

AN ACT

To amend the Koror Zoning Law formerly identified as 31 PNC 3340 relating to violations of the zoning laws and to increase penalties and enforcement measures, and for related purposes.

THE PEOPLE OF KOROR REPRESENTED IN THE LEGISLATURE OF THE STATE OF KOROR DO ENACT AS FOLLOWS:

SECTION 1. FINDINGS.

The Eighth Koror State Legislature hereby finds that under former 31 PNC 3340, now adopted as positive law of Koror by way of Koror State Public Law No. K6-88-98, the maximum penalty for violations of the Koror zoning laws is a fine of not more than \$50.00 per day and the costs of prosecution. These penalties do not allow for adequate enforcement of the laws, and some people have violated the laws, ignored warnings from Koror State, and have erected nonconforming structures.

In the case of Koror State Planning Commission vs. Haruo (8 ROP Intrm. 361, Tr. Div. Crim. Case No. 99-366), the defendant challenged the Koror State law, claiming that Koror State can only impose a penalty of up to \$100.00, or up to 90 days in jail, or both. The court ruled that the zoning laws represent a delegation of authority to the State governments that has no limitation upon the penalties that may be imposed for zoning law violations. In other words, while other Koror State criminal laws may only impose a \$100.00 penalty or 90 days in jail, or both, the zoning laws do not have such limitations, and the State may impose greater penalties under the zoning laws.

It is in the best interests of the people of Koror to add greater penalties for zoning law violations, which will allow more effective zoning enforcement by the State of Koror.

SECTION 2. AMENDMENT OF PENALTIES FOR ZONING VIOLATIONS.

The Koror State zoning law formerly codified as 31 PNC 3340, and adopted as positive law of the State of Koror in KSPL No. K6-88-98, is hereby amended to read as follows:

1 Any person, firm or corporation violating any provision of ~~this division~~ the Koror
2 Zoning Law, as set forth in KSPL No. K6-88-98 and as appearing as former 31
3 PNC 3001 through 3341, shall be guilty of a misdemeanor, and upon conviction
4 thereof, shall be subject to a fine of not more than \$50.00 and the costs of
5 prosecution. Each day that a violation exists shall constitute a separate offense.
6 The imposition of any sentence shall not exempt the offender from compliance with
7 this division. Violations shall be prosecuted in an appropriate court of the Republic on
8 the complaint of the Planning Commission or any aggrieved person subject to the
9 following enforcement procedures, and penalties, which shall be cumulative and
10 unrestricted by application of any other penalty or enforcement procedure:

11 A. The Koror Planning Commission may issue a cease and desist order,
12 which shall require the person receiving the notice, the builder, the owner, and any
13 other person to immediately stop any and all work as directed in the cease and desist
14 order, and to cease violating the building and zoning laws. Any person who violates
15 the terms and conditions of the cease and desist order shall, upon conviction, pay a
16 fine in the amount of no less than \$100.00 per day, and up to \$1,000.00 per day, or
17 may also be sentenced to jail for a period of up to six months, or may be sentenced to
18 pay such fines and to serve time in jail.

19 B. The Koror State Planning Commission or Koror State Government may
20 file an action in the court to obtain injunctive relief to immediately stop and prevent
21 the violation of any zoning law. The court may impose any conditions to prevent the
22 violation of law, and to protect and preserve the environment from pollution, damage,
23 impairment, or destruction. The court may issue any temporary or preliminary
24 injunction or order to prevent any unlawful erection, construction, reconstruction,

25 alteration, repair, conversion, maintenance, or other use, and may also prevent the
26 occupancy of any building, structure, or land, and may prevent any

1 illegal act, conduct, business or use in or about any affected land or premises.
2 Upon the completion of the action the court may issue any order requiring the
3 builder, owner, or violator to remove any illegal or non-complying structure, to
4 take down an improvement, and to restore the land and environment to its original
5 condition, and may issue any other permanent order to the same extent that any
6 temporary or preliminary order may be issued, and to the extent deemed
7 necessary by the court to prevent any future violations of law. In issuing any
8 permanent injunction or order, the court may issue any order deemed necessary or
9 appropriate, and the court shall not limited by the options set forth herein.

10 C. Upon conviction for any offense, the fine shall be at least \$50.00, and
11 no more than \$500.00, for each violation, or a jail sentence for up to ninety (90)
12 days, or both. Each day that a violation occurs shall be a separate offense which
13 may be punished separately. If Koror State Government expends any funds in the
14 prosecution, then restitution shall also be ordered to be paid as part of the
15 judgment and sentence.

16 D. In any civil action, the court may award damages, and may also assess
17 a civil penalty in the amount of up to \$10,000.00 for each violation.

18 E. In any civil action in which Koror State Government or the Koror
19 Planning commission prevails, then the court shall award costs, expenses,
20 attorney's fees, investigative fees and costs and expenses, expert witness fees and
21 costs and expenses, and all fees and costs and expenses for the preparation of any
22 reports or documents used at trial.

23 **SECTION 3. SEVERABILITY.**

24 In the event that a court of competent jurisdiction determines that any part or portion

25 Page 3 of 4
26 of this Act are invalid or otherwise unenforceable, then the offending part or portions may be stricken, and the remaining portions shall continue in full force and effect.

1 **SECTION 4. EFFECTIVE DATE.**

2 This Act shall become effective upon its becoming law by operation of the Koror State
3 constitution.

PASSED ON: July 14, 2006

CERTIFIED BY:

ATTESTED TO BY

/s/ _____
Timothy "Tero" Uehara
Speaker

/s/
Rena Iluches
Clerk

APPROVED ON THIS 21st DAY OF July, 2006

/s/
Yositaka Adachi
Governor Koror State