

**TITLE 10 – PLANNING AND ECONOMIC DEVELOPMENT
CHAPTER 2 - PLANNING AND ZONING**



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

PLANNING AND ZONING ACT 1987

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PLANNING AND ZONING ACT 1987

AN ACT to provide for: (a) planning in land water use; (b) the promotion of the health, safety and general welfare of the people; (c) the creation of zones in municipal areas in order to lessen the congestion and to secure safety from fire and other hazards; (d) the regulation and control of the construction of buildings and the prevention of overcrowding of land; and (e) matters connected therewith or incidental thereto.

<i>Commencement:</i>	<i>March 20, 1987</i>
<i>Source:</i>	<i>P.L. 1987-8</i>
<i>Amended By:</i>	<i>P.L. 1994-105</i>

PART I - PRELIMINARY

§201. Short title.

This Chapter may be cited as the "Planning and Zoning Act 1987".
[P.L. 1987-8, §1.]

§202. Interpretation.

In this Chapter the terms:

- (a) "**building**" includes any enclosed structure built, erected, framed or designed for housing, shelter, and support of persons, animals or property;
- (b) "**Commission**" means Planning Commission appointed under Section 204 of this Chapter;

- (c) “**Council**” means a Municipal Council created under the *local Government Act 1980*, 4MIRC 1;
- (d) “**Director**” means Director of Planning appointed under Section 206(2) of this Chapter;
- (e) “**Minister**” means Minister in charge of the subject of Local Government;
- (f) “**structure**” means any kind of construction and includes buildings, observation towers, water tanks, trestles, piers, open sheds, temporary shelters, animal pens, fences, display signs, reviewing stands, bleachers and tents, and such other constructions. [P.L. 1987-8, §2.]

§203. Chief Planner.

The National Government Chief Planner may act in his capacity as advisor:

- (a) to formulate and submit physical development plans to the national government in relation to areas;
- (b) to formulate land and water use policy in Majuro and other atolls;
- (c) to advise all local government Councils:
 - (i) in setting environmental standards and preparation of schemes for environmental improvement in municipal areas;
 - (ii) in the formulation of and the execution of housing schemes in such areas;
 - (iii) in the demarcation of zones and areas for better planning, environmental protection and landscaping; and
 - (iv) in technical planning services;
- (d) to advise on physical planning projects or schemes prepared by any local government Council or any statutory authority. [P.L. 1987-8, §3.]

PART II- PLANNING COMMISSION; PLANNING OFFICE

§204. Planning Commission.

- (1) Every local government Council shall establish a Planning Commission, hereinafter referred to as "the Commission", for the administration and management of affairs entrusted to it by law, regulations, or ordinances.
- (2) The Commission shall consist of the Mayor, two (2) other members of the Council and two (2) landowners from the local Council area appointed by the Council.
- (3) The Mayor shall be the Chairman ex-officio of the Commission. In the absence of the Mayor, the acting mayor shall function as the Chairman of the Commission. The quorum of the Commission shall be three (3).
- (4) Any temporary or permanent vacancy in the membership shall be filled by the Council from among other members of the Council or from the landowners as the case may be. [P.L. 1987-8, §4.]

§205. Functions of the Commission.

- (1) It shall be the duty of the Commission to examine and decide on matters relating to various functions referred to in this Chapter.
- (2) The Commission shall function as an advisory body to the local government Council in all matters relating to planning and zoning and also shall be responsible for the execution of policies and ordinances of the Council in relation to its work.
- (3) The Commission may, in the exercise of its functions and duties, seek the advice of the Government Chief Planner.
- (4) The Commission may, if it deems necessary, call for representations from the public or from various organizations and bodies with respect to matters under consideration before the Commission. [P.L. 1987-8, §5.]

§206. Planning office.

- (1) All local government Councils shall have a planning office which will function under the Council, for the administration of day-to-day affairs of the Commission.
- (2) The Council shall appoint an officer of its staff to function as the Director of Planning, who will be responsible for the execution of all matters relating to the Commission, in addition to his other duties.
- (3) The Council may appoint such other officers and servants to assist the Director of Planning as it may deem necessary.
- (4) It shall be the duty of the Director of Planning:
 - (a) to carry out and execute all matters relating to planning and zoning prescribed by the ordinances of the Council and to carry out and execute matters entrusted or delegated to him by the Commission;
 - (b) to grant, renew or revoke licenses for the construction of any buildings, houses or other structures in accordance with the law or ordinances.
- (5) Any person who refuses or obstructs the due performance of the duties of the Director of Planning under Subsection (4) above, shall be guilty of an offense and shall upon conviction be liable to a fine not exceeding \$500 or to a term of imprisonment not exceeding six (6) months or both. [P.L. 1987-8, §6.]

§207. Failure to appoint a Commission.

- (1) In the event any local government Council fails to appoint a Planning Commission as contemplated under Section 204 of this Chapter or make ordinances for proper planning and zoning as contemplated under this Chapter, within a reasonable time, or if in the opinion of the Minister, the local government Council of any area is not taking sufficient interest in giving effect to the provisions of this law, the Minister may appoint the Government Chief Planner to perform all or any of the functions and duties conferred on the Planning Commission or the local government Council under this Chapter.
- (2) For the purposes of giving effect to the provisions of Subsection (1) of this Section the Government Chief Planner may make regulations

with respect to such areas, and on matters any local government Council is required to make provision for, under this Chapter.

- (3) The regulations so made shall come into effect only upon the approval of the same by the *Nitijela*. *The Administrative Procedure Act 1979*, 6 MIRC 1, shall not apply to any regulations made under Subsection (2) of this Section.
- (4) The “Minister” in this Section means the Minister in charge of the subject of planning. [P.L. 1987-8, §7.]

§208. Planning local areas.

The local government Council may take into consideration in its planning and implementation program:

- (a) the demarcation of areas for housing;
- (b) the demarcation of areas for recreation and parks;
- (c) the need for agricultural lands for the development and growth of food and fiber;
- (d) the necessity to establish and maintain catchment areas and water reserves for the collection and supply of water;
- (e) the future requirement of forest and forest reserves and demarcation of areas for forestation and the preservation of plant and animal life; and
- (f) the demarcation of coastal areas for the development of the tourist industry. [P.L. 1987-8, §8.]

§209. Restrictions on buildings.

- (1) Every local government Council shall make ordinances with respect to, but not limited to, the following matters:
 - (a) prohibiting any person or body from erecting or constructing any kind of house or building without having obtained a permit from the Commission;
 - (b) specifying the requirement of rain water catchment for every future construction of a house or for every building or industry where water is being used;

- (c) stipulating the minimum requirements in the location and size of structures and adjacent areas in the construction of houses and other buildings;
 - (d) providing for the requirement of adequate light and air to all houses and buildings to secure safety from various hazards;
 - (e) demarcating land solely for use as cemeteries and prohibiting the use of any other lands for cemeteries except upon written permission of the Council; and
 - (f) such other matters as it may deem necessary for the purpose of giving effect to or achieving the objects and principles of this Chapter.
- (2) In terms of the provisions of Subsection (1)(b) of this Section, the ordinances shall require that all future constructions referred to in that Subsection shall be equipped with a water catchment system to provide for a minimum of 500 gallons of rain-fed water storage to be collected from the roof area of the said house, building or industry.
- (3) All ordinances made pursuant to Subsection (1) of this Section shall be consistent with, and in no event shall be substantially less stringent than, relevant provisions contained in the Marshall Islands Building Code (Part V of this Chapter). [P.L. 1987-8, §9; Subsection (3) added by P.L. 1994-105, §3(1).]

PART III- ZONING AND BUSINESS PERMITS

§210. Zoning in Majuro Atoll.

- (1) The local government Council area of Majuro Atoll may be divided into zones as enumerated in the zoning map of Majuro Atoll that may be prepared by the local government Council of Majuro Atoll in consultation with the Government Chief Planner.
- (2) The Council may vary, amend or alter the zoning map at any time as it may deem necessary. [P.L. 1987-8, §10.]

§211. Zoning principles.

- (1) The zoning of areas shall be formulated to promote the health, safety, convenience and general welfare of the people, and in doing so the following objectives may be taken into consideration:

- (a) to promote a harmonious interrelationship of land use;
- (b) to ensure that public and private lands are used for the purposes mostly beneficial to the local area and the Republic;
- (c) to provide adequate light and air to all buildings and secure safety from hazards;
- (d) to promote a safe and effective traffic movement system with adequate parking lots in urban areas and have efficient transportation and communication among various islands;
- (e) to protect property values, economic investments and to encourage suitable forms of economic development;
- (f) to facilitate the appropriate location of recreational areas, parks and community centers; and
- (g) to preserve the natural landscape and environment and the development of tourist potential in order to generate revenue. [P.L. 1987-8, §11.]

§212. Zoning methods.

- (1) With the object of giving effect to the principles set forth above, the zoning of areas may be divided into the following zones:
 - (a) Residential Zones (low-density and high-density groups): providing for a reasonable amount of open space around each dwelling and for protection of dwellings from noise, congestion and hazards;
 - (b) Commercial Zones: providing for commercial and office use with easy access and parking facilities
 - (c) Industrial Zones: providing for industrial and heavy commercial uses and for necessary infrastructure to locate them away from residential and commercial areas;
 - (d) Resort Zones: providing for integrated resort development for the use of tourists and visitors and for setting apart areas for hotels, bars, restaurants and recreational centers;
 - (e) Public Zones: providing for the orderly establishment of public facilities like administrative buildings, hospitals, schools, parks and playgrounds: and
 - (f) Watershed Zones: providing exclusively for the catchment, collection, storage and distribution of water. [P.L. 1987-8, §12.]

§213. Building permits.

After the publication of ordinances by the local government Councils or promulgation of regulations by the Government Chief Planner under Section 207 of this Chapter for the requirement of building permits, no person shall construct any house, building or any structure, whether temporary or permanent; and no person shall make any alteration, addition or extension to any existing house, building or structure without having obtained a permit from the required authority of the local government Council or the Government Chief Planner for such construction, alteration, addition or extension of the house, building or structure. [P.L. 1987-8, §13.]

§214. Expiration of the permit.

If the holder of the permit does not commence construction of the building so described in the permit within ninety (90) days or does not complete the construction within two (2) years from the date of issuance of the permit, the permit shall expire and no further construction shall be done unless such person obtains a new permit for such construction. [P.L. 1987-8, §14.]

§215. Penalty.

Every person who constructs any house, building or structure or makes any alteration, addition or extension to any existing house, building or structure in contravention of Section 213 or 214 of this Chapter shall be guilty of an offense and shall upon conviction be liable to a fine not exceeding \$500. [P.L. 1987-8, §15.]

§216. Certificate of Conformity.

- (1) No person shall occupy, whether temporarily or permanently, any new house, building or structure unless he has obtained a Certificate of Conformity, from the required authority of the local government Council or the Government Chief Planner, certifying that such house, building or structure has been constructed in conformity with the law and ordinances in operation at that time.
- (2) Every person who occupies any house, building or structure in contravention of Subsection (1) of this Section shall be guilty of an offense and shall upon conviction be liable to a fine not exceeding \$500. [P.L. 1987-8, §16.]

§217. Appeals.

A person aggrieved by any decision of the Director may appeal to the Planning Commission or may appeal therefrom to the local government Council against the decision of the Planning Commission; and the local government Council may vary, amend, or set aside the said decision of the Planning Commission as it may deem fit. The decision of the Council on an appeal shall be final and binding on the party who appealed. [P.L. 1987-8, §17.]

§218. Fees and charges.

The local government Council may establish a scheme of fees for the issuance of building permits, Certificates of Conformity or for any other service rendered by it. [P.L. 1987-8, §18.]

PART IV - LAND ACQUISITION

§219. Acquisition of land.

For the purpose of giving effect to the provisions of this Chapter, the National Government may acquire land for the local government Council and the use of such land by the local government Council shall be deemed to be a public use under the *Land Acquisition Act 1986*, 9 MIRC 2. [P.L. 1987-8, §19.]

§220. Enforcement.

Every person who has committed an offense under this Chapter shall be prosecuted on a complaint made by the local government Council concerned or (in the absence of the appointment of a Planning Commission), by the Attorney-General at the request of the Government Chief Planner. [P.L. 1987-8, §20.]

§221. Application of the Chapter.

Subject to the provisions of Part V of this Chapter, the provisions of this Chapter shall apply only to the local government Councils of Majuro Atoll and Kwajalein Atoll and any other local government Council that may be declared by the Minister to be a Council that shall be governed by this Chapter. [P.L. 1987-8, §21; amended by P.L. 1994-105, §3(2).]

PART V- MARSHALL ISLANDS BUILDING CODE

§222. Adoption of Marshall Islands Building Code.

- (1) The Minister of Public Works, or his designee, shall formulate and propose for adoption rules and regulations establishing minimum standards for the construction of buildings, or classes of buildings, and the installation of appurtenances thereto. Such rules and regulations may include, but not be limited to, standards or requirements for the design and construction of buildings and other structures and their appurtenances, for the materials to be used in connection therewith, and for their use, occupancy, location and maintenance. The rules and regulations shall comprise and be collectively known as the Marshall Islands Building Code (hereinafter referred to as the "Building Code") and to the extent applicable, the design and construction of buildings and other structures shall comply therewith.
- (2) Provisions of the Building Code may, from time to time, be added, amended or repealed to effectuate the purpose of this Part V.
- (3) The Building Code and all additions, amendments or repeal of its provisions shall be adopted pursuant to, and in accordance with, the *Marshall Islands Administrative Procedure Act 1979*, as amended, 6 MIRC 1. [added by P.L. 1994-1 05, §3(3).]

§223. Provisions of the Building Code.

The Building Code shall be designed to achieve the general purpose of this Part V and the following:

- (1) To provide reasonably uniform standards and requirements for:
 - (a) construction and construction materials, consonant with accepted standards of engineering and fire prevention practices, and
 - (b) provision of water supply and sanitation to buildings consistent with intended use and occupation;
- (2) To permit, so far as may be practicable, the use of modern technical methods, devices and improvements which tend to reduce the cost of construction without substantially affecting reasonable requirements

- for the health, safety and security of the occupants or users of the building or other structure;
- (3) To encourage, so far as practicable, the standardization of construction practices, methods, equipment, material and techniques;
 - (4) To eliminate restrictive, obsolete, conflicting and unnecessary building practices and requirements which tend to unnecessarily increase construction costs or retard the completion of construction;
 - (5) To provide for the upgrading of existing buildings and structures to the standards set out in the Building Code; provided, that such upgrading of existing buildings and structures shall not be required prior to modification or repair of the building or other structure: and provided further, that such upgrade shall not be required for the construction of buildings and other structures for which financing has been concluded and all necessary approvals granted prior to the adoption of the Building Code pursuant to Section 222(3) of this Chapter; and
 - (6) To provide an administrative procedure for appealing decisions of the Building Officer while providing adequate notice to the affected party and with an opportunity to be heard and present evidence.
[added by P.L. 1994-105, §3(3).]

§224. Application.

- (1) The Building Code shall be applicable to the construction of all buildings and other structures, and the installation of appurtenances thereto, including those which are funded by the Republic or supported with Republic funds. This includes, without limitation, such projects directly funded or financed by the Republic, projects wherein the monies are administered or managed by the Republic and projects built with monies loaned by the Republic; provided, however, that when monies for construction are made available to the Republic on condition that a different building standard shall apply, and such standard is more stringent or restrictive, then such alternate standard shall apply to that particular project.
- (2) The Building Code shall also apply to such other buildings or other structures to be constructed with funds from the Republic or any foreign government or governmental agency unless specifically modified or waived by the Building Officer, provided written

notification of any such modification or waiver is provided to the appropriate governing body.

- (3) The application of the Building Code may be limited to specified classes or types of buildings, according to use or other distinctions, and may differentiate, so long as not in a substantially less stringent manner, among different areas of the Republic depending on special conditions therein. [added by P.L. 1994-105, §3(3).]

§225. Administration.

The Minister of Public Works shall designate a person within the Republic as the Building Officer to administer and enforce the Building Code, with the assistance of the Government Chief Planner and applicable local government planning commissions. Subject to the procedures and limitations set out in the Building Code, the Building Officer is expressly authorized and empowered:

- (1) To examine and approve or disapprove plans and specifications for the construction of buildings and other structures to which this Part V applies;
- (2) To require that the construction of any such building or structure be in accordance with the applicable provisions of the Building Code, subject, however, to the powers of variance or modification which may be granted therein;
- (3) To coordinate with the Government Chief Planner and applicable local government planning commissions to issue certificates of occupancy, permits, licenses and other such documents as may be required by the Building Code in connection with the construction of buildings or other structures;
- (4) To prohibit the commencement or continuation of construction until a permit therefor has been issued showing compliance with the requirements of the applicable provisions of the Building Code;
- (5) To ensure compliance with this Part V and all rules and regulations adopted hereunder, and in connection with any hearings or investigations, to subpoena witnesses, records, documents and any relevant information not otherwise protected by law;
- (6) To order in writing, the remedying of any conditions found to exist in, or about, any building in violation of any provision of the

Building Code. Such orders shall be served in the same manner as the service of summons as prescribed by the rules of the Marshall Islands High Court;

- (7) To exercise such ancillary power as set out in the Building Code and as necessary to fulfill the purposes of this Part V. [added by P.L. 1994-105, §3(3).]

§226. Penalties for Violation.

In addition to any other remedy or penalty available by law, any person, having been served with an order of the Building Officer, who shall fail to comply with such order within the time fixed by the Building Officer, and any owner, builder, architect, tenant, contractor, sub-contractor, construction superintendent or agent thereof, or any other person taking part or assisting in the construction or use of any building who shall knowingly violate any of the applicable provisions of the Building Code shall, upon conviction, be subject to a fine of not more than five hundred dollars (\$500), or thirty (30) days imprisonment, or both. Each day of the violation shall constitute a separate offense; provided that, ceasing construction on a project while the violation is being corrected, working on other areas of the project which are in compliance with the Code, or not allowing the structure to be used until the violation is cured or agreement is reached with the appropriate authorities, shall not cause additional penalties to accrue. [added by P.L. 1994-105, §3(3).]