

I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUÁHAN

2018 (SECOND) Regular Session

LEGISLATIVE SESSION VOTING RECORD

Bill No. 154-34 (COR) As corrected by the Prime Sponsor; amended by the Committee on Environment, Land, Agriculture and Procurement Reform; and further amended on the Floor.	Speaker Antonio R. Unpingco Legislative Session Hall December 17, 2018					
NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator Thomas C. ADA	✓					
Senator FRANK B. AGUON, JR.		✓				
Senator William M. CASTRO	✓					
Senator James V. ESPALDON	✓					
Senator Fernando Barcinas ESTEVES		✓				
Senator Régine Biscoe LEE	✓					
Senator Tommy MORRISON	✓	I				
Senator Louise B. MUÑA					✓	✓
Senator Telena Cruz NELSON		I ✓				
Senator Dennis G. RODRIGUEZ, Jr.	✓	I				
Senator Joe S. San AGUSTIN	✓					
Senator Michael F.Q. SAN NICOLAS	✓					
Acting Speaker Therese M. TERLAJE		✓				
Senator Mary Camacho TORRES	✓					

TOTAL:	9	4	1	1	1	1
	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused

CERTIFIED TRUE AND CORRECT:



Clerk of the Legislature

I = Pass

I MINA 'TRENTAI KUATTRO NA LIHESLATURAN GUÅHAN
2017 (FIRST) Regular Session

Bill No. 154-34 (COR)

As corrected by the Prime Sponsor;
amended by the Committee on Environment,
Land, Agriculture and Procurement Reform;
and further amended on the Floor.

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Introduced by:

Thomas C. Ada

**AN ACT TO ADD A NEW § 61547 AND AMEND § 61545,
BOTH OF SUBARTICLE 5, ARTICLE 5, AND ADD A
NEW § 61616(m) OF SUBARTICLE 2, ARTICLE 6, ALL
OF CHAPTER 61, TITLE 21, GUAM CODE
ANNOTATED, RELATIVE TO PERMITTING AND
REGULATING OFF-PREMISE SIGNAGE, AND
EXPANDING THE PENALTY FOR SIGNAGE
VIOLATIONS AND INCLUDING A FINE FOR DELAYED
ACTION ON SUCH VIOLATIONS.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that Guam's forty (40) year old statute regulating outdoor signage allows only for "On Premise" advertising signage. More specifically, messages allowed on outdoor signage are limited to: (a) information pertaining to the products and services provided by businesses located within or on the premises; (b) signs that shall be non-flashing and non-moving; and (c) signs that must adhere to size limitations. The current law has not been amended since its enactment to incorporate advances in the signage industry.

I Liheslaturan Guåhan further finds that in embracing modern marketing concepts and signage technology, public policy would be needed to ensure that off-

1 premise signs, digital or static, do not distract drivers and endanger public safety on
2 Guam’s roads, the aesthetics of the community environment are protected, and that
3 off-premise signs are placed and operated in a manner that does not harm the
4 surrounding property values. Managed properly, off-premise signage can provide
5 significant public and economic benefit, including the ability to disseminate
6 important public service announcements in a timely manner, such as Amber Alerts
7 and storm warnings.

8 *I Liheslaturan Guåhan* intends to authorize the use of off-premise signage, to
9 include electronic signage and static billboards, and to regulate the construction and
10 operation of off-premise signage. The regulatory aspects of this legislation will
11 include limitations on off-premise signs to maintain compatibility with the land,
12 building, or use which they are appurtenant to and are adequate for their intended
13 purpose while balancing the individual and community interests. This Act does not
14 regulate every form and instance of visual communication that may be displayed
15 within the jurisdictional limits of the community. Rather, this Act intends to regulate
16 those forms and instances that are most likely to meaningfully affect one or more of
17 the purposes set forth in this Section.

18 **Section 2.** A new § 61547 is hereby *added* to Subarticle 5, Article 5,
19 Chapter 61, Title 21, Guam Code Annotated, to read:

20 **“§ 61547. Permitting and Regulation of Off-Premise Signage.**

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

22 (1) permit the construction and operation of off-premise
23 signage; and

24 (2) regulate off-premise signs operated on private or public
25 property, pertaining to limitations related but not limited to, location,
26 height, size, illumination, and image movement.

27 (b) Definitions of Sign Types.

1 (1) *Digital billboard*: A sign that changes messages by any
2 electronic process or remote control.

3 (2) *Freestanding*: A sign erected and maintained on a frame,
4 mast, or pole not attached to any building, and not including ground
5 mounted signs.

6 (3) *Government sign*: A government sign is a sign that is
7 constructed, placed or maintained by the federal or local government,
8 or a sign that is required to be constructed, placed or maintained by the
9 government either directly or to enforce a property owner's rights.

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

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

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

26 (7) *Original art display*: A hand-painted work of visual art
27 that is either affixed to or painted directly on the exterior wall of a

1 structure with the permission of the property owner. An original art
2 display does not include: mechanically produced or computer generated
3 prints or images, including, but not limited to, digitally printed vinyl;
4 electrical or mechanical components; or changing image art display.

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

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

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

22 (11) *Sign face*: The entire display surface of a sign upon,
23 against or through which copy is placed.

24 (12) *Static sign*: A sign that does not display motion graphics
25 or motion pictures.

26 (13) *Temporary*: A banner, pennant, poster or advertising
27 display constructed of paper, cloth, canvas, plastic sheet, cardboard,

1 wallboard, plywood, or other like materials, and that appears to be
2 intended or is determined by the code official to be displayed for a
3 period not to exceed thirty (30) days from the date of installation.

4 (14) *V-Type Sign*: An off-premise sign structure which consists
5 of multiple sign facings placed at angles to each other, oriented in
6 different directions and not exceeding ten (10) feet apart at the nearest
7 point to each other.

8 (c) Permit Required.

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

11 (2) Application for Permit.

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

21 (B) The application *shall* be accompanied by complete
22 information as required on forms provided by DPW and shall
23 include, but not be limited to, a site plan and elevation drawings
24 of the proposed off-premise sign, indicating the proposed
25 location of the sign, setbacks, height, dimensions and square
26 footage of the proposed sign, and any other data as DPW may
27 determine is necessary for review of the application.

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

4 (D) Failure to secure a permit prior to construction or
5 installation of the sign *shall* constitute a violation of this Section
6 and be subject to penalties as provided by this Chapter.

7 (E) DPW *shall* provide a copy of the permit application
8 and accompanying plans to the respective municipal Mayor for
9 comments to ensure conformity to the provisions of this Section;
10 however, DPW's decision is final in all such matters.

11 (F) DPW *shall* process the sign permit application for
12 approval or rejection and notify the applicant within forty-five
13 (45) days after receipt.

14 (G) If the application is rejected, DPW must provide, in
15 writing, the reason for the rejection. An application must be
16 rejected for non-compliance with the terms of this Section, the
17 zoning ordinance, building code, or other applicable law,
18 regulation, or ordinance. An applicant may within fifteen (15)
19 days from the date of rejection file a written appeal for a variance
20 to the Guam Land Use Commission (GLUC), which shall
21 exercise its powers pursuant to Article 6 of this Chapter.

22 (H) Failure to erect the sign within one (1) year of the
23 date of notice of approval of the application by DPW, or notice
24 of approval by the GLUC in the case of an application requiring
25 a variance, *shall* result in the permit being voided.

26 (I) Maintenance of signs *shall not* require a permit,
27 provided that such maintenance does not alter the location,

1 dimensions, or make any other material change that DPW
2 determines not to match the specifications of the sign originally
3 permitted.

4 (J) Any transfer of ownership for an existing permitted
5 off-premise sign *shall* require approval from DPW, and *shall* be
6 recorded in the Records Division of the Department of Land
7 Management; in such case, a transfer fee *shall* apply in an
8 amount equal to a new permit.

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

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

14 (B) Forfeiture of Fees. When any permit has been
15 revoked or application rejected under the terms of this Section,
16 the respective permit fee *shall not* be refunded.

17 (4) Duration and Revocation of Permit. The permit for a
18 temporary sign must state its duration, not to exceed thirty (30) days.
19 DPW may revoke a sign permit under any of the following
20 circumstances:

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

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

26 (C) the sign as installed does not conform to the sign
27 permit application;

1 (D) failure to construct the off-premise sign structure
2 within the timeframe stipulated on the approved application;

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

6 (F) the sign violates this Act, zoning laws, the building
7 code, or any other applicable law or regulation, either federal or
8 local; or

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

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

17 (d) Off-Premise Sign Regulations by Property Zoning. The
18 following off-premise sign regulations *shall* apply as indicated:

19 (1) Residential (R) and Agricultural (A) Zones. Off-premise
20 signs are not permitted on residential or agricultural zoned property.

21 (2) Commercial (C), Industrial (M) and Hotel (H) Zones. This
22 Section *shall* apply to all C, M, and H zoned property.

23 (A) Off-Premise Sign Measurement Regulations:

24 (i) All applicable building codes *shall* be
25 complied with.

26 (ii) Sign face *shall not* exceed two hundred
27 (200) square feet.

1 (iii) Sign face dimensions *shall not* exceed the
2 following limits:

3 (aa) width of twenty-five (25) feet;

4 (bb) height of twenty (20) feet;

5 (iv) overall height of sign, from ground level to
6 top of sign frame, *shall not* exceed thirty (30) feet;

7 (v) setbacks and intervals *shall* be limited as
8 follows:

9 (aa) Minimum setback and intervals *shall*
10 be as follows:

Minimum Distance	
From Intersection	Between Signs (either side along any road)
100 ft. from the closest point of the intersection at the edge of road	3,500 ft.

11 (bb) For the purpose of applying the
12 interval distance requirements above, the following
13 shall apply:

14 (1) distances must be measured
15 parallel to the centerline of adjacent roadway;

16 (2) Reference Point. Measurements
17 for the interval distance between signs *shall*
18 be based on the distance to/from a previously
19 approved sign, constructed or soon to be
20 constructed pursuant to an approved Notice
21 of Action. In the event multiple permit
22 applications along the same roadway are
23 under consideration, either by DPW or

1 GLUC, the location of the earlier dated sign
2 permit application under review *shall* take
3 precedence.

4 (3) Sign Faces Allowed. A
5 maximum of three (3) faces per off-premise
6 sign structure is allowed, positioned either
7 back to back or v-shaped, such that only one
8 (1) face is allowed per side. In no case shall
9 there be more than one (1) face per
10 directional flow of traffic.

11 (4) Setbacks. Minimum setback
12 distances shall be ten (10) feet from the edge
13 of property line.

14 (5) Height. Freestanding off-
15 premise signs must not exceed thirty (30) feet
16 in height from ground level.

17 (B) Location.

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

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

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

1 (e) Illumination. Illumination of off-premise signs *shall* be regulated
2 as follows:

3 (1) Reflective type bulb, par spot or incandescent lamp, which
4 exceeds twenty-five (25) watts, *shall not* be exposed to direct view from
5 a public street or highway; however, it may be used for indirect light
6 illumination of the display surface of an off-premise sign.

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

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

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

18 (5) Digital billboards allowed pursuant to this Section must:

19 (A) not operate at an intensity level of more than 0.3
20 foot-candles over ambient light as measured at a distance of one
21 hundred fifty (150) feet;

22 (B) be equipped with a fully operational light sensor
23 that automatically adjusts the intensity of the billboard according
24 to the amount of ambient light;

25 (C) change from one (1) advertisement to another
26 advertisement no more frequently than once every ten (10)

1 seconds and the actual change process is accomplished in two (2)
2 seconds or less;

3 (f) Prohibited Off-Premise Signs. The following signs or lights are
4 prohibited:

5 (1) the size, location, movement, coloring, or manner of
6 illumination which may be confused with or construed as a traffic
7 control device or which hide from view any traffic or street sign or
8 signal;

9 (2) temporary signs that contain or consist of banners, posters,
10 pennants, ribbons, streamers, strings of light bulbs, spinners, or other
11 similarly moving devices or signs which may move or swing as a result
12 of wind pressure. These devices when part of any sign are similarly
13 prohibited, unless they are permitted specifically by the granting of a
14 variance;

15 (3) have blinking, flashing or fluttering lights or other
16 illuminating devices which exhibit movement, except digital billboards
17 as permitted pursuant to this Section;

18 (4) an original art display that does not have the permission of
19 the owner of the property on which it is located, or is graffiti; or

20 (5) portable signs that do not comply with the location, size or
21 use restrictions of this Section.

22 (g) Compliance. The provisions of this Section *shall not* apply to
23 mobile signs on vehicles or trailers.

24 (h) Maintenance of Off-premise Signs. The maintenance of off-
25 premise signs *shall* be the responsibility of the sign owner.

26 (1) Standards. An off-premise sign must remain substantially
27 the same as it was as of the date it became permitted.

1 (2) Reasonable repair and maintenance of off-premise signs,
2 including change of advertising message, is permitted and is not a
3 change which would affect the legal status. Reasonable repair and
4 maintenance means the work necessary to keep the sign structure in a
5 state of good repair, including the replacement in kind of materials in
6 the sign structure.

7 (3) An off-premise sign may continue to exist so long as it is
8 not destroyed, abandoned, or discontinued. “Destroyed,” “abandoned,”
9 and “discontinued” have the following meanings:

10 (A) “Destroyed” means more than sixty percent (60%)
11 of the upright supports of a sign structure are physically damaged
12 such that normal repair practices of the industry would call for,
13 in the case of wooden sign structures, replacement of the broken
14 supports and, in the case of a metal sign structure, replacement
15 of at least twenty-five percent (25%) of the length above ground
16 of each broken, bent, or twisted support. A sign will not be
17 considered “destroyed” within the meaning of this Section where
18 the destruction is caused by natural disaster, vandalism, or other
19 criminal or tortious act.

20 (B) An off-premise sign is “abandoned” or
21 “discontinued” when a sign structure no longer exists at the
22 permitted location or the sign owner fails to operate and maintain
23 the sign for a period of twelve (12) months or longer. Signs
24 displaying bona fide public interest messages are not
25 “abandoned” or “discontinued” within the meaning of this
26 Section.

1 (4) No sign shall have more than twenty percent (20%) of its
2 surface area covered with disfigured, cracked, ripped or peeling paint
3 or poster paper for a period of more than fifteen (15) consecutive days.

4 (5) No sign shall be allowed to stand with bent or broken sign
5 facing, broken supports, loose appendages or struts for a period of more
6 than fifteen (15) consecutive days.

7 (6) The vegetation or landscape surrounding the immediate
8 area of the off-premise sign *shall* be properly maintained.

9 (7) No directly or indirectly illuminated sign may be allowed
10 to stand with only partial illumination for a period of more than fifteen
11 (15) consecutive days.

12 (i) Enforcement. The Department of Public Works *shall* be
13 responsible for inspecting all signs for compliance with the maintenance
14 requirements of this Section.

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

18 (k) Existing Off-Premise Signage. Any off-premise sign which has
19 been granted a variance by the Guam Land Use Commission, or has been
20 issued a Notice of Action from the Guam Land Use Commission on or before
21 May 15, 2017, *shall* be deemed a legal non-conforming off-premise sign and
22 legally authorized to operate; provided, that all business license requirements
23 are met and are thereafter maintained in good standing as stated in § 61543(c)
24 of this Chapter. Signs which do not conform to this Section must be removed
25 immediately.”

26 **Section 3.** § 61545 of Subarticle 5, Article 5, Chapter 61, Title 21, Guam
27 Code Annotated, is *amended* to read:

1 **“§ 61545. Penalty.**

2 Any person who violates a provision of this Chapter *shall* be guilty of
3 a civil violation and subject to a civil penalty not to exceed One Thousand
4 Dollars (\$1,000) for each such violation. Should such violation(s) not be
5 corrected within fifteen (15) days of receipt of notice of violation from the
6 Department of Public Works, said person *shall* be subject to an additional late
7 action civil penalty not to exceed Three Hundred Dollars (\$300) per day for
8 each remaining violation. Failure to pay penalties and to rectify the violations
9 may result in the termination or non-renewal of its sign permit. The Director
10 of Public Works *shall* have the authority to waive part or all of the late action
11 penalty should the violator demonstrate a good faith effort to address the
12 violation in a timely manner; provided, that such waiver is limited to no more
13 than thirty (30) days. Actions to recover the penalty provided for in this
14 Section *shall* be brought by the Attorney General of Guam at the request of
15 any person on Guam. All penalties recovered in any such action *shall* be paid
16 into the General Fund.”

17 **Section 4.** A new Subsection (m) is *added* to § 61616 of Subarticle 2,
18 Article 6, Chapter 61, Title 21, Guam Code Annotated, to read:

19 “(m) Permit off-premise signage pursuant to § 61547.”

20 **Section 5. Severability.** If any provision of this Act or its application to any
21 person or circumstance is found to be invalid or contrary to law, such invalidity *shall*
22 *not* affect other provisions or applications of this Act that can be given effect without
23 the invalid provision or application, and to this end the provisions of this Act are
24 severable.