



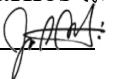
I Mina'trentai Singko Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
397-35 (COR)	William M. Castro Tina Rose Muña Barnes Joe S. San Agustin	AN ACT TO ADD A NEW § 61548 AND AMEND § 61545 OF SUBARTICLE 5, ARTICLE 5, CHAPTER 61, TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO REGULATING OFF-PREMISE SIGNAGE, AND EXPANDING THE PENALTY FOR SIGNAGE VIOLATIONS AND INCLUDING A FINE FOR DELAYED ACTION ON SUCH VIOLATIONS.	9/9/20 2:55 p.m.						

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2020 (SECOND) Regular Session

Bill No. 397-35 (COR)

Introduced by:

William M. Castro 
Tina Rose Muña Barnes 
Joe S. San Agustin 

AN ACT TO *ADD* A NEW § 61548 AND *AMEND* § 61545 OF SUBARTICLE 5, ARTICLE 5, CHAPTER 61, TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO REGULATING OFF-PREMISE SIGNAGE, AND EXPANDING THE PENALTY FOR SIGNAGE VIOLATIONS AND INCLUDING A FINE FOR DELAYED ACTION ON SUCH VIOLATIONS.

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent. Section 1. Legislative**

3 **Findings and Intent.** *I Liheslaturan Guåhan* finds that while local statutes for
4 outdoor commercial signage have been recently updated, with public law
5 implementing regulations regarding digital, on premise signage, including,
6 specifically signage in the Tumon Bay H Resort Hotel Zone, there continues to exist
7 a gap in public policy regulating off premise and other categories of signage.

8 *I Liheslaturan Guåhan* finds that if managed and permitted properly, off-
9 premise signage can provide significant public benefit, including the ability to
10 disseminate important public service announcements in a timely manner, such as
11 Amber Alerts and storm warnings.

1 *I Liheslaturan Guåhan* further finds that it is necessary to ensure that off-
2 premise signs, digital or static, do not distract drivers and endanger the public safety
3 on Guam’s roads, that the aesthetics of the community environment are protected,
4 and that off-premise signs are placed and operated in a manner that does not harm
5 surrounding properties.

6 *I Liheslaturan Guåhan* intends to hereby establish off-premise sign
7 regulations to ensure that off-premise signs are appropriate to the land, building or
8 use to which they are appurtenant, and the process by which off-premise sign permits
9 may be obtained.

10 **Section 2.** A new § 61548 is hereby *added* Subarticle 5, Article 5, Chapter
11 61, Title 21, Guam Code Annotated, to read:

12 **“§ 61548. Permitting and Regulation of Off-Premise Signage.**

13 (a) Purpose. The purpose of this Section is to:

- 14 (1) permit the construction and operation of off-premise signage;
15 and
16 (2) regulate off premise signs operated on private or public
17 property,
18 (3) impose limitations relative to but not limited to location, height,
19 size, illumination, and image movement

20 (b) Definitions.

- 21 (1) Digital billboard: A sign that is static and changes messages by
22 any electronic process or remote control.
23 (2) Freestanding: A sign erected and maintained on a frame, mast
24 or pole not attached to any building, and not including ground
25 mounted signs.
26 (3) Government sign: A government sign is a sign that is
27 constructed, placed or maintained by the federal or local

1 government or a sign that is required to be constructed, placed
2 or maintained by the government either directly or to enforce a
3 property owner's rights.

4 (4) Ground mounted: A sign which extends from the ground, or
5 has support which places the bottom of the sign less than two
6 (2) feet from the ground.

7 (5) Legal non-conforming off-premise sign: Off-premise signs that
8 were approved by the government of Guam and erected in
9 accordance with stipulations provided by the government of
10 Guam prior to the adoption of this ordinance and which do not
11 conform to the provisions of this ordinance are declared legal
12 non-conforming signs. A sign that is erected and that is in place
13 and which conforms to the provisions of the sign ordinance at
14 the time it is erected, but which does not conform to an
15 amendment to this ordinance enacted subsequent to the
16 erection of said sign is also declared a legal non-conforming
17 off-premise sign.

18 (6) Off-premise sign: A sign which advertises goods, products or
19 services which are not sold, manufactured or distributed on or
20 from the premises or facilities on which the sign is located.

21 (7) Original art display: A hand-painted work of visual art that is
22 either affixed to or painted directly on the exterior wall of a
23 structure with the permission of the property owner. An
24 original art display does not include: mechanically produced or
25 computer generated prints or images, including, but not limited
26 to, digitally printed vinyl; electrical or mechanical components;
27 or changing image art display.

1 (8) Portable sign: Any structure without a permanent foundation
2 or otherwise permanently attached to a fixed location, which
3 can be carried, towed, hauled or driven and is primarily
4 designed to be moved rather than be limited to a fixed location
5 regardless of modifications that limit its movability.

6 (9) Sign: A name, identification, description, display or illustration,
7 which is affixed to, painted or represented directly or indirectly
8 upon a building, or other outdoor surface which directs
9 attention to or is designed or intended to direct attention to the
10 sign face or to an object, product, place, activity, person,
11 institution, organization or business. Signs located completely
12 within an enclosed building, and not exposed to view from a
13 street, must not be considered a sign. Each display surface of a
14 sign or sign face must be considered to be a sign.

15 (10) Sign area: the space enclosed within the extreme edges
16 of the sign for each sign face, not including the supporting
17 structure; or, where attached directly to a building wall or
18 surface, the space within the outline enclosing all the characters
19 of the words, numbers or design.

20 Sign face: The entire display surface area of a sign upon,
21 against or through which copy is placed.

22 (11) Static Sign: A sign that does not display motion graphics
23 or motion pictures

24 (12) Temporary: A banner, pennant, poster or advertising
25 display constructed of paper, cloth, canvas, plastic sheet,
26 cardboard, wallboard, plywood or other like materials and that
27 appears to be intended or is determined by the code official to

1 be displayed for a period not to exceed thirty (30) days from
2 the date of installation.

3 (c) Prohibited Signs. Signs are prohibited unless:

4 (1) constructed pursuant to a valid building permit when required
5 under this Code; and authorized under this Code;

6 (2) in residential zones or on property used for non-transient
7 residential uses, or in areas where at least sixty percent (60%) of
8 the properties within a five hundred (500) feet radius of the
9 proposed sign location is zoned residential, commercial signs are
10 prohibited.

11 (d) Permit Required.

12 (1) General. A sign permit is required prior to the display or
13 erection of any off-premise sign except as provided by this
14 Chapter.

15 (2) Application for Permit.

16 (A) An application for a sign permit must be filed with the
17 Department of Public Works Director, or his designee, on
18 forms furnished by the Department of Public Works
19 (DPW). The applicant must provide sufficient information
20 to determine if the proposed sign is allowed under this
21 Code and other applicable federal and local laws and
22 regulations. An application for a temporary sign must state
23 the dates intended for the erection and removal of the sign.
24 An application for any sign must state the date when the
25 owner intends to erect it.

26 (B) The application shall be accompanied by complete
27 information as required on forms provided by DPW and

1 shall include, but not be limited to, a site plan and
2 elevation drawings of the proposed off-premise sign,
3 indicating the proposed location of the sign, setbacks,
4 height, dimensions and square footage of the proposed
5 sign, and any other data as DPW may determine is
6 necessary for review of the application.

7 (C) In the case of new building construction, off-premise
8 signage may be represented on the project's DPW building
9 permit application and construction plans.

10 (D) Failure to secure a permit prior to construction or
11 installation of the sign shall constitute a violation of this
12 Act and be subject to penalties as provided by this Chapter.

13 (E) DPW must promptly process the sign permit
14 application and approve or reject the application, or notify
15 the applicant of deficiencies in the application within
16 forty-five (45) business days after receipt.

17 (F) DPW may implement superseding procedures, forms,
18 and written policies for administering the provisions of
19 this Code.

20 (G) If the application is rejected, DPW must provide, in
21 writing, a list of the reasons for the rejection. An
22 application must be rejected for non-compliance with the
23 terms of this code, the zoning ordinance, building code, or
24 other applicable law, regulation, or ordinance. Rejected
25 applications may be appealed to the Director of DPW,
26 provided the appeal is submitted in writing within fifteen
27 (15) business days from the date of rejection. The Director

1 of DPW shall issue Decision of Appeal in writing within
2 fifteen (15) business days of the submission of the appeal.
3 The Decision of Appeal shall articulate the basis and
4 reasoning resulting in said decision. The Decision of
5 Appeal shall be final.

6 (H) Failure to erect the sign within one (1) year of the date
7 of approval of the application by the Department shall
8 result in the permit being voided. However, the
9 Department may grant an extension of up to sixty (60)
10 days with proper justification from the applicant.

11 (I) Maintenance of signs shall not require a permit,
12 provided that such maintenance does not alter the location,
13 dimensions, or make any other material change that DPW
14 determines not to match the specifications of the sign
15 originally permitted.

16 (J) Any transfer of ownership for an existing permitted off-
17 premise sign shall require approval from DPW and shall
18 be recorded in the Records Division of Land Management;
19 in such case, a transfer fee shall apply in an amount equal
20 to a new permit.

21 (3) Permit Fee. A non-refundable fee of Four Hundred Dollars
22 (\$400) paid to the government of Guam shall accompany all off-
23 premise sign permit applications.

24 (A) Permit Renewal. Permits shall be renewed every four
25 (4) years, at which point a similar fee shall be assessed.

1 (B) Forfeiture of Fees. When any permit has been revoked
2 or application rejected under the terms of this Act, the
3 respective permit fee shall not be refunded.

4 (4) Duration and Revocation of Permit. If a sign is not installed
5 within one (1) year following the approval of an off-premise sign
6 permit application, the permit shall become void. The permit for
7 a temporary sign must state its duration, not to exceed thirty (30)
8 days. DPW may revoke a sign permit under any of the following
9 circumstances:

10 (A) DPW determines that information in the application
11 was materially false or misleading;

12 (B) mistake of material facts by the issuing authority for
13 which, had the correct facts been made known, the sign
14 permit in question would not have been issued;

15 (C) the sign as installed does not conform to the sign
16 permit application;

17 (D) failure to construct the off-premise sign structure
18 within the timeframe stipulated on the approved
19 application;

20 (E) any alteration of a sign structure for which a permit has
21 been issued which would cause that sign structure to fail
22 to comply with the provisions of this Act;

23 (F) the sign violates this code, zoning laws, the building
24 code, or any other applicable law, regulation, either federal
25 or local; or

26 (G) DPW determines that the sign is not being properly
27 maintained or has been abandoned.

1 (5) Permits Not Required. An off-premise sign permit is not
2 required for any official notices or advertisements posted or
3 displayed by or under the direction of any public or court officer
4 in the performance of official or directed duties; provided, that
5 all such signs must be removed no more than ten (10) days after
6 their purpose has been accomplished.

7 (e) Specific Off-Premise Sign Regulations by Property Zoning. The
8 following off-premise sign regulations must apply as indicated:

9 (1) Residential and Agricultural Zones. Off-premise signs are
10 not permitted on residential or agricultural zoned property; such
11 restrictions do not include temporary political campaign signs as
12 regulated by § 61542 of this Chapter.

13 (2) Commercial and Industrial Zones. This Subsection shall
14 apply to all commercial and industrial zoned property.

15 (A) Off-Premise Sign Regulations:

16 (i) All applicable building codes must be followed,
17 and the off-premise sign must not be detrimental to
18 public safety or property.

19 (ii) Should a sign be determined to be a direct
20 contributor to traffic accidents, as determined by the
21 Department of Public Works, who may be assisted by the
22 Guam Police Department and the Office of Highway
23 Safety, the owner of the sign shall take appropriate action
24 to mitigate the situation or remove the sign as may be
25 directed by the Director of DPW;

26 (iii) Sign Area: Off-premise signs must not exceed
27 thirty-two (32) square feet of sign area if adjacent to a

1 public street of three (3) lanes or less, and must not exceed
2 two hundred (200) square feet of sign area if adjacent to
3 a public street of four (4) lanes or more.

4 (iv) Dimension and Spacing: Off-premise signs
5 must not exceed a length of twenty-five (25) feet or a
6 height, excluding foundation and supports, of twelve (12)
7 feet. In determining spacing limitations, the following
8 must apply:

9 (aa) Minimum spacing must be as follows:

<u>Type of Roadway</u>	<u>Minimum distance from intersection (in feet)</u>	<u>Minimum distance between signs on same side of road (in feet)</u>
<u>Two lane road</u>	<u>500</u>	<u>1,000</u>
<u>Three or more lane road</u>	<u>1,000</u>	<u>2,500</u>

10
11 (bb) For the purpose of applying the distance
12 requirements above, the following must apply:

13 (1) distances must be measured
14 parallel to the centerline of the highway;

15 (2) measurements for the distance
16 between off-premise signs must be based on
17 when the construction of the sign:

18 (A) received final approval by
19 the Department of Public Works
20 (DPW) measuring from the first off-
21 premise sign to have received that
22 approval; or

1 (B) if DPW has not given final
2 approval to an off-premise sign that
3 will be limited by the spacing
4 requirement once it is constructed,
5 then

6 (i) measured from the
7 first off-premise sign given a
8 building permit that is not
9 cancelled or void at the time of
10 measurement; or

11 (ii) when no permit has
12 been issued that is still valid,
13 measured from the first fully
14 complete application for an off-
15 premise sign permit received by
16 DPW that has not been
17 cancelled or which is void; and

18 (iii) a back-to-back,
19 multiple off-premise signs on
20 one (1) freestanding pole,
21 double-faced or V-type off-
22 premise sign must be considered
23 as one (1) off-premise sign.

24 (3) A maximum of two (2) faces per
25 off-premise sign structure is allowed,
26 positioned either back to back or v-shaped,
27 such that only one (1) face is allowed per

1 side. Both sides of a double-faced or v-
2 shaped off-premise sign shall be of equal
3 size. In no case shall there be more than one
4 (1) face per directional flow of traffic.

5 (B) Setbacks. Minimum setback distances shall be as
6 follows:

7 (i) ten (10) feet from the edge of any road right-of-
8 way;

9 (ii) twenty (20) feet from the edge of the travel way
10 of a road if no right-of-way exists; and

11 (iii) twenty-five (25) feet from property lines other
12 than (i) and (ii).

13 (C) Location.

14 (i) Flat wall off-premise signs may be located on
15 any wall of a building.

16 (ii) Freestanding off-premise signs must have a
17 minimum clearance of eight (8) feet six (6) inches
18 above a sidewalk and fifteen (15) feet above
19 driveways or alleys.

20 (iii) A freestanding off-premise sign may project up
21 to a right-of-way provided there is a minimum
22 ground clearance of eight (8) feet six (6) inches and
23 provided the location complies with all federal and
24 local statutes.

25 (iv) Wall signs must not extend above the top of a
26 parapet wall or a roofline at the wall, whichever is
27 higher.

1 (v) No portion of a digital billboard must be located
2 within two hundred fifty (250) linear feet of the
3 property line of a parcel with a residential land use
4 designation.

5 (D) Height.

6 (i) Ground-mounted off-premise signs must not
7 exceed four (4) feet in height from ground level.

8 (ii) Freestanding off-premise signs and digital
9 billboards must not exceed twenty-eight (28) feet in
10 height from ground level.

11 (E) Owner provides a periodic maintenance plan and
12 natural disaster mitigation plan, submitted to and approved
13 by DPW;

14 (i) should the sign be freestanding, a visually
15 acceptable six (6) foot tall barrier or landscaping must be
16 constructed around the base of the sign.

17 (F) Contact Information Required. All permitted off-
18 premise signs shall have contact information affixed to the
19 sign.

20 (G) Non-Commercial Messages. Any sign allowed under
21 this Act may contain, in lieu of any other copy, any
22 otherwise lawful non-commercial message that does not
23 direct attention to a business operated for profit, or to a
24 commodity or service for sale.

25 (H) Public Service Announcements. Fifteen percent (15%)
26 of advertisement time every hour shall be made available

1 for public service announcements, and shall not be
2 banked.

3 (f) Illumination. No off-premise sign may be erected or maintained
4 which, by use of lights or illumination, creates a distracting or
5 hazardous condition to a motorist, pedestrian or the general public. In
6 addition:

7 (1) No exposed reflective type bulb, par spot or incandescent
8 lamp, which exceeds twenty-five (25) watts, may be exposed to
9 direct view from a public street or highway; however, it may be
10 used for indirect light illumination of the display surface of an
11 off-premise sign.

12 (2) Any digital display, as well as all other lighting on or related
13 to an off-premise sign, shall include a device, such as a variable
14 control regulator, to modulate the brightness of the light.

15 (3) When neon tubing is employed on the exterior or interior of
16 an off-premise sign, the capacity of such tubing must not exceed
17 three hundred (300) milliamperes rating for white tubing or one
18 hundred (100) milliamperes rating for any colored tubing.

19 (4) When fluorescent tubes are used for the interior illumination
20 of an off-premise sign, such illumination must not exceed an
21 equivalent to eight hundred (800) milliamperes rating tubing
22 behind a plexiglass face spaced at least nine (9) inches, center to
23 center.

24 (5) Digital billboards allowed pursuant to this Act must:

25 (A) display only static messages that remain constant in
26 illumination intensity and do not have movement or the
27 appearance or optical illusion of movement;

1 (B) not operate at an intensity level of more than 0.3 foot-
2 candles over ambient light as measured at a distance of one
3 hundred fifty (150) feet;

4 (C) be equipped with a fully operational light sensor that
5 automatically adjusts the intensity of the billboard
6 according to the amount of ambient light;

7 (D) change from one (1) message to another message no
8 more frequently than once every ten (10) seconds and the
9 actual change process is accomplished in two (2) seconds
10 or less;

11 (E) be designed to either freeze the display in one (1) static
12 position, display a full black screen, or turn off in the event
13 of a malfunction; and

14 (F) not be authorized until DPW is provided evidence that
15 best industry practices for eliminating or reducing uplift
16 and light trespass were considered and built into the digital
17 billboard.

18 (g) Prohibited Off-Premise Signs. The following signs or lights are
19 prohibited which:

20 (1) are of a size, location, movement, coloring, or manner of
21 illumination which may be confused with or construed as a traffic
22 control device or which hide from view any traffic or street sign
23 or signal;

24 (2) contain or consist of banners, posters, pennants, ribbons,
25 streamers, strings of light bulbs, spinners, or other similarly
26 moving devices or signs which may move or swing as a result of
27 wind pressure. These devices when part of any sign are similarly

1 prohibited, unless they are permitted specifically by other
2 legislation;

3 (3) have blinking, flashing or fluttering lights or other
4 illuminating devices which exhibit movement, except digital
5 billboards as permitted pursuant to this Act;

6 (4) would be an original art display but does not have the
7 permission of the owner of the property on which it is located or
8 is graffiti; or

9 (5) are portable signs that do not comply with the location, size
10 or use restrictions of this Act.

11 (h) Compliance. Any off-premise sign which is altered, relocated, or
12 replaced must be brought immediately into compliance with all
13 provisions of this Act.

14 (i) Maintenance.

15 (1) Standards. The maintenance of off-premise signs shall be the
16 responsibility of the sign owner. The following minimum
17 maintenance standards shall be required:

18 (A) No sign shall have more than twenty percent (20%) of
19 its surface area covered with disfigured, cracked, ripped or
20 peeling paint or poster paper for a period of more than
21 thirty (30) consecutive days.

22 (B) No sign shall be allowed to stand with bent or broken
23 sign facing, broken supports, loose appendages or struts or
24 be allowed to stand more than fifteen (15) degrees away
25 from the perpendicular for a period of more than thirty
26 (30) consecutive days.

1 (C) No sign shall be allowed to have weeds, vines,
2 landscaping or other vegetation growing upon it or
3 obscuring its view from the street or highway from which
4 it is to be viewed for a period of more than thirty (30)
5 consecutive days.

6 (D) No directly or indirectly illuminated sign may be
7 allowed to stand with only partial illumination for a period
8 of more than thirty (30) consecutive days.

9 (2) Enforcement.

10 (A) The Department of Public Works shall be responsible
11 for inspecting all signs for compliance with the
12 maintenance requirements of this Act, and may be assisted
13 by the Guam Visitors Bureau and by Guam peace officers
14 as provided by this Act.

15 (B) The Department of Public Works has final authority in
16 determining whether a violation has occurred, and to
17 enforce compliance with this Act.

18 (j) Conflicts of Regulations. Where there is a conflict between a land
19 use regulation and a structural regulation, or other conflicts not
20 otherwise addressed by this Section, the most restrictive regulation
21 applies.”

22 **Section 3. Existing Off-Premise Signage.** Any off-premise sign or digital
23 billboard which has been granted a variance by the Guam Land Use Commission, or
24 has been issued a Notice of Action from the Guam Land Use Commission, on or
25 before May 15, 2017, shall be deemed a legal non-conforming off-premise sign and
26 legally authorized to operate, provided that all business license requirements are met
27 and are thereafter maintained in good standing. Signs which were non-conforming

1 to prior Guam law and which do not conform to this Act must be removed
2 immediately.

3 **Section 4. Amortization of Legal Non-conforming Off-Premise**
4 **Signage.** For the purpose of amortization, legal non-conforming off-premise signs
5 may be continued from the effective date of this Act for a period not to exceed five
6 (5) years.

7 **Section 5.** § 61545 of Subarticle 5, Article 5, Chapter 61, Title 21, Guam
8 Code Annotated, is hereby *amended* to read:

9 **“§ 61545. Penalty.**

10 Any person who violates ~~the~~ a provision of ~~§ 61544~~ of this Chapter
11 shall be subject to a civil penalty not to exceed One Thousand Dollars (\$1,000)
12 for each such violation. Should such violation not be mitigated within ten (10)
13 business days of notice of violation from the Department of Public Works,
14 said person shall be subject to an additional late action civil penalty not to
15 exceed One Hundred Dollars (\$100) per day for each remaining violation. The
16 Director of Public Works shall have the authority to waive part or all of the
17 late action penalty should the violator demonstrate a good faith effort to
18 address the violation in a timely manner, provided that such waiver is limited
19 to thirty (30) days. Actions to recover the penalty provided for in this Section
20 shall be brought by the Attorney General at the request of any person in the
21 territory of Guam. All ~~penalties~~ penalties recovered in any such action shall
22 be paid into the General Fund.”

23 **Section 6. Severability.** If any provision of this Act or its application to any
24 person or circumstance is found to be invalid, or contrary to law, such invalidity
25 *shall not* affect other provisions or applications of this Act that can be given effect
26 without the invalid provision or application, and to this end the provisions of this
27 Act are severable.