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From: Speaker's Office <speaker@guamlegislature.org>
Sent: Wednesday, November 25, 2020 5:00 PM
To: Clerks Office
Cc: Rennae Meno
Subject: Messages and Communications
Attachments: DPHSS-Regulations Governing the Enforcement of Public Health Guidance Memoranda.pdf; DPHSS-Child Care Revolving Fund for the month of October 2020.pdf

11/25/20	4:27 PM	11/25/20	Combined Regulations governing the enforcement of Public Health Guidance Memoranda and Directives during the COVID-19 Public Health Emergency; Judicial Resolution 20-031; Promulgation Order 20-003-01.*	Department of Public Health and Social Services	35GL-20-2452
11/25/20	4:28 PM	11/18/20	Child Care Revolving Fund for the month of October 2020.*	Department of Public Health and Social Services	35GL-20-2453

Sinseru yan Minagåhet,

Office of the Speaker • Tina Rose Muña Barnes
Committee on Public Accountability, Human Resources & the Guam Buildup

35th Guam Legislature
I Mina'trentai Singko na Liheslaturan Guåhan

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Gumai pribilehu yan konfedensia este siha na mensåhi. Solo espesiåtmente para hågu ma entensioña pat ma aturisa para unrisibi. Sen prubidu kumu ti un ma aturisa para manribisa, na'setbe, pat mandespåtcha. Yanggen lachi rinisibu-mu nu este na mensåhi , put fabot ago' guatu gi I numa'huyong gi as speaker@guamlegislature.org yan despues destrosa todu siha I kopian mensåhi. Si Yu'os ma'åse'.

GOVERNMENT OF GUAM
DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
DIPATTAMENTON SALUT PUPBLEKO YAN SETBISION SUSIAT

LOURDES A. LEON GUERRERO
GOVERNOR, MAGA'HÅGA'

JOSHUA F. TENORIO
LT. GOVERNOR, SIGUNDO MAGA'LÅHI

ARTHUR U. SAN AGUSTIN, MHR
DIRECTOR

LAURENT SF DUENAS, MPH, BSN
DEPUTY DIRECTOR

TERRY G. AGUON
DEPUTY DIRECTOR

Via Hand Delivery
and E-mail: speaker@guamlegislature.org

November 25, 2020

35GL-20-2452.
Speaker Tina Rose Muña Barnes
NOV 25 2020
Time 4:27 ( )AM ( )PM
Received By:

HONORABLE TINA ROSE MUNA BARNES, *Speaker*
I Mina'trentai Singko Na Liheslaturan Guåhan
35th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Re: Regulations Governing the Enforcement of Public Health Guidance Memoranda

Dear Madame Speaker,

Please find attached a copy of the Regulations Governing the Enforcement of Public Health Guidance Memoranda and Directives During the COVID-19 Public Health Emergency (the "Regulations"). The Regulations were formally adopted by the Department of Public Health and Social Services on November 19, 2020, following two public hearings during which DPHSS gathered feedback relative to its draft regulations.

To ensure due process for anyone issued a citation under the Regulations, DPHSS approached the Judiciary of Guam about the possibility of vesting jurisdiction over the Regulations in the Traffic Court. At its November 19 meeting, the Judicial Council adopted Resolution No. 20-031 Relative to Recommending Approval of Proposed Amendments to the Superior Court of Guam Guam Interim Traffic Court Rules and on November 24, the Supreme Court of Guam issued Promulgation Order No. 20-003-01, formally amending the Superior Court of Guam Interim Traffic Court Rules to provide for jurisdiction over challenges to citations issued under the Regulations.

If you have any questions, please contact my office at (671) 638-4512.

Senseramente,

ARTHUR U. SAN AGUSTIN, MHR

Enclosure: Regulations, Resolution No. 20-031, and Promulgation Order No. 20-003-01

GOVERNMENT OF GUAM
DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
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NOV 19 2020

REGULATIONS GOVERNING THE ENFORCEMENT OF PUBLIC HEALTH GUIDANCE MEMORANDA AND DIRECTIVES DURING THE COVID-19 PUBLIC HEALTH EMERGENCY

Preface:

The Department of Public Health and Social Services ("DPHSS") is authorized to promulgate and implement such rules and regulations as are reasonable and necessary to implement and effectuate the provisions of the *Islan Guåhan* Emergency Health Powers Act ("the Act") and shall have the power to enforce the provisions of the Act through the imposition of fines and penalties, the issuance of orders, and such other remedies as are provided by laws. 10 GCA § 19802. It is the purpose of this document to establish Regulations governing the enforcement of DPHSS Guidance Memoranda and Directives during the COVID-19 Public Health Emergency first declared by Governor Lourdes A. Leon Guerrero in Executive Order No. 2020-03 on March 14, 2020, and extended in several Executive Orders thereafter. These Regulations are dynamic and may be amended from time to time, in order to effectuate the provisions of the Act as the public health emergency develops.

These Regulations were developed in response to the surge in the spread of SARS-CoV-2, the virus that causes the COVID-19 disease, throughout the community in Guam, resulting in increased hospitalizations and deaths. Further, these Regulations reflect the acquired experience of the DPHSS and the Guam Police Department ("GPD") in addressing complaints received from the community of businesses, organizations, and individuals violating DPHSS Guidance Memoranda and Directives issued to regulate standards and behavior in the community to prevent the transmission of COVID-19 and ensure all cases of COVID-19 are contained and treated.

1. Statutory Duties of DPHSS Pursuant to the Emergency Health Powers Act

The *Islan Guåhan* Emergency Health Powers Act (hereafter referred to as the "Act"), codified at 10 GCA § 19101 *et seq*, was passed with the legislative intent to authorize the exercise of extraordinary government powers and functions to respond rapidly and effectively to public health emergencies, including those caused by emergent and resurgent infectious diseases.

The Act authorizes the Governor of Guam to declare a public health emergency, in consultation with DPHSS, as the designated Public Health Authority, and other public health experts. 10 GCA § 19401.

The Act authorizes DPHSS to coordinate all matters pertaining to the public health emergency response of Guam, including the enforcement of orders issued pursuant to the Act with the assistance of the Guam Police Department, as the Public Safety Authority. 10 GCA §§ 19403(b) and 19404.

The Act requires DPHSS to use every available means to prevent the transmission of infectious disease and to ensure that all cases of contagious disease are subject to proper control and treatment. 10 GCA § 19601.

The Act authorizes DPHSS and other affected agencies to promulgate and implement rules and regulations as are reasonable and necessary to implement and effectuate the provisions of the Act. 10 GCA § 19801.

The Act grants to DPHSS and other affected agencies the power to enforce the provisions of the Act through the imposition of fines and penalties, the issuance of orders, and such other remedies as are provided by law. 10 GCA § 19802.

2. **History/Background of the COVID-19 Pandemic in Guam.**

On March 14, 2020, pursuant to Executive Order No. 2020-03, Governor Lourdes A. Leon Guerrero, Governor of Guam, acting pursuant to the power provided by the Organic Act and the laws of Guam, declared a public health emergency due to the potential dangers posed by the 2019 novel coronavirus.

On April 30, 2020, pursuant to Executive Order No. 2020-11, Guam adopted a system of readiness, known as the Pandemic Conditions of Readiness ("PCOR") that guides decision-making for purposes of coordinating health and safety responses, imposing restrictions on activities, and directing government services.

In Executive Order No. 2020-11, Governor Leon Guerrero further declared Guam to be in PCOR 1, imposing stringent restrictions on social gatherings, prohibitions on non-essential activities, impositions of conditions on operations of essential activities, and closures of congregate facilities, including schools.

On May 8, 2020, pursuant to Executive Order No. 2020-14, Governor Leon Guerrero declared Guam to be in PCOR 2, permitting limited activities to operate under moderate restrictions and allowing specific businesses to operate subject to DPHSS Guidance, occupancy limits, and implementation of mitigation measures.

On July 19, 2020, pursuant to Executive Order No. 2020-24, Governor Leon Guerrero declared Guam to be in PCOR 3, having achieved a consistently low positivity rate for COVID-19, expanded capacity to test all individuals with COVID-19 symptoms, and the continued capacity to monitor COVID-19 cases and trace their contacts through DPHSS's contact tracing system. Under PCOR 3,

all businesses and activities, with few exceptions, were permitted to operate, subject to occupancy limitations and the implementation of mitigation measures.

Despite restrictions, COVID-19 cases in Guam dramatically spiked in August 2020, and on August 16, 2020, Guam reverted to PCOR 1 to try to slow COVID-19's spread in Guam.

On August 21, 2020, Governor Leon Guerrero issued Executive Order No. 2020-28, instituting a Stay-at-Home Order, and implementing the most restrictive conditions, closing all businesses and government offices except for those deemed critical and prohibiting the use of public spaces like beaches and parks for any purpose.

The Stay-at-Home Order was extended four (4) times in Executive Orders No. 2020-29, 2020-30, 2020-31, and 2020-32.

On September 25, 2020, in Executive Order No. 2020-34, Governor Leon Guerrero instituted a Safer-at-Home Advisory, permitting the operation of limited non-essential businesses at 25% occupancy, and limited outdoor recreation, but continuing the prohibition on public gatherings and congregations.

On October 1, 2020, in Executive No. 2020-36, Governor Leon Guerrero authorized the operation of additional businesses and activities during PCOR 1, including the resumption of congregations at places of worship at a limited occupancy load, small social gatherings, outdoor recreation, the reopening of public parks and beaches, limited allowances for gyms and fitness centers, and the operation of childcare facilities.

Following each of the aforementioned Executive Orders, DPHSS issued Guidance Memoranda and Directives establishing standards for operation and conduct of businesses and individuals to contain and mitigate the spread of COVID-19.

Executive Orders and consequent DPHSS Guidance Memoranda and Directives were issued based on advice and data received from the Physicians Advisory Group, and the Guam National Guard Surgeon Cell, and information from the U.S. Centers for Disease Control and Prevention, the World Health Organization, and other leaders in COVID-19 research nationally and internationally.

Notwithstanding the continued limitations on individual, business, and organizational activities throughout the duration of the pandemic, DPHSS and GPD have received thousands of complaints from members of the community regarding violations of DPHSS Guidance Memoranda and Directives.

DPHSS and GPD have responded to complaints against individuals, businesses, and organizations by counseling and educating such individuals, businesses, and organizations regarding applicable DPHSS Guidance Memoranda and Directives.

The Physicians Advisory Group and the Guam National Guard Surgeon Cell have further recommended implementation of enforcement measures against individuals, businesses, and organizations that violate DPHSS Guidance Memoranda and Directives, in furtherance of efforts to contain and mitigate against the spread of COVID-19.

On October 28, 2020, utilizing her statutory authority under 10 GCA § 19403(a)(1) and pursuant to Executive Order No. 2020-38, Governor Leon Guerrero suspended the rule-making procedures of the Administrative Adjudication Law to allow DPHSS to adopt enforcement regulations during the COVID-19 pandemic, finding that strict compliance with such procedures would hinder or delay necessary action in response to the COVID-19 public health emergency and increase the threat to the health of the community.

Pursuant to its authority under 10 GCA § 19802, DPHSS drafted the "Regulations Governing the Enforcement of Public Health Guidance Memoranda and Directives during the COVID-19 Public Health Emergency."

Notwithstanding suspension of the Administrative Adjudication Law pursuant to Executive Order No. 2020-38, DPHSS posted the draft regulations on DPHSS website and published the scheduled public hearings to receive comments on the draft regulations in the Guam Pacific Daily News and the Guam Daily Post on October 30, 2020 and November 3, 2020, and conducted public hearings regarding the draft regulations on October 31, 2020 and November 4, 2020, during which it received oral and written testimony from members of the community regarding the regulations.

Following the public hearings and based on testimony received during those hearings, DPHSS revised the draft regulations.

Now, therefore, pursuant to its authority under 10 GCA § 19802, DPHSS hereby adopts the following:

"Regulations Governing the Enforcement of Public Health Guidance Memoranda and Directives during the COVID-19 Public Health Emergency."

Chapter 4. Public Health and Sanitation
Article 28 Regulations Governing the Enforcement of Public Health Guidance Memoranda and Directives during the COVID-19 Public Health Emergency

§ 428101. Purpose. The purpose of these rules and regulations is to protect and promote public health through the implementation of enforcement procedures for violations of guidance memoranda and directives issued by the Department of Public Health and Social Services ("DPHSS") during the COVID-19 Public Health Emergency declared by Governor Lourdes A. Leon Guerrero in Executive Order No. 2020-03 on March 14, 2020. These rules and regulations shall be liberally construed and applied to ensure compliance with DPHSS's guidance memoranda and directives.

§ 428102. Authority. Title 10 Guam Code Annotated, Chapter 19, Section 19802 authorizes DPHSS to promulgate and implement rules and regulations to implement and effectuate the provisions of the Chapter, and to enforce the provisions of the Chapter through the imposition of fines and penalties, the issuance of orders, and such other remedies as are provided by law.

§ 428103. Title. These rules and regulations shall be known as the *COVID-19 Public Health Enforcement Regulations*.

§ 428104. Definitions.

(a) **Enforcing Officers** shall mean any designated individual with the Department of Public Health and Social Services, and any peace officer in the Guam Police Department.

(b) **Business** shall mean a partnership, firm, association, corporation or other legal entity not otherwise defined herein.

(c) **COVID-19** shall mean the disease caused by the SARS-CoV-2 virus.

(d) **DPHSS or Public Health Authority** shall mean the Guam Department of Public Health and Social Services.

(e) **Guidance Memorandums or Directives** shall mean the official documents issued by the Department of Public Health and Social Services as the Public Health Authority providing orders or guidelines for the mitigation, containment, and prevention of the spread of SARS-CoV-2, the virus that causes COVID-19, in Guam.

(f) **Nonprofit Organization** shall mean:

(i) any organization which is described in § 501(c)(3) of the Internal Revenue Code of 1986, and exempt from tax under § 501(a) of such Code; *or*

(ii) any *not-for-profit* organization which is organized and conducted, pursuant to the laws of Guam, for public benefit and operated primarily for charitable, civic, educational, religious, welfare or health purposes.

(g) **Person** shall mean any natural person.

(h) **GPD or Public Safety Authority** shall mean the Guam Police Department.

§ 428105. Authority to Issue and Enforce Guidance Memoranda and Directives to Prevent Transmission of SARS-CoV-2.

(a) Pursuant to Title 10 Guam Code Annotated Chapter 19 § 19601, during a state of public health emergency, DPHSS is authorized to use every available means to prevent the transmission of infectious disease and to ensure that all cases of contagious disease are subject to proper control and treatment. During the pendency of the COVID-19 Public Health Emergency declared by Governor Lourdes A. Leon Guerrero in Executive Order No. 2020-03 on March 14, 2020, DPHSS is authorized to use every available means to prevent transmission of SARS-CoV-2, the virus that causes COVID-19, and to ensure that all cases of COVID-19 are subject to proper control and treatment. Pursuant to Title 10 Guam Code Annotated, Chapter 19 Section 19404, DPHSS may further request assistance from the Guam Police Department ("GPD") in enforcing applicable guidance memoranda and directives.

(b) Violations of DPHSS guidance memoranda or directives as provided in these Regulations will be recorded on forms approved by and prosecuted within the Traffic Division of the Superior Court of Guam.

(c) Enforcing Officers, as defined herein, shall have the power to issue citations to persons, businesses, and non-profit corporations violating the DPHSS Guidance Memoranda and Directives as provided in these Regulations.

§ 428106. Penalties/Fines for Violation of DPHSS Guidance Memoranda and Directives.

(a) Prohibited Conduct.

(i) For persons, willful violation of, or failure to comply with any guidance or directive issued by DPHSS relating to the following shall constitute a civil violation:

(1) congregations or social gatherings;

(2) social distancing and the wearing of masks when congregating with persons not from the same household; or

(3) any restrictions on the use of public parks or beaches, and on organized or contact sports.

(ii) For businesses and nonprofit organizations, unless otherwise authorized by DPHSS, willful violation of, or failure to comply with, any guidance or directive issued by DPHSS relating to the following shall constitute a civil violation:

(1) the submission of mitigation plans;

(2) limitations on authorized operations;

(3) occupancy limitations;

(4) social distancing and the wearing of masks for employees and/or patrons;
(5) sanitation/disinfection requirements;
(6) posting of signage;
(7) any restrictions on indoor patronage, the use of waiting rooms and common areas, and walk-in patronage;
(8) the requirement that such businesses keep logbooks or written records of guests; or
(9) the sale of restricted items.

(b) Penalties.

(i) For persons, willful violation of, or failure to comply with, any guidance or directive issued by DPHSS with respect to the COVID-19 public health emergency declared in Executive Order No. 2020-03, or any extension thereof, as provided in Section (a) above, shall be punishable as follows:

(1) For the first offense, such person shall be guilty of a civil violation punishable by a fine of One Hundred Dollars ($100.00).
(2) For the second offense, such person shall be guilty of a civil violation punishable by a fine of Two Hundred Fifty Dollars ($250.00).
(3) For the third offense, and each additional violation thereafter, such person shall be guilty of a civil violation punishable by a fine of One Thousand Dollars ($1,000.00).

(ii) For businesses and nonprofit organizations, unless otherwise authorized by DPHSS, willful violation of, or failure to comply with, any guidance or directive issued by DPHSS with respect to the COVID-19 public health emergency declared in Executive Order No. 2020-03, or any extension thereof, as provided in Section (a) above, shall be punishable as follows:

(1) For the first offense, such business or nonprofit organization shall be guilty of a civil violation punishable by a fine of One Thousand Dollars ($1,000.00).
(2) For the second offense, such business or nonprofit organization shall be guilty of a civil violation punishable by a fine of Two Thousand Five Hundred Dollars ($2,500.00).
(3) For the third offense, and each additional violation thereafter, such business or nonprofit organization shall be

guilty of a civil violation punishable by a fine of Ten Thousand Dollars ($10,000.00).

(iii) Fines collected under this section shall be shared equally by GPD and DPHSS with funds for DPHSS deposited into the DPHSS COVID-19 account.

§ 428107. Severability. If any provision of these Regulations are held invalid, such invalidity shall not affect the remaining provisions of these Regulations."

These Regulations are adopted pursuant to 10 GCA § 19802, and Executive Order No. 2020-38, and may be amended or otherwise as provided therein.

ARTHUR U. SAN AGUSTIN, MHR
Director

BEFORE THE 2020 JUDICIAL COUNCIL OF GUAM

RESOLUTION NO. 20-031

RELATIVE TO RECOMMENDING APPROVAL OF PROPOSED AMENDMENTS TO THE SUPERIOR COURT OF GUAM INTERIM TRAFFIC COURT RULES

WHEREAS, the Judiciary of Guam has been advised by the Director of the Department of Public Health and Social Services ("DPHSS") of the pending promulgation of DPHSS Regulations Governing the Enforcement of Public Health Guidance Memoranda and Directives during the COVID-19 Public Health Emergency (the "Proposed DPHSS Regulations"); and

WHEREAS, the Proposed DPHSS Regulations provide that violations "will be recorded on forms approved by and prosecuted within the Traffic Division of the Superior Court of Guam"; and

WHEREAS, in order for the Traffic Court to exercise jurisdiction over the violations created by the Proposed DPHSS Regulations it is necessary to amend the Superior Court of Guam Interim Traffic Court Rules which govern the practice and procedure of civil violations within the jurisdiction of the Traffic Court; and

WHEREAS, the Superior Court Clerk of Court, who oversees the Traffic Violations Bureau, has presented the proposed Amended Interim Traffic Court Rules attached as Exhibit A, to the Judicial Council, which amendments will incorporate the Proposed DPHSS Regulations, and statutory civil violations not included in the 2014 adoption of the Interim Traffic Court Rules, remove a violation repealed by law, and make various minor corrections to the Interim Traffic Court Rules; and

WHEREAS, the Superior Court Clerk of Court has requested that the Judicial Council recommend that the Supreme Court of Guam under its rule making authority, approve the proposed Amended Interim Traffic Court Rules.

NOW, THEREFORE, BE IT RESOLVED, that the Judicial Council hereby transmits the proposed Amended Interim Traffic Court Rules, attached as Exhibit A, to the Supreme Court of Guam and recommends approval of the amendments by the Supreme Court.

DULY ADOPTED this 19th day of November 2020 at a duly noticed meeting of the Judicial Council of Guam.

F. PHILIP CARBULLIDO, Chairman

Dated: 11-23-2020

ATTEST:

Petrina Ula, Executive Secretary

Dated: 11-23-2020

EXHIBIT A

SUPERIOR COURT OF GUAM
INTERIM TRAFFIC COURT RULES

NOTE: Adopted as interim rules pursuant to Supreme Court of Guam Promulgation Order No. 14-002-01 (June 20, 2014) and amended by Supreme Court of Guam Promulgation Order No. 20-003 (November 23, 2020).

Rule 1. Title.
Rule 2. Scope, Purpose and Construction.
Rule 3. Jurisdiction.
Rule 4. Definitions.
Rule 5. Traffic Violations Bureau.
Rule 6. Commencement of Action.
Rule 7. Guam Uniform Complaint and Citation.
Rule 8. Admission - Contest.
Rule 9. Failure to Appear - Order - Default.
Rule 10. Contest - Trial - Evidence.
Rule 11. Entry of Judgment.
Rule 12. Dismissal.
Rule 13. Repeat Offender - Penalties - Suspension.
Rule 14. Retention of Counsel - Entry of Appearance.
Rule 15. Appearance of the Attorney General not Required.
Rule 16. Notice to Regulatory Agency.
Rule 17. Amendment.
Rule 18. Appeal.
Rule 19. Enforcement of Judgment.
Rule 20. Interim Rules and Effective Date.

RULE 1. Title.

These rules shall be known and cited as the Superior Court of Guam Traffic Court Rules.

RULE 2. Scope, Purpose and Construction.

(a) Scope of Rules. These Rules govern the practice and procedure in the Traffic Court, a Division of the Superior Court of Guam for all cases involving civil violations within the jurisdiction of the Traffic Court.

(b) Purpose and Construction. These rules are intended to provide for the just determination of all violations which fall within the jurisdiction of the Traffic Court, and to that end shall be construed to ensure simplicity, uniformity in procedure, fairness in administration and the elimination of unjustifiable expense and delay.

RULE 3. Jurisdiction.

The Traffic Court shall hear and determine violations under the following statutes:

(a) 10 GCA Chapter 34 [animal control];
(b) 10 GCA Chapter 51, Article 2 [litter];
(c) 10 GCA Chapter 69 [boating];
(d) 10 GCA § 58111 [Fire Code] violations;
(e) 10 GCA § 73110 [Fire Code] violations;
(f) 10 GCA Chapter 90 [smoking];
(g) 16 GCA Chapter 5 [commercial motor vehicle];
(h) 16 GCA Chapters 3, 7, 9, 13, 19 and 26 [Vehicle Code] violations, and any violation of the Vehicle Code committed by a minor sixteen (16) years or older [19 GCA § 5103(a)(4)].
(i) 5 GCA Chapters 60 and 63 [fish, game, forestry, and conservation]
(j) 5 GCA Chapter 40 [mayors' enforcement of sanitary and health laws]
(k) 26 GAR Chapter 4, Article 28 [regulations governing the enforcement of public health guidance memoranda and directives during the COVID-19 public health emergency]

NOTE: Title 19 GCA § 5103(a)(4) removes from the jurisdiction of the Family Court any violation of the Vehicle Code committed by a person 16 years or older. Title 9 GCA § 67 401.2(b)(3) was effectively repealed by P.L. 35-005:4 (April 4, 2019). Title 26 GAR Chapter 4, Article 28 was enacted by the Department of Public Health and Social Services pursuant to 10 GCA § 19802 and Executive Order No. 2020-38. DPHSS Announcement Nov. 19, 2020.

RULE 4. Definitions.

(a) **Abuse.** The unlawful use of a lawful process or the perversion of a process in order to obtain a result, which was not intended by the law to effect.

(b) **Apprehending Officer.** Means any designated person employed by the Department of Parks & Recreation, the Department of Agriculture, the Guam Environmental Protection Agency, the Department of Public Health and Social Services, the Department of Public Works, all mayors and assistant mayors, and any peace officer.

SOURCE: 10 GCA § 51202(a) (2005).

(c) **Moving Violation.** Any violation of the Motor Vehicle Code committed while a driver is operating a vehicle in motion, including any temporary or intermittent stop in the course of operating a vehicle in motion on any roadway or highway in Guam.

(d) **Non-moving Violation.** Any parking or standing of a motor vehicle not in operation in violation of a statute, ordinance or regulation.

(e) **Non-traffic Violation.** All other violations within the jurisdiction of the Traffic Court as defined in Rule 3 including but not limited to violations prescribed under 9 GCA § 67.401.2 (b)(3), 10 GCA Chapters 34, 69, 90; 10 GCA Chapter 51, Article 2; 10 GCA § 58111; 10 GCA § 73111; and 26 GAR Chapter 4 Article 28.

(f) **Peace Officer.** The same meaning as provided for in 8 GCA § 5.55.

(g) **Respondent.** The person cited with a violation under the jurisdiction of the Traffic Court.

(h) **Traffic Court Judicial Officer.** A judge, judge pro tempore, magistrate judge, or referee appointed by the Chief Justice of the Supreme Court of Guam to preside over Traffic Court cases.

(i) **Guam Uniform Complaint and Citation.** A complaint and citation issued for a violation within the jurisdiction of the Traffic Court under Rule 3, using the General Guam Uniform Complaint and Citation form, including (but not limited to) complaints and citations for litter, boating and smoking.

(j) **Violation.** Any infraction under the jurisdiction of the Traffic Court punishable by a civil fine.

RULE 5. Traffic Violations Bureau.

There is hereby established a Traffic Violations Bureau ("TVB") within the Superior Court of Guam at various locations. The TVB Clerk shall be under the general supervision of the Clerk of Court. The TVB Clerk, or assigned Deputy Clerk(s), shall have authority to accept a respondent's entry of appearance, waiver of trial, admission or denial of liability, payment of fines, fees, and court costs, set trial dates and assess fines, fees, and court costs in accordance with the schedule of fees approved by the Judicial Council, on any violation for which an admission has been entered.

RULE 6. Commencement of Action.

An action is commenced when a Guam Uniform Complaint and Citation ("GUCC") is issued by any peace officer or apprehending officer. The GUCC may also be in electronic format. The reverse side of the GUCC, except for electronic citations, shall provide for recording of the judgment. Electronic citations do not need to meet the formatting requirements but must otherwise provide the same information as a hard copy GUCC. The format of the GUCC for each scope of jurisdiction in Rule 3 shall be approved by the Clerk of Court.

RULE 7. Guam Uniform Complaint and Citation.

(a) Filing the GUCC. The issuing agency or apprehending officer shall file the original GUCC with, or transmit the electronic citations to the TVB on or before the appearance date.

(b) Grounds for Dismissal by TVB Clerk. The following causes may be grounds for administrative dismissal of the GUCC by the TVB Clerk:

(i) Failure to cite a statute, or citing an incorrect statute;

(ii) Upon a first violation of the provisions of the Accessible Parking statute as contained in 16 GCA §§ 3401.1(b)(1) or (c), or 3401(d), provided the respondent files a Declaration stating he/she is a disabled person under 16 GCA § 7120.1(a)(2), and the person responsible for the violation, or was with the person responsible at the time the GUCC was issued; or

(iii) The issuing agency or apprehending officer requests in writing that the original GUCC be voided before filing the citation.

(c) Accounting of GUCCs Issued. The TVB shall be responsible for and reconcile all GUCCs filed or received. Each Director or agency head shall be held accountable for any and all GUCCs released to their department for use, and shall report to the TVB any unused, lost, or missing UCCs on an annual basis.

RULE 8. Admission - Contest.

(a) **Admission.** A respondent, or his/her designee with written authorization, may enter an admission to a violation by submitting or delivering the amount of the fine plus court costs, together with the signature by the respondent or designee on the GUCC and on a waiver of trial, to the TVB Clerk at any Traffic Court location, or by mailing the same to the Superior Court of Guam Traffic Violation Bureau, 120 West O'Brien Drive, Hagåtña, Guam 96910, or by any other approved electronic means of payment. Judgment shall be entered against the respondent after an admission imposing applicable fines and court costs, and there shall be no right to appeal.

(b) **Contest.** A contest to the validity or regularity of a violation or process must be made at the first appearance. A designee may enter a contest; however the respondent or respondent's counsel must personally appear to contest the violation. A hearing to contest the violation shall be scheduled pursuant to Rule 11.

RULE 9. Failure to Appear - Order - Default.

(a) First Appearance. If the respondent fails to appear or otherwise answer the violation on or before the first appearance date, an Order to Appear shall be issued by mail ordering the respondent to appear and answer to the violation not later than thirty (30) days from the date of mailing of the Order to Appear.

(b) Order to Show Cause. If the respondent fails to appear or otherwise answer the violation within thirty (30) days from the mailing of the Order to Appear, an Order to Show Cause ("OSC") shall be issued

ordering the respondent to appear at a hearing before the Traffic Court Judicial Officer.

(c) **Entry of Default.** If the respondent is served with the OSC and fails to appear at the Order to Show Cause hearing, a default judgment may be entered against the respondent imposing maximum fines and court costs, plus legal interest of 6%. The Traffic Court Judicial Officer may issue further orders including but not limited to an order for a warrant of arrest, an Alias Order to Appear, or an Alias OSC.

RULE 10. Contest - Trial - Evidence.

(a) **Scheduling a Hearing.** All contests shall be heard before the Traffic Court Judicial Officer. The TVB Clerk shall schedule a hearing on a contest on the next available date and time. The date set for hearing shall be set not earlier than twenty (20) days, and not later than thirty (30) days from the date of the respondent's request to contest the violation. A hearing in cases involving an accident resulting in personal injury shall be set no earlier than sixty (60) days and not later than ninety (90) days from the date of the respondent's request to contest the violation. These dates may be extended for good cause.

(b) **Respondent to Appear Mandatory.** The respondent must appear at the hearing to contest the violation. No hearing will proceed in the absence of the respondent. Failure of the respondent to appear at the hearing shall be grounds for entry of a default judgment.

(c) **Service of Process.** Notice of the hearing shall be served by the Superior Court Marshal to the Guam Police Department, Office of the Chief of Police, or appropriate regulatory agency. A respondent is entitled to have process issued by the Traffic Court. If the respondent requests for marshal service, the respondent must pay the marshal's fee.

(d) **Right to Be Heard.** All witnesses shall be heard prior to judgment and disposition.

(e) **Evidence.** The Rules of Evidence do not apply in Traffic Court hearings.

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(b) The Traffic Court Judicial Officer has determined after a hearing that the respondent committed a violation; or

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(a) **Second Judgment within Any 12 Months.** The amount of fines to be imposed on a second judgment for the same or separate violation under the Vehicle Code, charged within any twelve (12) month period, shall be an additional fifty percent (50%) of the original fine for the current violation.

(b) **Third Judgment within Any 12 Months.** The amount of fines to be imposed for a third judgment for the same or separate violation under the Vehicle Code, charged within any twelve (12) month period, shall be an additional seventy-five percent (75%) of the original fine for the current violation.

(c) **Suspension of Driver's License.** The Traffic Court Judicial Officer may suspend the driver's license of a person liable for violating any provision related to a moving violation as provided in 16 GCA § 3111 for a period of thirty (30) days for a first violation, sixty (60) days for a second moving violation, and for a period not to exceed six (6) months for any subsequent violation. The TVB Clerk or designee shall take possession of the license, and retain it for the period of suspension.

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disabled parking, shall be fined not less than three hundred dollars ($300.00) and not more than five hundred dollars ($500.00). If no abuse is found the violation shall be dismissed with prejudice.

SOURCE: 16 GCA § 3111 (2005); 16 GCA § 3401.1(d) (2005).

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A respondent may obtain an attorney to represent him/her during the pendency of the violation before the Traffic Court. The attorney must file an entry of appearance with the TVB.

RULE 15. Appearance of the Attorney General not Required.

The Attorney General will not be required to appear to prosecute violations, and the matter may proceed with the peace officer or apprehending officer, or other representative of the citing agency.

RULE 16. Notice to Regulatory Agency.

Upon entry of a judgment, the TVB Clerk shall report through electronic means, any record of the violation to the Guam Police Department and the Department of Revenue & Taxation, or other appropriate regulatory agency.

RULE 17. Amendment.

The Traffic Court Judicial Officer may permit to be amended any process or pleading or any omission or defect therein, or for any variance between the complaint and the evidence adduced at the trial. If the respondent is substantially prejudiced in the presentation of his or her case as a result of the amendment, the Traffic Court Judicial Officer shall recess the hearing to some future time, upon such terms as are just and proper.

RULE 18. Appeal.

(a) **Trial Court.** The Superior Court shall have appellate jurisdiction to review any judgment rendered before the Traffic Court Judicial Officer. An appeal shall be taken within five (5) business days after the judgment is entered by filing a written notice of appeal and paying a filing fee in the same amount as that required for the filing of a civil case.

(b) **Admission by Respondent.** No appeal can be taken from a judgment entered by admission of the respondent.

(c) ***De Novo.*** Upon appeal by the respondent the case shall be tried on the merits *de novo*.

SOURCE: 7 GCA § 4102 (2005), 8 GCA §1 09(b) (2005).

RULE 19. Enforcement of Judgment.

The Administrator of the Courts ("AOC"), or the AOC's designee may undertake collection measures and efforts for fines, fees, and court costs more than sixty (60) days outstanding.

RULE 20. Interim Rules and Effective Date.

These Rules are interim rules to be in effect until permanent rules are promulgated by the Supreme Court of Guam. These rules shall take effect upon promulgation by the Supreme Court and shall remain in effect until adoption of the permanent rules or further order of the Supreme Court.

Filed
Supreme Court of Guam, Clerk of Court

IN THE SUPREME COURT OF GUAM

	SUPREME COURT CASE NO. PRM20-003
RE:	
AMENDMENT OF SUPERIOR COURT OF GUAM INTERIM TRAFFIC COURT RULES	**PROMULGATION ORDER NO. 20-003-01**

The Judicial Council of Guam adopted Resolution No. JC20-031, Relative to Recommending Approval of Proposed Amendments to Superior Court of Guam Interim Traffic Court Rules, attached hereto as Attachment 1. The Supreme Court of Guam has considered the recommendation of the Judicial Council, and pursuant to the authority to "make and promulgate rules governing the administration of the judiciary and the practice and procedure in the courts of the judicial branch of Guam," 48 U.S.C. § 1424-1(a)(7), the Supreme Court hereby amends and restates the Superior Court of Guam Interim Traffic Court Rules as proposed. The amended rules are attached hereto as Attachment 1, Exhibit A, and shall be effective as of this date.

SO ORDERED this 24th day of November, 2020.

/s/
ROBERT J. TORRES
Associate Justice

/s/
KATHERINE A. MARAMAN
Associate Justice

/s/
F. PHILIP CARBULLIDO
Chief Justice

E-Received
11/24/2020 9:57:24 AM

BEFORE THE 2020 JUDICIAL COUNCIL OF GUAM

RESOLUTION NO. 20-031

RELATIVE TO RECOMMENDING APPROVAL OF PROPOSED AMENDMENTS TO THE SUPERIOR COURT OF GUAM INTERIM TRAFFIC COURT RULES

WHEREAS, the Judiciary of Guam has been advised by the Director of the Department of Public Health and Social Services ("DPHSS") of the pending promulgation of DPHSS Regulations Governing the Enforcement of Public Health Guidance Memoranda and Directives during the COVID-19 Public Health Emergency (the "Proposed DPHSS Regulations"); and

WHEREAS, the Proposed DPHSS Regulations provide that violations "will be recorded on forms approved by and prosecuted within the Traffic Division of the Superior Court of Guam"; and

WHEREAS, in order for the Traffic Court to exercise jurisdiction over the violations created by the Proposed DPHSS Regulations it is necessary to amend the Superior Court of Guam Interim Traffic Court Rules which govern the practice and procedure of civil violations within the jurisdiction of the Traffic Court; and

WHEREAS, the Superior Court Clerk of Court, who oversees the Traffic Violations Bureau, has presented the proposed Amended Interim Traffic Court Rules attached as Exhibit A, to the Judicial Council, which amendments will incorporate the Proposed DPHSS Regulations, and statutory civil violations not included in the 2014 adoption of the Interim Traffic Court Rules, remove a violation repealed by law, and make various minor corrections to the Interim Traffic Court Rules; and

WHEREAS, the Superior Court Clerk of Court has requested that the Judicial Council recommend that the Supreme Court of Guam under its rule making authority, approve the proposed Amended Interim Traffic Court Rules.

NOW, THEREFORE, BE IT RESOLVED, that the Judicial Council hereby transmits the proposed Amended Interim Traffic Court Rules, attached as Exhibit A, to the Supreme Court of Guam and recommends approval of the amendments by the Supreme Court.

DULY ADOPTED this 19th day of November 2020 at a duly noticed meeting of the Judicial Council of Guam.

F. PHILIP CARBULLIDO, Chairman

Dated: 11-23-2020

ATTEST:

Petrina Ula, Executive Secretary

Dated: 11-23-2020

EXHIBIT A

SUPERIOR COURT OF GUAM
INTERIM TRAFFIC COURT RULES

NOTE: Adopted as interim rules pursuant to Supreme Court of Guam Promulgation Order No. 14-002-01 (June 20, 2014) and amended by Supreme Court of Guam Promulgation Order No. 20-003 (November 24, 2020).

Rule 1. Title.
Rule 2. Scope, Purpose and Construction.
Rule 3. Jurisdiction.
Rule 4. Definitions.
Rule 5. Traffic Violations Bureau.
Rule 6. Commencement of Action.
Rule 7. Guam Uniform Complaint and Citation.
Rule 8. Admission - Contest.
Rule 9. Failure to Appear - Order - Default.
Rule 10. Contest - Trial - Evidence.
Rule 11. Entry of Judgment.
Rule 12. Dismissal.
Rule 13. Repeat Offender - Penalties - Suspension.
Rule 14. Retention of Counsel - Entry of Appearance.
Rule 15. Appearance of the Attorney General not Required.
Rule 16. Notice to Regulatory Agency.
Rule 17. Amendment.
Rule 18. Appeal.
Rule 19. Enforcement of Judgment.
Rule 20. Interim Rules and Effective Date.

RULE 1. Title.

These rules shall be known and cited as the Superior Court of Guam Traffic Court Rules.

RULE 2. Scope, Purpose and Construction.

(a) Scope of Rules. These Rules govern the practice and procedure in the Traffic Court, a Division of the Superior Court of Guam for all cases involving civil violations within the jurisdiction of the Traffic Court.

(b) Purpose and Construction. These rules are intended to provide for the just determination of all violations which fall within the jurisdiction of the Traffic Court, and to that end shall be construed to ensure simplicity, uniformity in procedure, fairness in administration and the elimination of unjustifiable expense and delay.

RULE 3. Jurisdiction.

The Traffic Court shall hear and determine violations under the following statutes:

(a) 10 GCA Chapter 34 [animal control];
(b) 10 GCA Chapter 51, Article 2 [litter];
(c) 10 GCA Chapter 69 [boating];
(d) 10 GCA § 58111 [Fire Code] violations;
(e) 10 GCA § 73110 [Fire Code] violations;
(f) 10 GCA Chapter 90 [smoking];
(g) 16 GCA Chapter 5 [commercial motor vehicle];
(h) 16 GCA Chapters 3, 7, 9, 13, 19 and 26 [Vehicle Code] violations, and any violation of the Vehicle Code committed by a minor sixteen (16) years or older [19 GCA § 5103(a)(4)].
(i) 5 GCA Chapters 60 and 63 [fish, game, forestry, and conservation]
(j) 5 GCA Chapter 40 [mayors' enforcement of sanitary and health laws]
(k) 26 GAR Chapter 4, Article 28 [regulations governing the enforcement of public health guidance memoranda and directives during the COVID-19 public health emergency]

NOTE: Title 19 GCA § 5103(a)(4) removes from the jurisdiction of the Family Court any violation of the Vehicle Code committed by a person 16 years or older. Title 9 GCA § 67.401.2(b)(3) was effectively repealed by P.L. 35-005:4 (April 4, 2019). Title 26 GAR Chapter 4, Article 28 was enacted by the Department of Public Health and Social Services pursuant to 10 GCA § 19802 and Executive Order No. 2020-38. DPHSS Announcement Nov. 19, 2020.

RULE 4. Definitions.

(a) **Abuse.** The unlawful use of a lawful process or the perversion of a process in order to obtain a result, which was not intended by the law to effect.

(b) **Apprehending Officer**. Means any designated person employed by the Department of Parks & Recreation, the Department of Agriculture, the Guam Environmental Protection Agency, the Department of Public Health and Social Services, the Department of Public Works, all mayors and assistant mayors, and any peace officer.

SOURCE: 10 GCA § 51202(a) (2005).

(c) **Moving Violation**. Any violation of the Motor Vehicle Code committed while a driver is operating a vehicle in motion, including any temporary or intermittent stop in the course of operating a vehicle in motion on any roadway or highway in Guam.

(d) **Non-moving Violation**. Any parking or standing of a motor vehicle not in operation in violation of a statute, ordinance or regulation.

(e) **Non-traffic Violation**. All other violations within the jurisdiction of the Traffic Court as defined in Rule 3 including but not limited to violations prescribed under 9 GCA § 67.401.2 (b)(3); 10 GCA Chapters 34, 69, 90; 10 GCA Chapter 51, Article 2; 10 GCA § 58111; 10 GCA § 73111; and 26 GAR Chapter 4 Article 28.

(f) **Peace Officer**. The same meaning as provided for in 8 GCA § 5.55.

(g) **Respondent**. The person cited with a violation under the jurisdiction of the Traffic Court.

(h) **Traffic Court Judicial Officer**. A judge, judge pro tempore, magistrate judge, or referee appointed by the Chief Justice of the Supreme Court of Guam to preside over Traffic Court cases.

(i) **Guam Uniform Complaint and Citation**. A complaint and citation issued for a violation within the jurisdiction of the Traffic Court under Rule 3, using the General Guam Uniform Complaint and Citation form, including (but not limited to) complaints and citations for litter, boating and smoking.

(j) **Violation**. Any infraction under the jurisdiction of the Traffic Court punishable by a civil fine.

RULE 5. Traffic Violations Bureau.

There is hereby established a Traffic Violations Bureau ("TVB") within the Superior Court of Guam at various locations. The TVB Clerk shall be under the general supervision of the Clerk of Court. The TVB Clerk, or assigned Deputy Clerk(s), shall have authority to accept a respondent's entry of appearance, waiver of trial, admission or denial of liability, payment of fines, fees, and court costs, set trial dates and assess fines, fees, and court costs in accordance with the schedule of fees approved by the Judicial Council, on any violation for which an admission has been entered.

RULE 6. Commencement of Action.

An action is commenced when a Guam Uniform Complaint and Citation ("GUCC") is issued by any peace officer or apprehending officer. The GUCC may also be in electronic format. The reverse side of the GUCC, except for electronic citations, shall provide for recording of the judgment. Electronic citations do not need to meet the formatting requirements but must otherwise provide the same information as a hard copy GUCC. The format of the GUCC for each scope of jurisdiction in Rule 3 shall be approved by the Clerk of Court.

RULE 7. Guam Uniform Complaint and Citation.

(a) Filing the GUCC. The issuing agency or apprehending officer shall file the original GUCC with, or transmit the electronic citations to the TVB on or before the appearance date.

(b) Grounds for Dismissal by TVB Clerk. The following causes may be grounds for administrative dismissal of the GUCC by the TVB Clerk:

(i) Failure to cite a statute, or citing an incorrect statute;

(ii) Upon a first violation of the provisions of the Accessible Parking statute as contained in 16 GCA §§ 3401.1(b)(1) or (c), or 3401(d), provided the respondent files a Declaration stating he/she is a disabled person under 16 GCA § 7120.1(a)(2), and the person responsible for the violation, or was with the person responsible at the time the GUCC was issued; or

(iii) The issuing agency or apprehending officer requests in writing that the original GUCC be voided before filing the citation.

(c) Accounting of GUCCs Issued. The TVB shall be responsible for and reconcile all GUCCs filed or received. Each Director or agency head shall be held accountable for any and all GUCCs released to their department for use, and shall report to the TVB any unused, lost, or missing UCCs on an annual basis.

RULE 8. Admission - Contest.

(a) **Admission**. A respondent, or his/her designee with written authorization, may enter an admission to a violation by submitting or delivering the amount of the fine plus court costs, together with the signature by the respondent or designee on the GUCC and on a waiver of trial, to the TVB Clerk at any Traffic Court location, or by mailing the same to the Superior Court of Guam Traffic Violation Bureau, 120 West O'Brien Drive, Hagåtña, Guam 96910, or by any other approved electronic means of payment. Judgment shall be entered against the respondent after an admission imposing applicable fines and court costs, and there shall be no right to appeal.

(b) **Contest**. A contest to the validity or regularity of a violation or process must be made at the first appearance. A designee may enter a contest; however the respondent or respondent's counsel must personally appear to contest the violation. A hearing to contest the violation shall be scheduled pursuant to Rule 11.

RULE 9. Failure to Appear - Order - Default.

(a) First Appearance. If the respondent fails to appear or otherwise answer the violation on or before the first appearance date, an Order to Appear shall be issued by mail ordering the respondent to appear and answer to the violation not later than thirty (30) days from the date of mailing of the Order to Appear.

(b) Order to Show Cause. If the respondent fails to appear or otherwise answer the violation within thirty (30) days from the mailing of the Order to Appear, an Order to Show Cause ("OSC") shall be issued

ordering the respondent to appear at a hearing before the Traffic Court Judicial Officer.

(c) Entry of Default. If the respondent is served with the OSC and fails to appear at the Order to Show Cause hearing, a default judgment may be entered against the respondent imposing maximum fines and court costs, plus legal interest of 6%. The Traffic Court Judicial Officer may issue further orders including but not limited to an order for a warrant of arrest, an Alias Order to Appear, or an Alias OSC.

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