

I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN
2012 (SECOND) REGULAR SESSION

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Bill No. 418-31 (COV)

Introduced by:

V.C. Pangelinan

AN ACT TO ADD §§ 61314, 61315, 61316, 61317, 61318, 61319 AND 61320 TO CHAPTER 61 ARTICLE 3 OF 21 GUAM CODE ANNOTATED RELATIVE TO THE ADMINISTRATIVE ENFORCEMENT OF ZONING LAWS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **SECTION 1. Legislative findings and intent.** The Department of Public
2 Works (DPW) and the Department of Land Management (DOLM) receive and review
3 all complaints of non-compliance of zoning designations, but are unable to enforce the
4 laws they are tasked to oversee as enforcement rests solely with the Office of the
5 Attorney General (OAG). Currently, the process for enforcement is long and
6 cumbersome, which allows the violation to continue without recourse by the DPW and
7 DOLM and must wait action by the OAG.

8 *I Liheslaturan Guahan* further finds that to better serve the community, by
9 expeditiously addressing violations of zone designations, DPW should be allowed to
10 enforce zoning laws.

1 Therefore, it is the intent of *I Liheslaturan Guahan* to allow enforcement powers of
2 zoning laws to DPW by providing proper and timely notification and imposing fines to
3 the person(s) or entity in violation of zoning laws.

4 **SECTION 2.** Sections 61314, 61315, 61316, 61317, 61318, 61319 and
5 61320 are hereby added to Chapter 61, Article 3 of 21 Guam Code Annotated to
6 read:

7 **“§ 61314 Form and Filing.** Who may file: Any government official or
8 person(s) may file a complaint with the Director of the Department of Public
9 Works.

10 a. Filing. Complaints of violations of zoning laws *shall* be made in
11 writing to the Director of the Department of Public Works. A
12 complaint for zoning violations, when received by the Department
13 of Public Works, *shall* stamp and record the date and time upon
14 receipt of each complaint.

15 b. Form. A written complaint *shall* include the following:
16 i. The name, contact number, electronic mail (if available),
17 mailing and/or business address of the complainant;
18 ii. Detailed narrative of complaint;
19 iii. Supporting evidence or documents to substantiate grounds
20 for complaint.

1 **§ 61315 Standard of Review.** The Director of the Department of Public
2 Works *shall* investigate all violation complaints within ten (10) days of
3 submission.

4 **§ 61316 Findings and Notice.** Such person(s) in receipt of the notice of
5 violation; the owner, occupant, lessee, mortgagee, agent and other person(s)
6 having control over the activities or use of said area, or all of the
7 aforementioned, *shall* be notified in writing with a detailed description of the
8 violation. The notice *shall* be issued via certified mail or by personal
9 delivery and signed by the Director of the Department of Public Works or
10 his/her designee.

11 Any person(s) that is found in violation *shall* have ten (10) days to rectify
12 said violations by the following:

- 13 a. Cease and desist all violative activity and remove all violative
14 structures; or
- 15 b. Cease and desist all violative activity and immediately apply for
16 appropriate zone designation. No violative activity *shall* be conducted
17 on the said property during the pendency of the zoning application to
18 cure a violation.

19 **§ 61317. Failure to Comply - Fines.** Failure to rectify violations within
20 ten (10) days of the receipt of the notice of violation *shall* be assessed a fine

1 of One Hundred Dollars (\$100.00) per day until the violation has been
2 rectified according to §61316 in this Chapter.

3 **§ 61318. Zone Enforcement Fund.** There is hereby created a “Zone
4 Enforcement Fund” wherein all monies collected from fines according to
5 §61317 of this Chapter *shall* be deposited and *shall* be appropriated by *I*
6 *Liheslaturan Guahan* and *shall not* be subject to the *Maga’lahen Guahan’s*
7 transfer authority.

8 **§ 61319. Decision - Final.** Any determination of finding(s) of the violation
9 of zoning laws by the Director of the Department of Public Works or his/her
10 designee *shall* be final.

11 **§ 61320. Appeals.** Any such person in receipt of the violation who wishes
12 to appeal the determination of finding(s) by the Director of the Department
13 of Public Works may file such appeal and submit to the Guam Land Use
14 Commission who shall exercise their powers pursuant in Article 6 of
15 Chapter 66 of 21 Guam Code Annotated.”

16 **SECTION 3. Rules and Regulations.** The Department of Public Works
17 and the Department of Land Management *shall* promulgate rules and regulations
18 within ninety (90) days of the enactment of this Act pursuant to Chapter 9, 5 Guam
19 Code Annotated, the Administrative Adjudication Law.

1 **SECTION 4. Notification.** Within thirty (30) days upon enactment of this
2 Act, the Department of Public Works and the Department of Land Management
3 *shall* provide notification of the implementation of this Act to the general public by
4 posting notices within their respective Departments and by using various media
5 outlets.

6 **SECTION 5. Severability.** If any of the provisions of this Act or the
7 application thereof to any person or circumstance is held invalid, such invalidity
8 *shall* not affect any other provision or application of this Act which can be given
9 effect without the invalid provision or application, and to this end the provisions of
10 this Act are severable.