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

and

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

Dear Mr. Acting Speaker and Mr. President:

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

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

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

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

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

Sincerely,

PEDRO P. TENORIO  
Governor

CC: Special Assistant for Programs and Legislative Review
AN ACT

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

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

Date: January 20, 1988

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

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

FRANCES P. HERNANDEZ
Acting House Clerk
House of Representatives
AN ACT

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

BE IT ENACTED BY THE NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

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

"Division 7. The Building and Zoning Codes."

CHAPTER 1. THE BUILDING CODE (RESERVED)

CHAPTER 2. THE ZONING CODE

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

ARTICLE 1. GENERAL

Section 7211. Purpose and Objectives.

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

(b) Satisfaction of this need requires a legal system of land use guidance that is consistent with the aspirations and values of the people, helps them maintain a desirable lifestyle, produces appropriate
types and levels of development for the Commonwealth, and preserves the environment for future generations. Land use controls must also be practical and responsive to changing circumstances.

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

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

Section 7212. Policy and Jurisdiction.

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

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

(2) promote and encourage basic public
services which meet the needs of the people;

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

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

(5) promote the conservation of nonrenewable
resources;

(6) actively encourage conversion to
renewable energy sources; and

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

(b) This Act shall apply to the use of lands in
the Commonwealth by any person, who has use or
dispositional rights accorded them by virtue of land
ownership, leasehold, homestead, use permit, statutory
authority, or other instruments. Provided, that this
Act shall not apply to the islands of the First and
Second Senatorial Districts except by enactment of an
appropriate local law so applying this Act to a
particular Senatorial District.
Following such enactment, a Zoning Board member for the Senatorial District to which this Act newly applies shall be appointed and seated pursuant to Section 7221(k) of this Act. The Zoning Board shall then create a zoning plan for the such Senatorial District, using the same procedures, educational efforts, and time frames provided in this Act for creation and adoption of a zoning plan for the Third Senatorial District, except that the Zoning Advisory Council for the Senatorial District to which this Act newly applies by local law shall be created by the same local law. The Zoning Board shall submit such zoning plan to the Legislature for approval by the Legislative Delegation of the effected District pursuant to Section 7221(c)(4).

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

Section 7213. Definitions. As used in this Act:

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

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

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

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

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

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

(4) if appropriate to the system of zoning proposed, standards and procedures for issuance of variances and conditional use permits. The Zoning Plan shall be constructed in statutory form as appropriate.

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

(e) "Non-Conforming Use" means a structure or use
that is not permitted by laws and regulations currently in effect.

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

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

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

ARTICLE 2. ADMINISTRATION

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

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

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

(1) to educate the public about this Act and the requirement for compliance; such educational program shall be mandatory and shall be
undertaken prior to submission of the Zoning Plan
of the Board to the Legislature:

(2) to administer and enforce this Act;

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

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

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

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

(c) Specific Responsibilities: Zoning Plan.
The Zoning Board shall be responsible for preparing
the Zoning Plan for the Third Senatorial District in
accordance with the guidelines provided in Section
7231 herein and consistent with the policies and
purposes of this Act.

(1) Public Participation. In coordination
with the Zoning Advisory Council the Zoning Board
shall hold open public hearings on the island of
Saipan, in at least all major villages, to
solicit public opinion on proposed Land Use

Districts, boundaries and regulations.

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

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

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

(4) Report to Legislature, Adoption of Zoning Plan. Within eight months of the date all its members are confirmed by the appropriate Legislative Delegation, the Zoning Board shall submit its completed Zoning Plan to the
The Legislative Delegation of the effected Senatorial District shall have 60 days from submission within which to approve, or amend and approve, the Zoning Plan, by a separate local law duly enacted. Failure of the Legislative Delegation to act within this time shall automatically place the approval of the Zoning Plan before the voters of the Senatorial District to which such Zoning Plan applies in the form of a legislative initiative.

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

(d) Regulations. The Zoning Board shall promulgate regulations to carry out the intent and purposes of this Act. The Zoning Board shall adopt
such regulations within 60 days of adoption of the Zoning Plan into law.

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

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

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

Each member of the Board shall be either of Northern Marianas descent, as defined in Article XII, Section 4, of the Constitution, or shall be a United States citizen or national, who has been domiciled in the Commonwealth for a minimum of five consecutive
years prior to selection. Each member shall be qualified to vote in the Commonwealth, be at least twenty-one years of age, and shall not be an employee or officer of Commonwealth Government.

(f) Term.

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

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

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

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

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

(j) Meetings. The Board shall meet at least once a month, or as necessary to discharge its responsibilities without undue delay. Either the Chairman or any three members may call a meeting. Advance public notice in, at least, one newspaper of local circulation shall be provided, for, at least,
two weeks prior to a meeting. Meetings of the Board, except for those meetings dealing with termination, hiring, or discipline of the Administrator, shall be open to the public. The opportunity for public participation at meetings shall be provided. No decisions of the Board shall be made other than in a duly noticed public meeting. The Board shall adopt rules of procedure necessary for the conduct of its operations and meetings. A majority of the Board members is required to transact official business consistent with other applicable Commonwealth law.

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

(k) In the event either the First or Second Senatorial District elects, pursuant to Section 7212(b), to apply this Zoning Code to their respective Senatorial District, an additional member for such District shall be added to the Board by appointment of the Governor, subject to confirmation by the appropriate Senatorial District Delegation, as provided in subsection (e) of this Section. All other
provisions of this Act regarding Board members shall apply to Board members of the First or Second Senatorial Districts.

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

Section 7222. Zoning Administrator: Creation.

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

(b) Responsibilities. The Zoning Administrator
shall have the following duties:

1. To act as staff to the Zoning Board;
2. To maintain and keep custody of the docket, files and records of the Zoning Board;
3. To prepare and maintain all necessary land use and zoning maps; and
4. To carry out the directives of the Zoning Board.

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

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

Section 7223. **Zoning Advisory Council.**

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

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

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

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

(c) Composition. The Council shall consist of the Mayors of Saipan and the Northern Islands; the Special Assistant for Carolinian Affairs; the Special Assistant for Indigenous Affairs; the Chairman or designee of the Board of the Marianas Public Land Corporation; the President or designee of the Saipan Chamber of Commerce; the Governor's Special Assistant for Socioeconomic Planning; the Chief of the Division of Environmental Quality of the Department of Public Health and Environmental Quality; the Administrator of the Office of Coastal Resources Management; the Historic Preservation Officer of the Department of Community and Cultural Affairs; the Chairman or designee of the Board of Directors of the Commonwealth Development Authority; the Chairman or designee of the
Board of the Commonwealth Utility Corporation; the
President or designee of the Northern Marianas
Technical/Professional Council: a representative of
the Soil Conservation Service of the United States
Department of Agriculture: the Director or designee of
the Department of Natural Resources: the Director or
designee of the Department of Commerce and Labor; the
Director or designee of the Department of Public
Works: the President or designee of the Northern
Marianas Hotel Association: the President or designee
of the CNMI Contractors Association; the Chairman or
designee of the Board of the Saipan Farmers
Cooperative; and the Chairman or designee of the Board
of the Public School System. In addition, the
Governor shall appoint one member of the public
representing fisheries and designate one member of the
Council as Chair of the Council, until such time as
the Council elects its own Chair. One staff member
each from the Commonwealth House Natural Resources and
Senate Resources and Development Committees shall be
appointed by the respective Committee Chairman to the
Advisory Council.

(d) Term. All members shall serve until the
Zoning Board submits its Zoning Plan. The Zoning
Advisory Council shall then be disbanded.
(e) Compensation. The members of the Council shall receive no compensation, but shall be reimbursed for reasonable and necessary expenses at established Commonwealth Government rates for meetings actually attended.

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

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

ARTICLE 3. ZONING DISTRICTS

Section 7231. Land Use Districts.

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

(1) standards for subdivision development;
(2) a system of flood control and flood plain, wetlands, and watershed management:

(3) provisions which encourage fresh water conservation:

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

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

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

(7) protections for lands having special, historic, archaeological, architectural, topographic, geologic, ethnologic, scientific, cultural, or recreational significance:

(8) in commercial areas and within lands which are a primary focus of the tourism industry, restrictions and requirements which protect the aesthetic and utilitarian values of
these areas, including, but not limited to,
minimum lot size, density, setback, landscaping,
parking, site coverage, and building height; and
(9) protections for lands in intensive
agricultural use or with a high capacity for
growing crops, including, but not limited to,
flowers, foliage, fruits, forage and timber, or
for the raising of livestock or the propagation
of fish or game.
To the extent compatible with Commonwealth laws
and Constitutional provisions on the management of
public lands, the Zoning Plan shall promote or create
a system of public parks, beach accesses, recreation
areas, and wild and natural areas.
The Board shall also endeavor to structure the
Zoning Plan so that its effect upon the present
economic values of land is relatively neutral.
Lastly, the Zoning Board shall avoid zoning that
precludes the building of a residence on a homestead
property, because of minimum lot size requirements.
(b) Maps. Once adopted by law, the maps showing
the boundaries of Districts shall be kept permanently
on file in the Zoning Administrator's office.

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

- 20 -
Section 7241. Non-conforming Uses or Structures:
Continuance. Uses and Structures, Areas and Parcels, Casual
or Illegal Uses, Question of Fact, Illegal Non-Conforming Uses.

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

(b) Non-conforming Uses or Structures. Any
lawful structures, or use of lands or structures
standards and procedures to determine the percentage of damage to structures.

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

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

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

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

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

Section 7242. Changes in Boundaries, Uses and Requirements.

(a) District Changes. Changes in Land Use
District boundaries, uses and requirements shall be consistent with the purposes of this Act, the Coastal Resources Management Act, and the provisions of this subsection.

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

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

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

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

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

ARTICLE 5. PROCEDURES, FEES, AND PENALTIES

Section 7251. Public Participation: Notice, Hearing.

Rules of Procedure.

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

(b) Rules of Procedure. The Board shall prescribe rules of procedure to govern the publishing of public notices and the conduct of public hearings. The applications, filings, determinations, and records kept pursuant to this Act shall be open to the public for review and inspection.
Section 7252. **Filing Fees: Authority; Fees: Payment.**

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

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

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

Section 7254. **Penalties: Fines, Conflict of**
Interest.

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

(b) Penalties.

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

Any person who knowingly or willfully makes a false statement, representation, or certification in any documentation pertaining to this Chapter or regulation or order issued
thereunder shall be subject to a fine of $1,000, 
or one year imprisonment, or both.

(2) Civil Penalty. The Office of the 
Attorney General shall bring a civil action to 
enjoin the use or contemplated use of any real 
property in violation of this Act. Upon a 
showing of a violation of this Act the court 
shall issue an injunction prohibiting such use. 
The Attorney General need not show irreparable 
harm, as it is presumed: it is not necessary for 
the Attorney General to show there is an 
inadequate remedy at law to obtain an injunction. 
Any person who materially violates any 
provision of this Chapter or any regulation or 
any order issued hereunder, is subject to a civil 
fine not to exceed $1,000 per day for each day 
the violation occurs.

(c) Conflict of Interest. Any person, including 
Board members themselves, having a personal or 
financial interest in any official proceeding of the 
Zoning Board, or a familial relationship to the fourth 
degree of consanguinity with any party to such 
proceeding, shall disqualify himself or herself from 
officially hearing or ruling in such proceeding. A 
knowing or willful failure to do so is a misdemeanor,
punishable by not more than one year in prison and a
fine not to exceed $1,000 for each violation.

(d) Private Action.

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

(2) Any person who is aware of a violation
of this Act may bring an action in an appropriate
court of the Commonwealth to secure compliance
with the Act. However, such action shall not be
brought until the complaining person has first
given written notice of the violation to the
Zoning Board, and the Zoning Board has refused to
take action on the written notice of violation.
The failure of the Zoning Board to act on the
written notice within 90 days of the Board's
receipt of such notice shall be deemed a refusal
by the Board to take action. A person who
substantially prevails on the merits of his cause
of action shall receive his costs of litigation
including attorney's fees.
(e) Public Nuisance. Any use of land in violation of this act is a per se public nuisance.

Section 7255. Accounting of Fines and Fees.

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

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

ARTICLE 6. Authorization For Appropriation
Section 7261. Authorization For Appropriation. There is hereby authorized to be appropriated from the General Fund of the Commonwealth the sum of three hundred and fifty thousand dollars ($350,000) to be used, upon appropriation, to carry out the intent and purposes of this Act, including public education programs, preliminary to the adoption of
the Zoning Plan. The Zoning Board and Office of the Zoning Administrator shall be funded annually as appropriate."

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

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

Attest:

Benigno M. Sablan
Acting Speaker
House of Representatives

FRANCES P. HERNANDEZ
Acting House Clerk

June 27, 1989

PEDRO P. TENORIO
Governor
Commonwealth of the Northern Mariana Islands