

GOVERNMENT OF GUAM
OFFICE OF THE GOVERNOR
AGANA, GUAM

EXECUTIVE ORDER NO. 78-23

LAND-USE DISTRICTS

WHEREAS, Public Law 12-200 mandates the establishment of generalized areas of use within an urban, rural, agriculture, conservation and resort context; and

WHEREAS, Guam's proposed Constitution and Public Law 12-200 both require preparation of a land-use plan which identifies those areas most suitable for urban, rural, agriculture and conservation use; and

WHEREAS, the Bureau of Planning, through an extensive research and public involvement program, has identified such areas on a Land-Use Districting Map as part of its Land-Use and Community Design Plans; and

WHEREAS, such plans have been approved by the Governor, transmitted to the Legislature and may now begin to be implemented; and

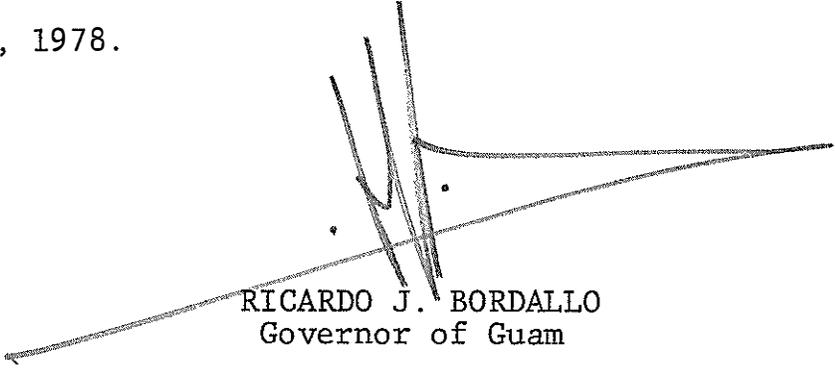
WHEREAS, incorporation of the land-use districting system into the Territory's land-use planning and zoning processes is necessary to insure the best use of its land and water resources; and

WHEREAS, utilization of land-use designations will ensure adequate and appropriate land is made available for agriculture, housing, commerce recreation, and protection of natural resources; and

WHEREAS, the use of land-use districts complies with, and supports, the goals and objectives of the Territory's Coastal Management Program;

NOW, THEREFORE, I, RICARDO J. BORDALLO, Governor of Guam, by virtue of the authority vested in me by the Organic Act of Guam, as amended, do hereby order the attached guidelines and standards relating to land-use districts to be implemented by the Territorial Planning Commission and any other such commissions or agencies as may be noted or affected.

Signed and promulgated at Agana, Guam this 8th day of
September, 1978.



RICARDO J. BORDALLO
Governor of Guam

COUNTERSIGNED:



RUDOLPH G. SABLAN
Lieutenant Governor

LAND-USE DISTRICT GUIDELINES

Section I. Definitions.

- A. 'Commission' means the Territorial Planning Commission as established under Title XIV, Chapter III of the Government Code of Guam.
- B. 'Development' means on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of the use of land, including, but not limited to, subdivision of land and any other division of land including lot splits; change in the intensity of use of water, ecology related thereto, or of access thereto; construction or reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility, and the removal of major vegetation.
- C. 'Standard' means any performance standard, rule, regulation, requirement, or other condition for the regulation of development.
- D. 'Persons' means any individual, organization, partnership or corporation, including any utility or agency of federal, territorial, or local government.
- E. 'Seashore Reserve' means that area of land and water is defined under Title XLV, Chapter V-A of the Government Code of Guam.

Section II. Land-Use Districts

Pursuant to Public Law 12-200, there shall be four land-use districts into which all lands in the Territory shall be placed: urban, rural, agricultural, and conservation. The Commission shall suitably group contiguous land areas for inclusion in one of these four major districts:

- a) Urban districts shall include those areas characterized by and designated for higher concentrations of people, structures and streets, proximity to basic services such as sewers, water, sanitation, police and fire protection power and other major facilities and areas of high intensity use.
- b) Rural districts shall include those areas composed of small farms mixed with low-density residential lots where urban-like concentrations of people, structures, streets and levels of services are absent. Rural districts may include those areas determined to be capable of adequately supporting services and population densities characteristic of urban districts in the future, but which are currently rural in character.
- c) Agricultural districts shall include those areas characterized by the cultivation of crops, orchards, forage and forestry; farming activities or

uses related to animal husbandry; services and uses clearly accessory to the above activities including, but not limited to, living quarters or dwellings, storage facilities, processing facilities and roadside stands for the sale of products grown on the premises; and open recreation facilities.

- d) Conservation districts shall include those areas necessary for protection of watersheds and water sources, prevention of floods and soil erosion and preservation of archaeological, historic, scenic, and other natural and cultural resources; parklands, wetlands, beach and wilderness areas; areas necessary for conservation of endemic plants and animals; open-space areas which, because of their present use, natural condition or openness enhance the present or potential value of abutting or surrounding communities; areas of value for existing or future recreational purposes agricultural preserves as defined under Section 12603 of the Government Code; and other permissible uses and related activities found not to be detrimental to conservation policies and objectives.
- e) The Commission may include within the four respective land-use districts, areas of land which, though not characteristic of the district in which they are to be included, are of such a geographic or topographic nature as to be more suitable for inclusion within such district than classified as a separate district.

Section III. District Boundary Designation

The Commission shall adopt as the initial land-use district boundaries those designations as delineated on the Land-Use Districting Map included as part of the Land-Use Plan Guam, 1977-2000, as approved by the Governor.

Section IV. District Boundary Revisions

- a) Any person petitioning the Commission for revision of a district boundary shall submit a written statement to the Commission identifying the land area involved, the proposed district designation, and any documentation in support of such a revision.

No later than thirty (30) days following receipt of such a petition, the Commission shall hold a public hearing concerning the proposed revision, notice of which shall be placed in a newspaper of general circulation at least fifteen (15) days prior to the hearing date. Such notice shall indicate the time and place at which maps designating the proposed boundary revision may be inspected. All comments relative to the proposed district revision shall be submitted to the Commission no later than fifteen (15) days following such hearing.

Upon review of s comments, the Commission shall o earlier than fifteen (15) days, nor later than thirty (30) days following the district revision hearing either approve or disapprove the proposed district revision. No district boundary may be revised without the approval of at least four (4) Commission members. The Commission shall issue a written statement of findings in support of tis decision addressing those issues raised by the applicant, Commission or other government agency staff, or resulting from the public hearing.

If approved, the proposed district boundary revision shall be transmitted to the Governor for approval or disapproval.

- b) No district boundary revision shall be effective without approval by the Commission and the Governor.
- c) Any district boundary revisions proposed by a Government of Guam agency be submitted to the Commission by memorandum, the date of which shall constitute the date of receipt for purposes of establishing a public hearing date.
- d) All district. boundary revisions shall be consistent with the policies of the Territory's Coastal Management Program and land-use plans as approved by the Governor.
- e) The burden of establishing the conformity of the proposed district boundary revision with the Territory's official land-use policies shall be on the party proposing such revisions.
- f) Any district boundary revision resulting in 1) expansion of an immediately adjacent urban or rural district, or 2) establishment of a new non-contiguous urban or rural district shall become effective only upon final approval of the zoning designations within such district by the Commission and the Governor.
- g) The Commission may adopt such rules and regulations as necessary to carry out its functions under this Section, including extending time periods allotted for review of or comment upon proposed district boundary revisions.
- h) All officially adopted land-use district boundary revisions shall be filed with the Commission and Department of Land Management and recorded on the Government's Land-Use Districting Map accordingly.

Section V. District Boundary Revision Requirements

- A. Land not included in an urban district may, by amendment to a land-use district boundary, be classified as urban if the Commission finds, after considering the following factors, such amendments to be consistent with the purposes of these guidelines.
 - 1) The availability and adequacy of transportation systems, infrastructure, and other public facilities and services for the land included in the

the proposed amendment, and the cost of providing transportation systems or other public facilities or services which are not available or the cost improving those which are inadequate for such land.

- 2) The extent to which development which has been proposed for such land will enhance employment opportunities or access to employment opportunities, or assist in providing a balanced housing supply for all economic and social groups.
 - 3) The extent to which proposed development for such land can be provided at the same or higher densities at locations within existing urban districts, comparing the cost of providing adequate transportation systems and public facilities and services within existing urban districts with the cost of providing comparable systems, facilities, and services for such land.
 - 4) The extent to which social and economic benefits, achieved by including the land in an urban district, balance potential harm from the loss of land in agricultural production, land which has a potential for agricultural production, or land which includes natural, environmental, recreational, scenic, historic, or other resources.
- b. Land not included in a rural district may, by amendment to a land-use district boundary, be classified as rural if the Commission finds that such amendment would serve to further community design and Government land-use policies and objectives and compliances with those rural district guidelines outlined in Section II of these guidelines.
- c. Land not presently included in an agriculture district may, by amendment to a land-use district boundary, be classified as agriculture if all or a substantial part of such land is in agricultural production, has a potential for agricultural production, or is being devoted to a use which maintains that potential, or conforms with criteria established for agricultural preserves under Government Code of Guam Section 12604 and for agricultural districts under Section II (c) of these guidelines.
- d. Land not included in a conservation district may, by amendment to a land-use district boundary, be classified as conservation if the Commission finds that (1) all or a substantial part of the land includes natural, recreational, scenic, historic, archaeological or other significant resources which should be conserved; (2) it is necessary that the land be classified as conservation so as to minimize the impact of development on land which includes such resources; or (3) rich land conforms to those conservation district guidelines outlined in Section II (d) of these guidelines.

Section VI Zoning Within Districts

- a) Following adoption of the final Land-Use Districting Map as described in Section III of these guidelines, the Commission shall have prepared a tentative revised zoning map designating the boundaries of permitted zones within the respective districts. Only the following zones shall be permitted within each of the respective districts: Urban: R1, R2, C, H, M1, M2; Rural: A, R1; Agriculture: A; Conservation: no zoning.
- b) Effective the date of this Executive Order No. _____, no land within a district may be zoned as, or rezoned to, any zone not permitted in that district, as specified in part (a) above.
- c) The tentative revised zoning map shall be presented for review and comment in at least one public hearing, notice of which shall be provided in a newspaper of general circulation at least fifteen (15) days prior to the hearing date. Such notice shall indicate the time and place at which the tentative map may be inspected prior to the hearing. All comments relative to the tentative map shall be submitted to the Commission no later than fifteen (15) days following the final public hearing concerning such map.
Upon review of such comments, the Commission shall no earlier than fifteen (15) days, nor later than thirty (30) days, following the date of the final public hearing adopt a final revised zoning map. Such map shall be transmitted to the Governor for final approval or disapproval. Upon final approval by the Governor, such map shall be deemed the official zoning map upon which all future zoning or rezoning shall be recorded.
- d) No zones shall be established within Conservation Districts. The Commission shall adopt such rules and regulations as necessary to ensure proper development within Conservation District consistent with these guidelines and approved government land-use plans and policies. Any development within a Conservation District, for which a building or grading permit is required, shall require approval by the Commission before issuance of such permit. No building or grading permit shall be issued within a Conservation District without approval of the Commission. The Commission shall approve only those permits which will result in development compatible with those policies, guidelines or standards for conservation districts as outlined in these guidelines or as adopted by the Commission.
- e) On the revised zoning map, all land within Agriculture Districts shall be zoned "A" and all applicable provisions of the Zoning Law, Title XVIII shall be enforced therein.
- f) The Zoning Law shall be fully enforced within those permitted zones within Urban and Rural districts.

- g) If a proposed development, because of its location, falls within the jurisdiction of more than one set of applicable standards or guidelines, the development shall be subject to the standards established for the area according to the following priority: (1) Area of Particular Concern, (2) Seashore Reserve, (3) Zoning and Subdivision Law. Where a conflict in standards cannot be resolved by the Commission through application of the above priorities, the Commission shall, by rule, determine the appropriate applicable standards.

Section VII. Compliance with Land-Use Policies and Standards

The following uses shall be approved by the Commission only if such uses are found to be compatible with such standards and guidelines, land-use policies or other applicable standards as approved by the Commission, Governor or Legislature:

- a) Any development within Conservation Districts;
- b) Any permissible or conditional uses, variances, or other uses within Agriculture Districts; and
- c) Any zone changes, permissible or conditional uses, variances, or other uses within Urban and Rural Districts.

Section VIII. Private Property Rights

This Executive Order is not intended, and shall not be construed as authorizing the Commission to exercise their power or grant or deny a permit in a manner which will take or damage private property for public uses, without the payment of just compensation therefore. This Executive Order is not intended to increase or decrease the rights of any owner of property under the Constitution of the Territory of Guam or the United States.

Section IX. Judicial Review

- a) Any person may maintain an action for declaratory and equitable relief to restrain any violation of these guidelines. On a prima facie showing of a violation of these guidelines preliminary equitable relief shall be issued to restrain any further violation of this title.
- b) Any person may maintain an action to enforce the duties specifically imposed upon the Commission.
- c) Any person may maintain an action for the recovery of such civil penalties as provided for in the Zoning Law, Title XVIII, of the Government Code of Guam for violation of these guidelines.