Sea	Caretta caretta	N/A	Circumglobal in tropical and temperate seas and oceans	Entire	T		50 CFR § 17.42(b) and Part 220 and 227
Turtle, Olive (Pacific) Ridley Sea	Lepidochelys olivacea	Wherever found except in those areas where it is listed as endangered as set forth below	Circumglobal in tropical and temperate seas and oceans	Entire	T		50 CFR § 17.42(b) and Part 220 and 227
Turtle, Olive (Pacific) Ridley Sea	Lepidochelys olivacea	Breeding colony population in the Pacific Coast of Mexico	Pacific coast of Mexico including the Gulf of California	Entire	E		

APPENDIX 5. RELATIONSHIP OF AGENCIES UNDER CURRENT PROGRAMS

Relationship of Agencies Under Current Programs

The following chart outlines the interrelationships of various Federal and Territorial agencies involved in land-use management related programs and activities. Agency abbreviations are as follows:

- Guam Environmental Protection Agency (GEPA)
- Department of Public Works (DPW)
- Department of Public Health & Social Services (DPHSS)
- Public Utility Agency of Guam (PUAG)
- Department of Parks and Recreation (DPR)
- Department of Agriculture (DA)
- Department of Land Management (DLM)
- Bureau of Planning (BOP)
- Guam Power Authority (GPA)
- Department of Public Safety (DPS)
- U.S. Army Corps of Engineers (USCE)
- U.S. Environmental Protection Agency (USEPA)

Matrix of Present Activities and Interrelationships

Legend:
- (x) Major Responsibility
- x Involved
- + Occasionally Involved

Program and Activity	GEPA	DPH	DPHSS	PUAG	DPR	DA	DLM	BOP		GPA	DPS	Fire Dept	Atty Gen.	USCE	USEPA	Comments on relationships between activities
	Agencies Involved															
1. GEPA Safe Drinking Water Program																
. well drillers license	(x)															
. well drilling permit	(x)															
. well operating permit	(x)			x												
. supervise well sealing	(x)															
. water system operator certification	(x)															joint with wastewater operators
2. GEPA community Wastewater Program																
. NPDES permit (inc. thermal)	x														(x)	
. Wastewater treatment plant oper. permit	x			x											(x)	
. WWTP Operator Certif.	(x)															joint with water operators
. Comments on cleaning and grading permits	(x)	x														see no. 10
. Comments on Corps navigable water permits	(x)						x									see no. 15
3. GEPA Individual Wastewater Program																
. Sewer connection permit	(x)	x		x												part of building permit process

Legend:
- (x) Major Responsibility
- x Involved
- + Occasionally Involved

Program and Activity	GEPA	DPH	DPHSS	PUAG	DPR	DA	DLM	BOP		GPA	DPS	Fire Dept	Atty Gen.	USCE	USEPA	Comments on relationships between activities
	Agencies Involved															
3. GEPA Individual Wastewater Program (cont.)																
. Septic tank Permit	(x)	x														part of building permit process
. Clearance for Occupancy Permit	(x)	x														part of building permit process
4. GEPA Air Program																
. Stationary source construction permit	(x)															
. Stationary source operation permit	(x)															
. Motor vehicle emission enforcement	(x)															
. Fugitive dust supression	(x)															
. Openburning	(x)															
. Blasting	x										(x)					
5. GEPA Solid Waste Program																
. Authorized dumping sites	(x)	x														

Legend:
⊗ Major Responsibility
x Involved
+ Occasionally Involved

Program and Activity	GEPA	DPW	DPHSS	PUAG	DPR	DA	DLM	BOP		GPA	DPS	Fire Dept	Atty Gen.	USCE	USEPA	Comments on relationships between activities
	Agencies Involved															
6. GEPA Pesticide Program																
. Pesticides registration	⊗														x	FIFRA, rules and regulations being enforced by GEPA until GEPA rules and regulations promulgated and implemented
. Pesticide dealers license	⊗														x	
. Pesticide applicators license	⊗														x	
7. GEPA Areawide Wastewater Management Planning	⊗	x	+	x	+	+	+	x					+	+	x	No permits are issued but a comprehensive water quality management plan is being developed based on input from public and indicated agencies
8. GEPA Environmental Impact Program																
. Federal EIA/EIS	⊗	+	+	+	+	+	+	+						x	x	Projects involving Federal land, money or permits. Not now required.
. Guam EIS																

Legend:
⊗ Major Responsibility
x Involved
+ Occasionally Involved

Program and Activity	GEPA	DPW	DPHSS	PUAG	DPR	DA	DLM	BOP		GPA	DPS	Fire Dept	Atty Gen.	USCE	USEPA	Comments on relationships between activities
	Agencies Involved															
9. GEPA Monitoring Services Division																
. Certification of water analysis laboratories	⊗		x	x											x	
10. DPW Building Permits and Inspection Program																
. Building permit	x	⊗	+	x	+	+	x			x	+	+		+		
. Clearing and grading permit	x	⊗			+											
. Certificate of occupancy	x	⊗								x						Part of building permit process; GEPA clearance is a prerequisite
. Sign permits		⊗					x									Part of building permit process
. Road crossing permits		⊗									x					
. Elevator permits		⊗														
11. DPHSS																
. Health permits		+	⊗	+								+				For food establishments, barbershops, laundries, child care centers, hotels, etc.
. Health certificates		+	⊗									+				For employees of the above establishments

Legend:
(x) Major Responsibility
x Involved
+ Occasionally Involved

Program and Activity	GEPA	DPW	DPHSS	PUAG	DPR	DA	DLM	BOP		GPA	DPS	Fire Dept	Atty Gen.	USCE	USEPA	Comments on relationships between activities
	Agencies Involved															
12. PUAG																
. Wastewater grants	x		x	(x)												
. Wastewater loans	x			(x)												
13. Department of Parks and Recreation																
. Historical clearance		x			(x)	+	x							+		
14. Department of Agriculture																
. Agricultural leasing	x					(x)										Law repealed 1975
. Fishing licenses						(x)										
. Hunting licenses						(x)										
. Forest cutting permit						(x)										
. Animal and plant importing permit						x										(x) USDA
15. Department of Land Management																
. Land use permits							(x)	x								Law repealed 1975
. Submerged land permits							(x)	x								
. Seashore protection	x	x		x	x		(x)	x								SDRC/TPC
. Zoning change/variance	x	x		x	x		(x)	x								SDRC/TPC
. Subdivision approval/ variance	x	x		x	x		(x)	x								SDRC/TPC

Legend:
(x) Major Responsibility
x Involved
+ Occasionally Involved

Program and Activity	GEPA	DPW	DPHSS	PUAG	DPR	DA	DLM	BOP		GPA	DPS	Fire Dept	Atty Gen.	USCE	USEPA	Comments on relationships between activities
	Agencies Involved.															
15. Department of Land Management (cont.)																
. USCE permits for dredging or fill or structures in navigable waters	x		+				x	+						(x)		DLM coordinates Government/ Guam input

APPENDIX 6. GUAM ENVIRONMENTAL PROTECTION AGENCY PROGRAMS AND RESPONSIBILITIES

Environment-Related Program	Authority	Mandated Activities	Present Activities
GEPA Pesticides Program	GCG Title LXI Chap I, VI	Guam Pesticides Act	Rules and regulations promulgated.
	Sect. 57124	Issue experimental use permits to test pesticides	Enforce applicable rules and regulations.
	Sect. 57125	Requires pesticide registration for foreign-made pesticides	
	Sect. 57127	Licensing pesticide dealers	
	Sect. 57129	Pesticide labeling requirements	
	Sect. 57130	Requires coloration of certain pesticides	
	Sect. 57132	Provides for "stop-sale" and"removal from sale" orders	
	Sect. 57133	Allows banning of pesticides	
GEPA Area wide Wastewater Management Planning	Public Law 92-500 Sect. 208	Prepare and update the Water Quality Management Plan	Increase public awareness and input in water planning. Infuse water quality goals and objectives into island planning. Environmental management. Non-point source analysis and abatement strategies. Plan preparation.
GEPA Environmental Impact Program	Governor of Guam, Circular No. 112, 6 Nov '76	Designated GEPA as clearinghouse for EIA/EIS	Reviews and comments on all EIA/EIS that will receive federal funds, or require federal permits.
	GCG Title VI Chap V	Designates Lieutenant Governor as clearing house for all federal aid programs for Guam	All requests for federal funds go to Lt. Gov. office.

Environment Related Program	Authority	Mandated Activities	Present Activities
GEPA Individual Wastewater Program	GCG Title LXI Chapt. I,II, III, IV		
	Sect. 57061	Requires toilet and sewage facilities for buildings occupied as a dwelling, school, public bldg. commercial bldg. industrial bldg. or place of assembly	Issue Permits in accordance with mandate and regulations for sewer connections and septic tanks.
	Sect. 57062	Maintenance of toilet and sewerage system responsibility of owner of property	
	Sect. 57063	Rules for types of sewerage facilities and time allowed to connect to a sewer after it first becomes available	Inspect individual sewerage systems; house to house surveys.
	Sect. 57064	Requires inspection and approval by GEPA of all sewerage facilities. No issuance of building permit or certificate of occupancy without prior compliance with Sect.	Review DPW Building Permit Applications Issue form letter clearance for DPW to issue Certificate of Occupancy.
	Executive Order 73-9	Regulations for the Connection of toilet and sewer facilities to public sewers	Holds bi-weekly meetings with PUAG, DLM and DPW to work out solutions to mutual problems.
	Sect. 57065 to 57072	Standards for various types of sewerage facilities including inspection and approval of facilities before covering	Perform inspections.
GEPA Air Program	GCG Title LXI Chap I, V	Air Pollution Control Act	Air Pollution Control Regulations and Standards setup. Notice of violation letters and stop work orders issued.
GEPA Solid Waste Program	GCG Title LXI Chap I, VIII	Solid Waste Management and Litter Control Act. Issue permits for operation of solid waste collection, transport, processing and disposal activities. Issue citations for litter-	Working on regulations. Will do waste management plans per Federal Waste Recovery Act.

Environment Related Program	Authority	Mandated Activities	Present Activities
Guam EPA Safe Drinking Water Program	GCG Title LXi Chaps I,II,III, & X.		
	Sect. 57022	Well drillers license	Issued according to mandate and regulations.
	Sect. 57023	Well drilling permit	
	Sect. 57024	Well operating permit	Required for new and old wells (see Chaps 4B and 2B of regulations).
	Sect. 57029	Supervise sealing of wells to be abandoned	as described in Chap 32 of regulations.
	Sect. 57234	Certification of operators of portable water systems	being implemented.
Guam EPA Community Wastewater Program	GCG Title LXI Chap. I,II, III, IV, X		Receives applications for 201 grant funds.
	Sect. 57045	Issue permits to control pollution of any waters of the territory	Certify NPDES Permits. Soil Erosion and Sediment Control Regulations and Standards promulgated.
	Sect. 57047	Issue water quality standards	Rules for Protection, Development and Conservation of Water Resources promulgated.
	Sect. 57048, 57050	Authorized to enforce Water Pollution Control Act. provides for misdemeanor penalties $1000 /day.	Enforcement Letters for Notice of Violation and Stop Work Orders.
	Sect. 57064	Requires inspection and approval by GEPA of all sewerage facilities.	
	Sect. 57234	Certification of operators of wastewater facilities	Being implemented.
			Comments on clearing and grading permit applications. Requires environmental protection plan by developers.

Environment Related Program	Authority	Mandated Activities	Present Activities
GEPA Water Monitoring Services Division	GCG Title LXI Chap II, III		
	Sect. 57027 57046, 57049	Authorizes inspection and taking of water samples including emergency procedures	Well sampling for potable water and recreational water uses Spot analysis of water distribution system
	Sect. 57103, 57106, 57109	Sampling for air contamination and air pollution of stationary and portable sources of air pollution, including emergency procedures	Monitor stationary sources of air pollution when conditions exist for pollution

APPENDIX 7. BACKGROUND MATERIALS

BACKGROUND MATERIALS

A Summary of Major Reports Completed by the Bureau of Planning

Analysis of Results, CZM Land-Use Opinion Survey
An analysis of the results obtained from a survey questionaire distributed to 931 residents. Attitudes concern seashore development, recreational facilities, property ownership and citizen participation.

Aquaculture and Its Potential Environmental Impact on Guam's Coastal Waters
An analysis of the potential for various kinds of aquaculture development on Guam with discussion of developable species, environmental impacts and necessary water quality controls. Areas for potential aquaculture development are mapped.

Atlas of the Reefs and Beaches of Guam
An investigation of the coast and shallow reefs of Guam, including locations and geologic descriptions of reef platforms, rocky shorelines, and locations, extent, slope and composition of beaches. This study completly maps the shoreline and shallow reefs of Guam.

Beach Access on Guam
A discussion of access to all beaches on Guam, problems areas and mapped identification of beaches.

The Current Status and Distribution of the Marianas Fruit Bat on Guam
A study of the ecology and population of fruit bats with mapping of critical habitats.

An Ecological Survey of Pristine Terrestrial Communities on Guam
Provides area descriptions, species lists and maps of terrestrial areas that are essential for the protection of endangered and threatened species or are unique, relatively untouched representatives of characteristic Guam terrestrial ecological communities.

The Extent of Coral, Shell and Algal Harvesting in Guam Waters
A study of living marine resources, other than fish, which are being harvested from shallow offshore areas of Guam. Includes extensive lists of exploited species, location maps, existing legislation, and recommendations for resource development and conservation requirements.

Five-Year Economic Development Strategy
An identification of economic development constraints and potentials and formulation of programs and policies for development within five sectors: federal government, tourism, agriculture, fisheries, and industry.

Future Power Production and Transmission, Alternative Plans, Guam USA
A description of existing private, federal and GovGuam facilities for the production of power; including power plants, fuel lines, fuel tanks, transmission lines, etc. Future expansion needs and locations are discussed.

Guam Coastal Planning Bibliography
A bibliography of most written research materials concerning Guam, arranged according to subject matter in a numbered code system. Includes authors, number of pages, dates, cross references and location of available copies.

Guam Inventory of Planning Information and Addendum
An inventory of plans, reports, surveys and data bases about Guam. Includes a short description of each published source. Entries are arranged by subject areas in three volumes and an addendum.

Guam's Reefs and Beaches, Part II
Sedimentation studies at Fouha Bay and Ylig Bay which assess the impacts of sedimentation on the diversity of corals within offshore reef communities and transect studies of marine life in five marine bays of Guam.

Guam's Visitor Industry: An Economic Assessment
A compilation of statistical data obtained from a survey questionaire distributed to tourists, with 1,300 respondents providing the data base. Data addresses expectations, ratings of recreational and entertainment facilities, expenditures, length of stay, visitor profiles and preferred attractions.

A Guide to Changes in Laws Relative to Land and Water Use, 1969-76
A presentation of changes in Guam's code of laws relative to land and water use during this time period.

Growth Policy for Guam
A discussion of the factors relating to the development of Guam's economy. General policies discuss environment, culture and lifestyle, agriculture and light industry.

An Inventory of Present and Projected Coastal Land and Water Uses on Guam
An identification of Guam's existing coastal water uses, such as recreationl, waste disposal, urban renewal projects and others. Includes extensive maps and tables of existing and proposed seashore activities by categories and projects, with maps.

Mechanisms for Land-Use Control on Guam
A compilation of data pertaining to regulatory land-use controls on Guam with discussion and flow charts of permitting procedures for such activities as zoning variances, building permits, subdivisions and PUDs, COE permits, agricultural leases; with actual permit forms and guidelines included in the report.

Overall Economic Development Plan
A discussion of development proposals for the federal Economic Development Administration. Programs to stimulate Guam's economy include those for agriculture, tourism, Commercial Port, Guam International Air Terminal and water resources.

Planning for the Impacts of Guam Energy Facility Expansion
An assessment of energy facilities and their projected expansion with strategies for mitigation of adverse impacts.

Population Projections
A brief report containing methodology, tables and graphs of population projections for Guam to the year 2000. Three different population projections are compared to give a reasonable estimate of population growth.

Residential Development Policy Report
An extensive discussion of housing with chapters adressing problems, current housing stock, Guam's households today and tomorrow, residential development opportunities and contraints, policy alternatives and recommendations.

Resources and Projections: Availability of Sand as Fine Aggregate for Engineering Construction in Guam
A discussion of the best sources of aggregates and fine sand on Guam with a map of the distribution of hard limestone, granular limestone, beach sand and lagoonal deposits.

Shoreline Erosion on Guam
A position paper discussing the types of coastline represented on Guam and the limited potential for shoreline erosion problems.

Street Atlas of Guam
The first official reference map of all streets on the island, including location of major public use facilities. This document was published as a guide for government agencies and the public sector.

Studies on the Biology of the Reef Fishes of Guam and Distribution of Fishes on the Reef Flat
A two-part study of the distribution of fish and the eggs and larvae of fish and other marine life at selected sites.

A Summary of Major Federal Land Holdings in the Territory of Guam
A listing of locations, areas and uses of federal lands on Guam.

Survey and Species Inventory of Repre entative Pristine Marine Communities on Guam
Describes and maps those marine areas that are essential for the protection of endangered and threatened species or are relatively untouched representatives of characteristic Guam marine ecological communities.

Survey of Edible Marine Shellfish and Sea Urchins on the Reefs of Guam
A study of the ecology, populations and distribution of shellfish and sea urchins utilized for home consumption.

Territorial Emergency Plan and Vulnerability Study Series
A presentation of inter-agency response procedures and mechanisms for disaster preparedness and building codes in relation to hazard analysis studies for such potential disasters as typhoons, floods and earthquakes.