



TERRITORY OF GUAM
OFFICE OF THE GOVERNOR
AGAÑA, GUAM 96910
U. S. A.

EXECUTIVE ORDER NO. 2001-36

RELATIVE TO THE PERMITTING OF TOWER SITES
FOR WIRELESS COMMUNICATIONS SERVICE IN
NON-RESIDENTIAL ZONES.

WHEREAS, in revising §332 of the Communications Act in 1993 and in enacting §253 and 704(c) of the Telecommunications Act of 1996 ("1996 Act"), the United States Congress intended to encourage the development of a competitive, efficient mobile communications services infrastructure subject to uniform federal regulation, with limited competitively neutral local intervention; and

WHEREAS, §332(c), expressly prohibits local governments from regulating entry into mobile services and establishing local entry barriers, whether direct or indirect, which substantially interfere with the build out of commercial mobile radio services; and

WHEREAS, the additional costs imposed by unnecessary local regulation will ultimately be borne by the consumer in the form of higher rates and delayed services which are contrary to the public interest as expressed in the 1996 Act and the development of a healthy and competitive communications industry on Guam; and

WHEREAS, the timely and cost-effective development of wireless telecommunications systems across the island, is in the public interest by providing affordable and easy access for business, personal and emergency communications services; and

WHEREAS, The Guam Land Use Commission is granted the authority pursuant to §61616(i) of Title 21 GCA to grant variances for public utilities and public service uses or structures when such uses are deemed essential or desirable in accordance with the provisions of §61616 of Title 21 GCA; and

WHEREAS, numerous antenna facilities already exist throughout the island which are utilized for various Federal Communication Commission services including to commercial mobile radio services; and

WHEREAS, numerous existing antenna facilities on Guam fail to conform to the Guam Zoning regulations pursuant to Article 3 of Title 21 GCA nor have they been granted a conditional use or variance by the Guam Land Use Commission;

NOW, THEREFORE, I, CARL T.C. GUTIERREZ, I Maga'Lahen Guåhan, Governor of Guam, by virtue of the authority vested in me by the Organic Act of Guam, as amended, do order:

1. The Department of Public Works shall expeditiously issue permits for the construction of antenna facilities to commercial mobile radio service operators licensed by the Federal Communications Commission within the guidelines of this order.
2. Pursuant to §61402 (d) of Title 21 GCA, antenna and antenna structures not to exceed 50 ft. additional height shall be permitted on any structure in a non-residential zone.



3. Towers not to exceed 100 ft. above ground level shall be permitted within any commercial, industrial, or agriculture property owned by a commercial mobile radio service operator licensed by the Federal Communications Commission.
4. Towers not to exceed 100 ft. above ground level shall be permitted within any commercial, industrial, or agriculture property in which an easement for telecommunications facilities is granted by the owner of the property pursuant to §7101 (f) of Title 21 GCA to a commercial mobile radio service operator licensed by the Federal Communications Commission.
5. Permits shall only be issued for antennas, antenna structures or towers that are designed by a Guam Professional Engineer to meet the minimum wind and seismic requirements of the Department of Public Works.
6. Commercial mobile radio service operators constructing antennas, antenna structures or towers pursuant to this executive order shall obtain a minimum of a One Million Dollar (\$1,000,000) liability policy prior to this issuance of a building permit and shall maintain the policy until the facility is removed.
7. Within Thirty (30) days of the issuance of a building permit pursuant to this executive order the mobile service operator shall apply for a variance to permit the antenna structure pursuant to Article 6, Part 2 of Title 21 GCA. All antenna facilities constructed pursuant to this executive order shall be authorized until Ninety (90) days after final action by the Guam Land Use Commission including appeals pursuant to §61621 of Title 21 GCA and §253 of the 1996 Act.
8. Within Thirty (30) days of the date of this executive order, any mobile radio service operator with an existing non-conforming antenna structure shall apply for a variance to permit the antenna structure pursuant to Article 6, Part 2 of Title 21 GCA. All existing antenna structures shall be authorized until Ninety (90) days after final action by the Guam Land Use Commission, including appeals pursuant to §61621 of Title 21 GCA and §253 of the 1996 Act. Existing non-conforming antenna structures without pending applications for variances or which fail to comply with Paragraphs 5 and 6 of this order shall be subject to the penalty provisions of §61621 of Title 21 GCA Thirty (30) days after this order.
9. Pursuant to §253 of the 1996 Act, the Guam Land Use Commission shall process applications from commercial mobile radio service operators licensed by the Federal Communications Commission for variances for antenna structures on a competitively neutral and non-discriminatory basis and shall not consider the environmental effects of radio emissions of facilities which comply with the Federal Communications Commission's regulations concerning such emissions.

SIGNED AND PROMULGATED at Hagåtña, Guam this 25th day of November, 2001.



CARL T. C. GUTIERREZ
I Maga'Lahen Guåhan
Governor of Guam