

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2023 (FIRST) Regular Session

Bill No. 51-37 (COR)

As substituted by the Committee on
Health, Land, Justice and Culture; and
amended on the Floor.

Introduced by:

Christopher M. Dueñas

**AN ACT TO *ADD* A NEW SUBARTICLE 3 TO ARTICLE
1 OF CHAPTER 61, TITLE 21, GUAM CODE
ANNOTATED, RELATIVE TO ALLOWING THE
CONSTRUCTION OF ACCESSORY DWELLING UNITS
(ADU) IN RESIDENTIAL ZONES.**

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

2 **Section 1.** A new Subarticle 3 is *added* to Article 1, Chapter 61, Title 21,
3 Guam Code Annotated, to read as follows:

4 **“SUBARTICLE 3**

5 **ACCESSORY DWELLING UNITS**

6 § 61140. Purpose.

7 § 61141. Accessory Dwelling Units.

8 § 61142. Accessory Dwelling Units: Design Limitations.

9 § 61143. Common or Separate Utilities Options.

10 § 61144. Rental of Accessory Dwelling Unit.

11 § 61145. Reporting Requirements to the Municipality.

12 **§ 61140. Purpose.**

13 The purpose of this Subarticle is to allow homeowners to construct a single
14 residential accessory dwelling unit on the same lot as a single-family home located
15 in residential (R1), (R2) and (A) zones to encourage, accommodate and regulate the

1 construction of accessory dwelling units, increase the number of affordable rental
2 units and alleviate the housing shortage on Guam, and to establish land use standards
3 for ADUs.

4 **§ 61141. Accessory Dwelling Units.**

5 (a) An Accessory Dwelling Unit (ADU) is a secondary dwelling unit
6 that includes a separate entrance, kitchen, and bathroom facilities, detached
7 from the primary single-family home on the zoning lot.

8 (b) One accessory dwelling unit may be allowed on a lot as a
9 conditional use in an R1 or A zone or a permitted use in an R2 zone, subject
10 to the following conditions:

11 (1) The maximum size of an accessory dwelling unit shall be
12 400 sq. ft. for lots between 3,500 and 4,999 sq. ft., and 800 sq. ft. for
13 lots 5000 sq. ft or more.

14 (2) Shall comply with the Yard and Area Regulations as
15 provided in 21 GCA Chapter 61 Article 5.

16 (3) Accessory dwelling units are not permitted:

17 (A) On lots with a lot area of less than 3,500 sq. ft; or

18 (B) On lots that have more than one (1) dwelling
19 unit, including but not necessarily limited to, more than one one-
20 family dwelling, bed and breakfasts, duplexes, short-term
21 vacation rental units; and any other permitted or conditional use
22 structure in an A, R1 or R2 zone; or

23 (C) On lots that are landlocked; or

24 (D) On lots where existing septic tank sizes are not
25 adequate for the additional footprint.

26 (4) The property owner or owners or persons who are related
27 by blood, marriage, or adoption, or *poksai*/reared to the property

1 owners, or designated authorized representative shall occupy the
2 primary dwelling unit or the accessory dwelling unit; except in
3 unforeseen hardship circumstances including, but not limited to, active
4 military deployment or serious illness, that prevent the continued
5 occupancy of the primary dwelling unit or the accessory dwelling unit,
6 subject to written confirmation by the Director of the Department of
7 Land Management. For purposes of this section, “designated authorized
8 representative(s)” means the person or persons designated by the
9 property owner or owners to the Department of Land Management, who
10 are responsible for managing the property;

11 (5) One off-street parking space per accessory dwelling unit
12 must be provided.

13 (6) The accessory dwelling unit may only be used for long-
14 term rental or otherwise occupied for periods of at least six months, and
15 cannot be used as a bed and breakfast or short-term vacation rental.

16 (7) The owner or owners of the lot shall record covenants
17 running with the land with the Department of Land Management stating
18 that:

19 (A) Neither the owner or owners, nor their heirs,
20 successors or assigns of the owner or owners will submit the lot
21 or any portion thereof to a condominium property regime to
22 separate the ownership of its primary dwelling unit; and

23 (B) The deed restrictions lapse upon removal of the
24 accessory dwelling unit, and all of the foregoing covenants are
25 binding upon any and all heirs, successors and assigns of the
26 owner or owners. The covenant must be recorded on a form
27 approved by or provided by the Director of the Department of

1 Land Management and may contain such terms as the Director
2 deems necessary to ensure its enforceability. The failure of an
3 owner or of an owner’s heir, successor or assign to abide by such
4 a covenant will be deemed a violation and will be grounds for
5 enforcement by the Director pursuant.

6 (8) All other provisions in Guam Law applicable to the
7 construction and occupancy of structures in A, R1, and R2 zones shall
8 apply, including but not limited to setback requirements, water,
9 wastewater and power requirements.

10 (9) All rentals of an accessory dwelling unit, or of the primary
11 dwelling unit if the property owner or owners, or persons who are
12 related by blood, marriage or adoption to the property owner or owners,
13 or designated authorized representative(s) who choose to receive rent
14 for the primary dwelling unit and occupy the accessory dwelling unit,
15 must be evidenced by a written rental agreement signed by the owner
16 and the tenant for a lease period of at least six months: provided that
17 after the initial lease period is concluded, the owner may allow the same
18 tenant to continue renting the accessory dwelling unit on a consecutive
19 month-to-month basis.

20 (10) At the time of application for a construction permit, the
21 applicant shall first obtain written confirmation from the responsible
22 agencies, including Guam Waterworks Authority, Guam
23 Environmental Protection Agency and the Department of Public
24 Works, that wastewater treatment and disposal, water supply, and
25 access roadways are adequate to accommodate the accessory dwelling
26 unit.

1 (11) An accessory dwelling unit may be created by building a
2 new structure detached from the primary dwelling unit or through
3 conversion of a legally established structure detached from the primary
4 dwelling unit subject to meeting all pertaining zoning requirements.

5 (12) The owner of a structure constructed without a building
6 permit prior to the effective date of this Article, who wants to convert
7 that structure to an accessory dwelling unit shall obtain an after-the-fact
8 building permit. In addition to fulfilling the base requirements of the
9 after-the-fact permit, any adjustments to the structure must conform to
10 the accessory dwelling unit regulations enumerated in this section and
11 any additional adopted policies and rules.

12 (13) The Department of Land Management and the Department
13 of Public Works must be notified upon removal of an accessory
14 dwelling unit.

15 (14) If an accessory dwelling unit is advertised as a bed and
16 breakfast or short-term vacation rental, the existence of such
17 advertisement will be prima facie evidence of the following:

18 (A) That the owner of the advertised unit disseminated
19 or directed the dissemination of the advertisement in that form
20 and manner: and

21 (B) That a bed and breakfast or short-term vacation
22 rental, as applicable, is being operated at the location advertised.

23 (C) The burden of proof is on the owner to establish
24 otherwise with respect to the advertisement and that the subject
25 property either is not being used as a bed and breakfast or short-
26 term vacation rental, or that it is being used legally for such
27 purpose.

1 (15) An ADU shall not have an interior connection to the main
2 dwelling.

3 (16) The following public agencies are required to service lots
4 with ADUs:

5 (A) Adequacy of sewage disposal system shall be
6 secured in writing from the Guam Environmental Protection
7 Agency (GEPA) and Guam Waterworks Authority (GWA).

8 (B) Adequacy of fire protection for all lots served by
9 private streets shall be secured in writing from the Guam Fire
10 Department.

11 (C) The lot must have direct access to a street that meets
12 fire code requirements for fire apparatus access roads.

13 (17) Lease agreements executed under this Article are subject
14 to 21 GCA Chapter 48, Guam Tenant and Rental Act of 2018.

15 (18) All provisions in Guam law relative to fair housing and
16 taxes, including but not limited to income taxes, property taxes, gross
17 receipts taxes, insurance, and rentals shall apply.

18 **§ 61142. Accessory Dwelling Units: Design Limitations.**

19 An ADU shall:

20 (a) be a studio or one (1) bedroom unit with at least one (1) full
21 bathroom and a kitchen;

22 (b) share utilities with the main house, or utilities may be billed
23 separately, by separate meter; provided, that the ADU complies with the
24 standards set by the agencies responsible for utilities;

25 (c) be covered under the same homeowner's insurance policy as the
26 main home or separately, at the option of the homeowner;

1 (d) not be sold separate and apart from the primary single-family
2 home;

3 (e) be subject to the setback requirements for the subject lot;

4 and

5 (f) comply with any wastewater or environmental impact
6 requirements in public laws, Guam Administrative Rules and Regulations,
7 Guam law, and federal law.

8 (g) An accessory building located in a front yard or on the front one-
9 half (1/2) acre of a lot shall maintain minimum front yard requirements
10 required in 21 GCA Chapter 61§ 61501.

11 **§ 61143. Common or Separate Utilities Options.**

12 An ADU may, at the option of the homeowner, share electrical, plumbing, and
13 data networking and telecommunications assets with the main home. Such sharing
14 is subject to The Building Code of Chapter 67, Title 21, Guam Code Annotated.

15 **§ 61144. Rental of Accessory Dwelling Unit.**

16 An ADU situated on a A, R1 or R2 zoned lot that complies with all applicable
17 codes in Guam is deemed eligible for rental.

18 **§ 61145. Reporting Requirements to the Municipality.**

19 Upon completion of an ADU, the head of household shall inform the mayor
20 of the affected municipality. This is to facilitate better governance through safety,
21 community planning through village population data tracking, zoning compliance,
22 etc.”

23 **Section 2.** A new subsection is hereby added to § 61103 of Chapter 61, Title
24 21, Guam Code Annotated is hereby *amended* to read:

25 “() An Accessory Dwelling Unit (ADU) is a secondary dwelling unit
26 that includes a separate entrance, kitchen, and bathroom facilities, detached
27 from the primary single-family home on the zoning lot.”

1 **Section 3.** § 61304(b) of Chapter 61, Title 21, Guam Code Annotated is
2 hereby *amended* to read:

3 “(b) Conditional Uses:

4 (1) Parks, playgrounds and community centers.

5 (2) Biological gardens.

6 (3) Schools and churches.

7 (4) Hospitals, sanitariums, and institutional uses.

8 (5) Cemeteries.

9 (6) Recreational use, including golf courses, marinas,
10 beaches, swimming pools and accessory residential and commercial
11 use.

12 (7) Extractive industry.

13 (8) Utilities and public facilities.

14 (9) Wholesale and retail stores, shops and businesses.

15 (10) Automobile service stations, including service shops.

16 (11) Bed and breakfasts and short-term vacation rental units.

17 (12) Accessory uses and structures for the above

18 (13) Accessory dwelling units”

19 **Section 4.** § 61305(b) of Chapter 61, Title 21, Guam Code Annotated is
20 hereby *amended* to read:

21 “(b) Conditional Use.

22 (1) Duplexes.

23 (2) Schools and churches.

24 (3) Parks, playgrounds and community centers.

25 (4) Health service office, outpatient with laboratory.

26 (5) Utilities and public facilities.

27 (6) Short-term vacation rental units.

1 (7) Accessory dwelling units”

2 **Section 5.** § 61306(a) of Chapter 61, Title 21, Guam Code Annotated is
3 hereby *amended* to read:

4 “(a) Use Permitted.

5 (1) One-family dwellings.

6 (2) Duplexes.

7 (3) Multi-family dwellings.

8 (4) Hotels, private groups, and institutions.

9 (5) Bed and breakfasts.

10 (6) Accessory uses and structures for the above.

11 (7) Accessory dwelling units”