UFISINAN I MAGA'HÅGA
OFFICE OF THE GOVERNOR

LOURDES A. LEON GUERRERO
MAGA'HÅGA • GOVERNOR

JOSHUA F. TENORIO
SIGUNDO MAGA'LÅHI • LIEUTENANT GOVERNOR

November 27, 2019

35GL-19-1270
Speaker Tina Rose Muña Barnes

NOV 27 2019
Time 4:39 ( )AM (✓)PM
Received By: _____

2019 NOV 27 PM 5:08 APT

HONORABLE TINA ROSE MUÑA BARNES
Speaker
I Mina'trentai Singko Na Liheslaturan Guåhan
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96932

Re: Substitute Bill No. 86-35 (COR) – An Act to *Add* New §§ 61541(f) and 61547 to Subarticle 5 of Article 5, Chapter 61, Title 21, Guam Code Annotated, Relative to Exterior On-Premise Signage in the *Tumon* Bay H Resort-Hotel Zone and Defining and Regulating Digital Signs

Dear Madame Speaker:

I am signing this measure into law because I recognize the level of painstaking compromise achieved by property owners and those who work to preserve the unique beauty of Guam. Integral to our economic success is the principle that everyone has a right to use their property for the highest and best use permitted under law. And, as the world changes; as new technologies advance the way private industry promotes itself to a free market, our law too will change.

I will never surrender what is beautiful about Guam to visual clutter, but I will allow responsible uses of private property--especially where it advances our economy and make us more competitive. I appreciate the zoning limitations placed in this measure and the serious approach the Legislature used to protect against distracted driving.

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In recognition of the above, I am glad to sign Substitute Bill 86-35 (COR) into law as ***Public Law No. 35-52***.

Senseremente,

LOURDES A. LEON GUERRERO
Maga'hågan Guåhan
Governor of Guam

Enclosure(s): Substitute Bill No. 86-35 (COR) *nka Public Law 35-52*

cc via email: *Sigundo Maga'låhen Guåhan*
Compiler of Laws

2019-7424
RCVD AT CENTRAL FILE
NOV 18 '19 PM6:06
Jessica Cruz

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2019 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'HÅGAN GUÅHAN*

This is to certify that **Substitute Bill No. 86-35 (COR), "AN ACT TO *ADD* NEW §§ 61541(f) AND 61547 TO SUBARTICLE 5 OF ARTICLE 5, CHAPTER 61, TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO EXTERIOR ON-PREMISE SIGNAGE IN THE *TUMON* BAY H RESORT-HOTEL ZONE AND DEFINING AND REGULATING DIGITAL SIGNS,"** was on the 18th day of November 2019, duly and regularly passed.

Tina Rose Muña Barnes
Speaker

Attested:

Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 18th day of NOV., 2019, at 6:05 o'clock P.M.

Assistant Staff Officer
Maga'håga's Office

APPROVED:

Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 11/~~28~~ 29/2019

Public Law No. 35-52

RCVD AT CENTRAL FILES
NOV 18 '19 PM6:06
209-7424
Jessica Cruz

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2019 (FIRST) Regular Session

Bill No. 86-35 (COR)
As amended by the Committee on Public Safety, Border Safety, Military and Veteran Affairs, Mayors Council, Infrastructure, and Public Transit; and substituted and further amended on the Floor.

Introduced by: Tina Rose Muña Barnes
William M. Castro
Régine Biscoe Lee
Kelly Marsh (Taitano), PhD
James C. Moylan
Louise B. Muña
Telena Cruz Nelson
Clynton E. Ridgell
Joe S. San Agustin
Amanda L. Shelton
Telo T. Taitague
Jose "Pedo" Terlaje
Therese M. Terlaje
Mary Camacho Torres

AN ACT TO *ADD* NEW §§ 61541(f) AND 61547 TO SUBARTICLE 5 OF ARTICLE 5, CHAPTER 61, TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO EXTERIOR ON-PREMISE SIGNAGE IN THE *TUMON* BAY H RESORT-HOTEL ZONE AND DEFINING AND REGULATING DIGITAL SIGNS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that Guam's sign laws do not address signage in the *Tumon* Bay H Resort-Hotel Zone, which is where most of the island's tourism infrastructure exists. It is vital that

modern signage techniques be permitted, which are prevalent at competing tourist destinations, while reflecting the scale and character of Guam's own attractiveness as a destination for visitors.

This legislation does not authorize any bypassing of the process when it comes to an entity going through the standard process of securing a building and occupancy permit, prior to erecting an exterior sign. The legislation also focuses on exterior on-premise signage, to avoid an overly abundant degree of signage in our tourism zones.

It is also vital to clearly define "digital signs" in the same capacity as identified by the United States Signs Council (USSC), in its creation of the Model On-Premise Sign Code, which establishes sign code regulations for various land uses, including the number to be established, size, lighting, and location. This legislation defines the characteristics of digital signs, as they are utilized in many other resort zones nationally, while ensuring that they exist within the codes established on Guam.

Section 2. A new § 61541(f) is *added* to Subarticle 5 of Article 5, Chapter 61, Title 21, Guam Code Annotated, to read:

"(f) In the *Tumon* Bay H Resort-Hotel Zone, signs *shall* comply with §§ 61541(b)(2)-(3), 61543, and 61544 of this Subarticle. No exterior signs shall be erected, displayed or maintained, except for signs indicating the name of a person, the type of business occupying the premises, or the name of the building, or signs displaying messages appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed, and for public service announcements; provided, that:

(1) Signs *shall* be placed along on the building wall or behind a window or clear covering on the building wall, *shall not* be higher than the roof line of the building, and *shall* protrude no farther than eighteen (18) inches from the wall to which they are attached.

(2) Except for electronic or other signs authorized by a Guam Land Use Commission variance prior to the enactment of this Act, individual signs *shall not* cover an area in excess of ten percent (10%) of the surface of the wall to which they are attached.

(3) Violations. Any person in violation of Subsections 61541(f)-(f)(2) of Chapter 61, Title 21, Guam Code Annotated, *shall* pay a civil penalty not to exceed One Thousand Dollars ($1,000) for each violation. If violation(s) are not corrected within ten (10) business days of receipt of a Notice of Violation from the Department of Public Works, such person *shall* be subject to an additional late action civil penalty not to exceed Three Hundred Dollars ($300) per day for each remaining violation. Failure to pay penalties and to rectify the violations may result in the termination or non-renewal of the digital sign permit. The Director of Public Works *shall* have the authority to waive parts or all of the late action penalty should the violator demonstrate a good faith effort to address the violation in a timely manner; provided, that such waiver is limited to *no more than* thirty (30) calendar days. All penalties recovered in any such action *shall* be paid into the General Fund."

Section 3. A new § 61547 is *added* to Subarticle 5 of Article 5, Chapter 61, Title 21, Guam Code Annotated, to read:

"**§ 61547. Regulation of Digital Signs.**

(a) Definitions.

(1) *Animated sign* means a sign employing actual motion, the illusion of motion, or light and/or color changes achieved through mechanical, electrical, or electronic means. Animated signs, which are

differentiated from changeable signs as defined and regulated by this Section, include the following types:

(A) *environmentally activated animated signs* or *devices* are motivated by wind, thermal changes, or other natural environmental input, such as spinners, pinwheels, pennant strings, and/or other devices or displays that respond to naturally occurring external motivation;

(B) *mechanically activated animated signs* are characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means;

(C) *electrically activated animated signs* produce the illusion of movement by means of electronic, electrical, or electromechanical input and/or illumination capable of simulating movement through employment of the characteristics of one (1) or both of the classifications noted below:

(i) *flashing* - animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle in which the period of illumination is either the same as or less than the period of non-illumination. A cyclical period between on-off phases of illumination exceeding four (4) seconds *shall not* constitute flashing;

(ii) *patterned illusionary movement* - animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for

the purpose of producing repetitive light patterns designed to appear in some form of constant motion.

(2) *Changeable sign* means a sign with the capability of content change by means of manual or remote input, including the following types:

(A) *manually activated* – changeable sign whose message copy or content can be changed manually on a display surface;

(B) *electrically activated* - changeable sign whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices; or it may be from an external light source designed to reflect off the changeable component display.

(3) *Digital sign* means an on-premise electrically activated animated sign, changeable sign, illuminated sign, or Electronic Message Center sign located in the *Tumon* Bay H Resort-Hotel Zone. Digital signs are *not* environmentally or mechanically activated flashing animated signs or devices.

(4) *Electronic Message Center* (EMC) *sign* means an electrically activated changeable sign whose variable message and/or graphic presentation capability can be electronically programmed by computer from a remote location. EMCs typically use light emitting diodes (LEDs) as a lighting source. Terms principally associated with an EMC are:

(A) *display time* - the amount of time a message and/or graphic is displayed.

(B) *dissolve* - a mode of message transition accomplished by varying the light intensity or pattern, in which the first message gradually appears to dissipate and lose legibility with the gradual appearance and legibility of the second message.

(C) *fade* - a mode of message transition accomplished by varying the light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.

(D) *dynamic frame effect* - a frame effect in which the illusion of motion and/or animation is used.

(E) *frame*- a complete, static display screen.

(F) *frame Effect* - a visual effect applied to a single frame.

(G) *scroll* - a mode of message transition in which the message appears to move vertically across the display surface.

(H) *transition* - a visual effect used to change from one message to another.

(I) *travel* - a mode of message transition in which the message appears to move horizontally across the display surface.

(5) *Illuminance* means the amount of light falling upon a real or imaginary surface, commonly "light level" or "illumination," measured in foot candles (lumens/square foot) in the English System, and lux (lumens/square meter) in the SI (metric) system.

(6) *Luminance* means the light that is emitted by or reflected

from a surface, measured in units of luminous intensity (candelas) per unit area (square meters in SI measurement units or square feet in English measurement units).

(7) *Multiple-faced sign* means a sign containing two (2) or more faces.

(8) *Off-premise business information* means commercial or noncommercial messages not appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

(9) *On-premise sign* means a sign erected, maintained or used in the outdoor environment, or visible from the outside environment, for the purpose of the display of messages appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed, and for public service announcements. For purposes of this Subsection, public service announcements are limited to factual information about public health and public safety as determined by the Department of Public Health and Social Services, the Guam Police Department, or the Office of Civil Defense.

(10) *Sign* means a device visible from a public place, whose essential purpose and design are to convey either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial symbols or representations.

(11) *Sign copy* means the physical sign message, including any words, letters, numbers, pictures, and symbols.

(12) *Sign face* means the surface upon, against or through which the sign copy is displayed or illustrated, not including structural supports, architectural features of a building or sign structure, nonstructural thematic or decorative trim, or any areas that are

separated from the background surface upon which the sign copy is displayed by a distinct delineation, such as a reveal or border.

(A) In the case of panel or cabinet type signs, the sign face *shall* include the entire area of the sign panel, cabinet or face substrate upon which the sign copy is displayed or illustrated, but not open space between separate panels or cabinets.

(B) In the case of signs painted on a building, or individual letters or graphic elements affixed to a building or structure, the sign face *shall* comprise the sum of the geometric figures or combination of regular geometric figures drawn closest to the edge of the letters or separate graphic elements comprising the sign copy, but not the open space between separate groupings of sign copy on the same building or structure.

(C) In the case of sign copy enclosed within a painted or illuminated border or displayed on a background contrasting in color with the color of the building or structure, the sign face *shall* comprise the area within the contrasting background, or within the painted or illuminated border.

(b) Restrictions.

(1) Digital signs are authorized only in the *Tumon* Bay H Resort-Hotel Zone, and *shall* be subject to the provisions set forth in this Section.

(2) The Department of Public Works *shall* promulgate rules and regulations for digital sign permits in the *Tumon* Bay H Resort-Hotel Zone.

(3) Digital signs, as identified in this Section, *shall be* subject

to the Department of Public Works digital sign permit process and may be erected and operated *only after* a building permit and an occupancy permit are issued.

(4) It *shall* be unlawful to display off-premise business information on a digital sign.

(5) It *shall* be unlawful to erect a flashing digital sign.

(6) Digital signs *shall* be properly maintained. The Building Official of the Department of Public Works *shall* issue a Notice of Violation to the permittee for any digital sign that is damaged or non-functional. The permittee *shall* make necessary repairs within ninety (90) days of notice.

(7) Digital signs *shall* be placed along on the building wall or behind a window or clear covering on the building wall, *shall not* be higher than the roof line of the building, and shall protrude no farther than eighteen (18) inches from the wall to which they are attached.

(8) A digital sign authorized under this Section *shall only* be placed on any building wall along Pale San Vitores Road or Gun Beach Road that faces the road. Such digital sign *shall not* illuminate or shed light onto the beach or ocean.

(9) Any permitted digital sign under this Section may be illuminated at night.

(10) On-premise digital signs *do not* constitute a form of outdoor lighting at night and are exempt from any other outdoor lighting regulations that the Department of Public Works has adopted.

(11) Digital signs that are illuminated at night *may not* exceed a maximum luminance level of seventy (70) foot candles, regardless of the method of illumination.

(12) Digital signs that have external illumination, whether the lighting is mounted above or below the sign face or panel, *shall* have lighting fixtures or luminaries that are fully shielded.

(13) All illuminated digital signs must comply with the maximum luminance level of sixty-five (65) foot candles at least one-half (½) hour before Apparent Sunset, as determined by the National Oceanic and Atmospheric Administration (NOAA) of the U.S. Department of Commerce, for the specific geographic location and date. All illuminated digital signs must comply with this maximum luminance level throughout the night, if the digital sign is energized, until Apparent Sunrise, as determined by the NOAA, at which time the digital sign may resume luminance levels appropriate for daylight conditions, when required or appropriate.

(14) A digital sign *shall not* have a sign face exceeding twenty percent (20%) of the allowable signage area on the façade of the building, as prescribed by law or by a variance from the Guam Land Use Commission, except that in no case shall digital signage area exceed two (2) signs of one hundred sixty-five (165) square feet each.

(15) Digital sign emissions are prohibited. No digital sign which emits smoke, flames, visible vapors, particles, sound, or odor shall be permitted.

(16) Digital signs are prohibited from promoting obscene material, as defined in 9 GCA § 28.90.

(17) The Department of Public Works *shall* promulgate a fee schedule for digital sign permits based on its size.

(c) Statutory Interpretation. A digital sign *shall* be considered and deemed prohibited if it is not explicitly allowed in this Section."

Section 4. The Guam Land Use Commission *shall not* grant a variance for electronic signs that exceed the size limits and the lumens in this Act, and *shall not* allow for audible digital signs.

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

Section 6. Effective Date. This Act *shall* be effective upon enactment.