

I Mina'trentai Sais Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
39-36 (COR)	Therese M. Terlaje	AN ACT TO AMEND §§ 61303(a), 61620, 61634, AND 61645 OF CHAPTER 61 AND TO AMEND §§ 66208, 66212(a), 66303, 66307, 66406, AND 66407 OF CHAPTER 66, ALL OF TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO ENFORCING THE TERMS AND CONDITIONS OF CONDITIONAL USE PERMITS, VARIANCES, AND ZONE CHANGES.	1/25/21 8:47 a.m.						

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session

Bill No. 39-36 (COR)

Introduced by:

Therese M. Terlaje *Tmt*

**AN ACT TO AMEND §§ 61303(a), 61620, 61634, AND 61645
OF CHAPTER 61 AND TO AMEND §§ 66208, 66212(a),
66303, 66307, 66406, AND 66407 OF CHAPTER 66, ALL OF
TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO
ENFORCING THE TERMS AND CONDITIONS OF
CONDITIONAL USE PERMITS, VARIANCES, AND ZONE
CHANGES.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that terms or conditions placed by the Guam Land Use Commission on approval of zone changes, variances, or conditional use applications are difficult to enforce after building permit and occupancy permit are issued, resulting in unfulfilled obligations or projects that impose hardship on adjacent properties or the public that should have been mitigated. Adding provisions to the law which clearly tie said conditions of approval to land records and building permits will make it easier for both the Department of Land Management and the Department of Public Works to keep track of and enforce the terms and conditions as obligations that run with the property and with the building or occupancy permit.

Section 2. Terms and Conditions of Approval by GLUC for Conditional Use. § 61303(a) of Chapter 61, Title 21, Guam Code Annotated, is hereby amended to read:

1 **“§ 61303. Conditional Use.**

2 (a) In addition to permitted uses in each of the zones, specified
3 uses are permitted upon approval by the Commission of the site plan
4 including, but not limited to, disposal of sewage, access, parking,
5 structure location and dimensions of buildings, impact of the proposed
6 use on adjacent land uses, and accompanying covenants that may
7 include performance standards. The Commission shall also consider
8 such other elements as may be reasonably related to the health, safety
9 and general welfare of the community. No use shall be permitted which
10 is inconsistent or incompatible with the uses of adjacent property, nor
11 which would otherwise be detrimental to the public. Copies of the
12 decision by the Commission shall be filed in the records of the
13 Department of Land Management’s Office of the Registrar and in the
14 records of the Department of Public Works. Terms and conditions or
15 covenants imposed by the Commission upon approval of a conditional
16 use permit shall run with the land in perpetuity for that specific
17 conditional use, whereupon the maintenance of special conditions
18 imposed by the permit, shall be the responsibility of the property owner.
19 The Guam Land Use Commission is authorized to revoke approval of
20 a conditional use, for any failure to conform to the terms and conditions
21 or covenants of the conditional use as set by the Guam Land Use
22 Commission in approving the conditional use permit pursuant to this
23 chapter. The Director of Land Management shall withhold approval or
24 endorsement of any building permit, certificate of occupancy, or license
25 for use of said property for any failure to conform to the terms and
26 conditions of the conditional use as set by the Commission in approving
27 the conditional use.”

1 **Section 3. Terms and Conditions of Approval by GLUC for Variances.** §
2 61620 of Chapter 61, Title 21, Guam Code Annotated, is hereby amended to read:

3 **“§ 61620. Decision by Territorial Guam Land Use Commission.**

4 If, from the facts presented with the application at the hearing, or
5 by investigation by or at the instance of the Commission, the
6 Commission makes the findings set forth in § 61617, it may grant the
7 variance in whole or in part, upon such terms and conditions as it deems
8 necessary to conform to the general intent and purpose of this law. If
9 the Commission fails to make said findings, it shall deny the
10 application. Each decision by the Commission authorizing a variance
11 from the regulations herein established must be by resolution adopted
12 by a majority of its membership, setting forth in writing the findings
13 required by § 61617, except that no written findings shall be required
14 in granting minor variances from the height, yard, lot width, lot area or
15 lot area per dwelling unit requirements. The Commission shall make its
16 decision on each variance application within a reasonable time and shall
17 forthwith furnish a copy thereof to the applicant and to other parties in
18 interest who have requested to be notified. Additional copies of the
19 decision shall be filed in the records of the Department of Land
20 Management’s Office of the Registrar and in the records of the
21 Department of Public Works. If the decision filed involves a variance
22 granted by the Commission, said variance shall be the authority for the
23 Director of Land Management to endorse and to issue any building
24 permit or certificate of occupancy in conformance thereto and for the
25 approval of any application for the approval of a required license. The
26 Director of Land Management shall withhold approval, endorsement,
27 or issuance of building permit, certificate of occupancy, or license for

1 any failure to conform to the terms and conditions of the variance as set
2 by the Guam Land Use Commission in granting the variance.”

3 **Section 4. Terms and Conditions of Approval for Zone Change.** §61634
4 of Chapter 61, Title 21, Guam Code Annotated is amended to read:

5 **“§ 61634. Decision by Commission.**

6 (a)The Commission shall consider the proposed change of zone
7 and may approve or disapprove the same, in whole or in part. The
8 Commission shall make its findings and determination within forty (40)
9 days from the date of the hearing thereon and shall forward notice of
10 such decision to the applicant, if any. If the application is approved in
11 whole or in part by the Commission, the same shall be forwarded to the
12 Governor who may approve or disapprove the proposed change in
13 whole or in part.

14 (b) Copies of the decision adopted by the Commission and
15 approved by the Governor shall be filed in the records of the
16 Department of Land Management’s Office of the Registrar and in the
17 records of the Department of Public Works. Terms and conditions or
18 covenants imposed by the Commission and the Governor upon
19 approval of a change of zone shall run with the land in perpetuity,
20 whereupon the maintenance of special conditions imposed shall be the
21 responsibility of the property owner. The Director of Land
22 Management shall withhold approval or endorsement of any building
23 permit, certificate of occupancy, or license for use of said property for
24 any failure to conform to the terms and conditions of the change of zone
25 as set by the Commission and the Governor.”

1 **Section 5. Terms and Conditions of Approval of Zone Change to be**
2 **Recorded.** § 61645 of Chapter 61, Title 21, Guam Code Annotated is amended to
3 read:

4 “§ **61645. Recording.** Upon the approval of any Zoning Map or
5 amendment thereto, a copy of same together with any terms and conditions of
6 said approval shall be recorded in the Department of Land Management.”

7 **Section 6. Terms and Conditions of Approval by GLUC to be Recorded**
8 **with Building Permit.** § 66208 of Chapter 66, Title 21, Guam Code Annotated, is
9 hereby amended to read:

10 “§ **66208. Same: Action Upon.**

11 (a) The building official shall act upon each application for a
12 building permit without unreasonable or unnecessary delay. On finding
13 conformity with all the requirements of this and other applicable laws,
14 the building official shall, upon receipt of the required fee, issue the
15 permit to the applicant which shall specifically and clearly state any
16 terms or conditions or covenants imposed by the Guam Land Use
17 Commission or the Department of Public Works that are not stated as
18 mandates in the application, plans, or specifications.

19 (b) If an application for a permit or the plans and specifications
20 submitted therewith, describe proposed work not in conformity with all
21 the requirements of this and other applicable laws or not in conformity
22 with Guam Land Use Commission terms and conditions on approval of
23 conditional use, variance, or zone change, or do not contain sufficient
24 information to enable the building official to reach a decision, he shall
25 not issue a permit, but shall return the plans and specifications to the
26 applicant, together with his refusal to issue such permit, and reason

1 therefor. The building official, upon request of the applicant, shall make
2 such refusal, containing the reasons therefor, in writing.”

3 **Section 7. Terms and Conditions of Approval by GLUC To Be Enforced**
4 **With Building Permit.** § 66212(a) of Chapter 66, Title 21, Guam Code Annotated,
5 is hereby amended to read:

6 “(a) The issuance of a building permit or approval of plans and
7 specifications shall not be construed to be a permit for, or approval of any
8 violation of the provisions of this Chapter or of the terms and conditions
9 imposed by the Guam Land Use Commission or the Department of Public
10 Works on the use of the property or project. Any building permit presuming
11 to cancel such provisions or condone such violations shall be entirely invalid
12 and void.”

13 **Section 8. Terms and Conditions of Approval by GLUC to be Enforced**
14 **upon Application for Certificate of Occupancy.** § 66303 of Chapter 66, Title 21,
15 Guam Code Annotated, is hereby amended to read:

16 “§ 66303. Same. Content.

17 In addition to the certification as to compliance with the
18 provisions of this Chapter, the Certificate of Occupancy shall state the
19 purposes for which the building may be used in its several parts, the
20 maximum permissible live loads on the several floors, the number of
21 individual persons that may be accommodated in the several stories, in
22 case such number is limited by provision of law or by the permit and
23 whether the structure is Fully Concrete Dwelling installed with
24 Typhoon Shutters, and shall clearly and specifically state any additional
25 terms or conditions imposed by the Guam Land Use Commission or the
26 Department of Public Works.”

1 **Section 9. Violation of Terms and Conditions of Approval by GLUC as**
2 **Grounds for Denial of Certificate of Occupancy.** § 66307 of Chapter 66, Title
3 21, Guam Code Annotated, is hereby amended to read:

4 **“§ 66307. Same: Issuance or Denial.**

5 (a) If after inspection as provided in § 66306, it is found that the
6 proposed work has been completed in accordance with the
7 requirements of the building permit, the terms and conditions set by the
8 Guam Land Use Commission for use of the property, and the provisions
9 of this Chapter, together with the certification issued by the Director of
10 the Department of Revenue and Taxation that the property and all the
11 improvements thereon have been entered into the tax assessment rolls,
12 the building official shall issue a certificate of occupancy. The building
13 official shall keep a permanent record of all certificates of occupancy
14 issued.

15 (b) If after inspection, as provided in § 66306, it is found that the
16 proposed work has not been completed in accordance with the building
17 permit, the terms and conditions set by the Guam Land Use
18 Commission for use of the property, or the provisions of this Chapter,
19 the building official shall refuse to issue a use permit and shall order
20 the work completed to comply with the building permit or this Chapter.

21 (c) The building official may issue a temporary use permit for
22 any portion or portions of the premises which may be safely occupied
23 prior to the issuance of a certificate of occupancy.”

24 **Section 10. Terms and Conditions of Approval by GLUC to be Enforced**
25 **During Construction or Other Work on Any Building.** § 66406 of Chapter 66,
26 Title 21, Guam Code Annotated, is hereby amended to read:

27 **“§ 66406. Stoppage of Work for Noncompliance.**

1 (a) Upon notice from the building official that work on any
2 building or structure is being prosecuted contrary to in violation of the
3 provisions of this or other applicable laws, or rules and regulations
4 issued pursuant thereto, or in violation of any condition imposed upon
5 the issuance of a zone change, variance or conditional use permit
6 approved by the Guam Land Use Commission, or in an unsafe and
7 dangerous manner, such work shall be immediately stopped.

8 (b) The stopwork order shall be in writing and shall be given to
9 the owner of the property involved, or to the owner's agent, or to the
10 person in charge of the work; and shall state the conditions under which
11 work may be resumed.

12 (c) The building official may require that work be stopped on oral
13 notice, pending issuance of a written order, in these instances where he
14 deems immediate action is necessary for public safety.”

15 **Section 11. Violation of Terms and Conditions of Approval by GLUC as**
16 **Grounds for Revocation of Building Permit.** § 66407 of Chapter 66, Title 21,
17 Guam Code Annotated, is hereby amended to read:

18 “§ 66407. Revocation of Permit.

19 The building official shall revoke a permit or approval issued
20 under the provisions of this law

21 (a) in case of any false statement or misrepresentation as
22 to a material fact in any application or plans and specifications in
23 which the permit was issued or approval given,

24 (b) in any case in which a permit was issued in error and
25 conditions are such that a permit should not have been issued,
26 and

1 (c) in any case where a building permit owner refuses to
2 comply with a stop order issued under the provisions of § 66406,
3 and

4 (d) in any case of noncompliance with a term or condition
5 of a zone change, variance or conditional use permit by the Guam
6 Land Use Commission.”

From: Speaker Therese M. Terlaje <senatorterlajeguam@gmail.com>
Sent: Monday, January 25, 2021 8:47 AM
To: Clerks
Cc: Rennae Meno
Subject: Bill for Introduction - Conditional Use Permits
Attachments: Conditional Use bill_final.docx; Conditional Use bill_final.pdf

Hafa adai,

Please see the attached bill for introduction from Speaker Therese Terlaje - AN ACT TO AMEND §§ 61303(a), 61620, 61634, AND 61645 OF CHAPTER 61 AND TO AMEND §§ 66208, 66212(a), 66303, 66307, 66406, AND 66407 OF CHAPTER 66, ALL OF TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO ENFORCING THE TERMS AND CONDITIONS OF CONDITIONAL USE PERMITS, VARIANCES, AND ZONE CHANGES.

Sincerely,
Jocelyn de Guia
Chief of Staff

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