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**CHAPTER 77
PARKS AND RECREATION**

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PARKS AND RECREATION**

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§ 77101. Definitions.

As used in this Chapter, unless otherwise indicated by the context:

- (a) *Department* means the Department of Parks and Recreation.
- (b) *Director* means the Director of the Department of Parks and
Recreation.
- (c) *Commission* means the Parks and Recreation Commission.
- (d) *Alcohol Free Zone* means children's playgrounds and the
twenty-five (25) feet from the perimeter of the playgrounds, and any
other area within the Guam Territorial Park System (GTPS), as
designated by the Director of the Department of Parks and Recreation
and as recorded with the Department of Land Management, where the
possession *or* consumption of alcohol is prohibited.

SOURCE: GC § 26000 repealed and reenacted by P.L. 12-209. Subsection (d) added
by P.L. 30-065:2 (Nov. 27, 2009).

§ 77102. Department: Purpose.

The Department shall be responsible for the accomplishment of the
provisions of this Chapter and Chapter 76 of this Title.

SOURCE: GC § 26001 repealed and reenacted by P.L. 12-209.

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§ 77103. Divisions.

The Department is divided into three divisions, to be known as the Parks Division, the Recreation Division, and the Guam Historic Resources Division.

SOURCE: GC § 26002 repealed and reenacted by P.L. 12-209. Amended by P.L. 20-151:23. Public Law 25-69:9 repealed P.L. 20-151:23. However, P.L. 25-69:9 was itself repealed by P.L. 25-72:IV:13(c), which reverted the amendment of P.L. 20-151:23.

§ 77104. Director: Duties.

The Director shall have the following duties:

(a) Except for the use of sports fields, pools, playgrounds, and youth centers by bona fide youth sports, groups, non-profit youth organizations, public or private school youth sports activities or other youth league sporting activities, competitions or tournaments, to establish fees, rules and regulations to accomplish the purpose of the Department; provided, that any rule shall not be effective until approved by the Legislature. If the Legislature fails to act on the rules within one hundred twenty (120) calendar days after such rules are filed with the Legislative Secretary, they shall be deemed approved.

(b) To administer the Department through such organizational units which he may establish;

(c) To attend, ex-officio, all meetings of the Commission;

(d) To prescribe the duties of assistants, deputies, agents and other persons employed by the Department;

(e) To determine which properties constitute the Guam Territorial Park System and to classify such properties, pursuant to § 77108 and § 77110;

(f) To manage the Parks Fund pursuant to § 77112;

(g) To be State Liaison Officer for the Bureau of Outdoor Recreation, and State Liaison Officer for Historic Preservation;

(h) To manage the sports fund for off-island travel pursuant to § 26020.

(i) Guam Territorial Park System as an “Alcohol Free Zone.” The Director *shall* develop policies and procedures for the effective designation, implementation and administration of “Alcohol Free

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Zones” in accordance with the Administrative Adjudication Act. “Alcohol Free Zone” designation shall *not exceed more than* fifteen percent (15%) of the combined total number of beaches and parks, *not* inclusive of playground-only parks under the jurisdiction of the Department of Parks and Recreation.

SOURCE: GC § 26003 repealed and reenacted by P.L. 12-209. Subsection (a) amended by P.L. 15-132:28, P.L. 19-48:1; Subsection (g) amended by P.L. 16-62:1, P.L.20-151:22. Subsection (h) added by P.L. 14-33:16. Subsection (i) added by P.L. 30-065:3 (Nov. 27, 2009).

§ 77104.1. Establishment of an Alcohol Free Zone.

Notwithstanding any other law, rule *or* regulation, there is established within the Guam Territorial Park system “Alcohol Free Zones”, as defined in this Chapter. Any person who possesses *or* consumes alcohol in an “Alcohol Free Zone” *shall* be in violation of this provision and *shall* be issued a citation and punished in accordance with § 77104.2 of this Chapter.

All Territorial Park Patrol and Guam Police officers *shall* have jurisdiction to enforce this provision of law.

SOURCE: Added by P.L. 30-065:4 (Nov. 27, 2009).

§ 77104.2. Penalties/Fines for Violation of Alcohol Free Zone.

(a) *If* any person is guilty of a first violation of § 77104.1 of this Chapter, that person *shall* be punished by a fine of *not less than* One Hundred Fifty Dollars (\$150.00), but *no more than* Five Hundred Dollars (\$500.00). In addition, the judge may impose any additional penalties, including requiring the offenders to pay restitution to persons injured *or* for property damaged. Any credit for community service against the fine imposed *shall* be given at an hourly rate that equals the minimum wage prevailing in Guam.

(b) *If* any person is guilty of a second violation of § 77104.1 of this Chapter, that person *shall* be punished by a fine of *not less than* Two Hundred Fifty Dollars (\$250.00), but *no more than* Five Hundred Dollars (\$500.00). In addition, the judge may impose any additional penalties, including requiring the offenders to pay restitution to persons injured *or* for property damaged. Any credit for community service against the fine imposed *shall* be given at an hourly rate that equals the minimum wage prevailing in Guam.

(c) *If* any person is guilty of a third violation of § 77104.1 of this Chapter, that person *shall* be punished by a fine of *not less than* Three

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Hundred Fifty Dollars (\$350.00), but *no more than* Five Hundred Dollars (\$500.00). In addition, the judge may impose any additional penalties, including requiring the offenders to pay restitution to persons injured *or* for property damaged. Any credit for community service against the fine imposed *shall* be given at an hourly rate that equals the minimum wage prevailing in Guam.

(d) All fines collected as a result of penalties imposed by this Section *shall* be deposited in the “Public Recreation Services Fund” and administered in accordance with § 77114 of this Chapter.

SOURCE: Added by P.L. 30-065:5 (Nov. 27, 2009).

§ 77105. Commission: Purposes.

The Commission is hereby established for the purpose of appointing, removing, and advising the Director.

SOURCE: GC § 26004 repealed and reenacted by P.L. 12-209.

§ 77106. Same: Composition: Compensation: Meetings.

The Commission shall consist of seven members two of whom shall be youth members in their first terms on the Board who are between the ages of eighteen (18) and twenty-two (22), when appointed, who shall be appointed by the Governor with the consent of the Legislature. The Governor shall appoint Commission members within thirty (30) days of the effective date of this Section. Members shall serve for four (4) years, provided that the members first appointed three, including one youth member, shall serve for two (2) years. Commission members shall be paid at the rate of Fifty Dollars (\$50) per day for each day on which the Commission meets, such compensation not to exceed One Hundred Dollars (\$100) per month. Commission meetings shall be public.

SOURCE: GC § 26005 repealed and reenacted by P.L. 12-209, as amended by P.L. 15-148:23.

§ 77107. Same: Duties.

The Commission shall have the following duties:

(a) To appoint, within 15 days of the effective date of this section or within 15 days of the creation of a vacancy in such office, the Director, who shall serve at its pleasure, the affirmative vote of not less than four (4) members being necessary to appoint or remove him;

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(b) To advise the Director on such matters relative to the Department as he shall bring before it, at meetings called by him;

(c) To meet at the request of any of its members to discuss such matters relative to the Department as it deems appropriate and to make recommendations to the Director thereon; and

(d) To make a report to the Governor and the Legislature not later than July 1 of each year delineating the activities of the Department during the preceding fiscal year, and outlining the plans of the Department for the coming fiscal year.

SOURCE: GC § 26006 repealed and enacted by P.L. 12-209.

§ 77108. Guam Territorial Park System.

There is hereby created the Guam Territorial Park System. The Director of the Department of Parks and Recreation shall inventory all lands belonging to the government of Guam and determine which lands shall be included therein. A detailed list shall be forwarded to the Speaker of the Legislature, the Bureau of Planning, the Department of Agriculture, and the Department of Land Management. The Legislature shall, after public hearing and report by the appropriate standing committee, approve or disapprove those lands to be included within the Territorial Park System, as designated under § 77111 within thirty (30) legislative days following receipt of such a list. Failure to so act shall be deemed consent by the Legislature. The list shall be added to or deleted from the aforementioned process as deemed necessary.

SOURCE: GC § 26007 repealed and reenacted by P.L. 12-209, amended by P.L. 14-12:1, and as amended by P.L. 16-62:2.

§ 77109. Same: Description.

The Territorial Surveyor shall provide the Director with maps of record for all property within the Guam Territorial Park System not later than eighteen (18) months after request by the Director. The Department of Land Management shall similarly provide recorded document numbers for all such property.

SOURCE: GC § 26008 repealed and reenacted by P.L. 12-209.

§ 77110. Same: Classification.

The Director shall classify, and may subsequently reclassify, each area of the Guam Territorial Park System according to (a) through (e) below, unless an area is listed in the Guam Register of Historic Places pursuant to §

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76205 of this Title, in which case such area shall be classified according to (e) below:

(a) *Natural Preserves*, which are to remain unimproved;

(b) *Conservation Reserves*, which may be improved for the purpose of making them accessible to the public in a manner consistent with the perpetuation of their natural features as well as modification through sound forestry and wildlife practices that will enhance and protect the natural resources.

(c) *Territorial Parks* or *Community Parks*, which may be improved for the purpose of providing public recreational facilities in a manner consistent with the preservation of their natural features;

(d) *Territorial Recreation Facilities* or *Community Recreation facilities*, which may be improved for the purpose of providing public recreation facilities; and

(e) *Historical and Pre-Historical Objects and Sites*, which shall be administered according to Chapter 76 of this Title.

SOURCE: GC § 26009(b) repealed and reenacted by P.L. 12-209; subsection (b) as amended by P.L. 16-62:3.

§ 77111. Reserved Properties.

Pursuant to §§ 77108 and 77110 of this Chapter, the below described properties are reserved for public parks according to their respective classifications in numerical order:

(a) Natural Preserves;

(b) Conservation Reserves;

(c) Territorial Parks or Community Parks;

(d) Territorial Recreation Facilities or Community Recreation Facilities;

(e) Historical and Pre-historic Objects and Sites.

SOURCE: GC § 26009.1 enacted by P.L. 14-12:2.

§ 77112. Community Parks and Recreation Facilities: Control.

The control, management, development and general minor maintenance of areas classified as community parks and community recreation facilities shall be vested in the Commissioner of the municipality or village in which such area is located, in accordance with the provisions of

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5 GCA Government Operations, §40113. The Parks Division and the Department of Public Works are responsible for all necessary repairs, maintenance, renovations and capital improvements in these areas other than those general minor repair and maintenance functions for which the Commissioners are responsible. The Parks Division and the Department of Public Works shall consult with Commissioners on work done in their village.

SOURCE: GC § 26010 R/R by P.L. 12-209 and as amended by P.L. 18-15:X:20.

§ 77112.1. Facility Maintenance.

(a) Department of Parks and Recreation facility maintenance. The Department of Parks and Recreation (the "Department") may contract for the maintenance and upkeep of its recreational facilities with responsible persons and organizations under the provisions of this section. *"Maintenance and upkeep"* for purposes of this section is defined as follows:

- (1) Collection and disposal of rubbish and trash;
- (2) Mowing and upkeep of lawns and grassy areas;
- (3) Removal of weeds and trimming of paths;
- (4) Maintenance of pitching mounds, dugouts and bleachers;
- (5) Maintenance of light fixtures within building areas;
- (6) Dragging and rolling of baseball fields;
- (7) Trimming of shrubbery;
- (8) Removal of water, debris and other substances from the surfaces of tennis and basketball courts;
- (9) Maintenance of toilets, showers, wash basins, urinals and floors of restroom areas;
- (10) Removal of trash and debris from parking lots that service parks and recreational facilities;
- (11) Beautification of parks and grounds of recreational facilities including, but not limited to the planting of flowers and trees;
- (12) Maintenance of community centers which house recreational activities.

(b) Each maintenance and upkeep contract shall be between the Department and a person, family or nonprofit organization. The Department

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shall award such contracts to the parties that can most effectively carry out their terms, the ability to satisfy the terms, costs and conditions of the contract being the primary basis for awarding the contract. Except as provided in paragraph (c) of this section, each contract shall be let by competitive bidding, as defined by the Department in its regulations, and shall include but not be limited to the following:

- (1) Duration of contract;
- (2) Public facilities included under the contract;
- (3) Names of all individuals performing the contract;
- (4) Complete description of duties;
- (5) Amount of contract;
- (6) Date of completion of the contract; and
- (7) Provision for the cancellation of contract on nonperformance.

The Office of the Attorney General shall assist in preparing such contracts. The Director of Parks and Recreation (the "Director") shall, in the Department's annual budget, include the necessary sums to implement the provisions of this section. The Department, pursuant to the Administrative Adjudication Law, shall promulgate rules and regulations governing procedures under this section, including but not limited to competitive bidding procedures.

(c) For contracts not exceeding Twenty Thousand Dollars (\$20,000) in total payments to the contractor, the Director may waive the competitive bid requirement, the posting of any performance bond, the provision of workmen's compensation insurance, and the payment of business privilege tax; provided, that in any contract granted pursuant to this subparagraph (b), no advance payment shall be permitted, payment to be made only upon completion of work under the contract.

(d) Any contractor under this section shall hold harmless the government of Guam, the Department, and any of its employees from liability arising from violation of any wage or hour or child labor law.

(e) Notwithstanding any other provision of law, the Department of Parks and Recreation (DPR) or its successor agency, is authorized to lease the *Paseo Stadium* to the Guam Baseball Federation (GBF) for a period to be mutually agreed upon by both parties, but *not* to exceed fifty (50) years, including all options. Such lease shall be limited to management and

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maintenance operations; the scheduling of games and events; the sale of billboards and other advertising signage; improvement of the playing field, structure, lighting, and other provisions mutually agreed upon between DPR and the GBF and *not* inconsistent with existing laws. The GBF shall not have the authority to sublet, transfer or assign such lease to other parties without prior approval of *I Liheslatura*, except that the GBF may enter into sub-leases with businesses and organizations that wish to operate concessions.

SOURCE: Added by P.L. 22-12:1 as GC § 26010.1. Second full paragraph designated as Subsection (b) to maintain harmony in this section. Subsequent Subsection renumbered accordingly. Subsection (e) repealed/reenacted by P.L. 27-27:2. Amended by P.L. 29-002:VI:28 (May 18, 2007) the name, Gross Receipts Tax, changed to Business Privilege Tax.

§ 77112.2. Paseo Stadium Lease Stipulations.

(a) Plans for structural changes or improvements, intended to induce private sector participation, including, but not limited to, the improvement, expansion or re-configuration of the facility, playing field and other ancillary facilities, shall be made pursuant to the Stadium Master Plan, to be developed by the GBF following a GBF public hearing, in consultation and with the approval of the Parks and Recreation Commission or its successor.

All stadium revenue-generated funds, except those exempted, to include user fees, advertising revenues, and any other fees generated through GBF management of the Paseo Stadium and ancillary facilities, shall be placed into a GBF-established checking account called the ‘Municipal Stadium Operations Fund’ (MSOF) and shall consist only of stadium revenue-generated funds. All funds in the MSOF, separate from any GBF account or monies, shall be used only to fund Paseo Stadium maintenance, facility improvements and stadium operations; compensate stadium-related contractual and utility costs; and facilitate MSOF management costs, to include the audit of the Fund.

(b) Paseo Stadium maintenance personnel currently in classified positions in the Department of Parks and Recreation and currently assigned to the Paseo Stadium, shall not be removed from their positions, unless for cause, and removal shall be carried out pursuant to Title 4 of the Guam Code Annotated. The hiring of additional personnel necessary to maintain and improve the Paseo Stadium and ancillary facilities shall be at the expense of the Guam Baseball Federation.

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(c) The lease agreement specified under this Chapter shall include a provision granting free admission to citizens fifty-five (55) years of age and older at all stadium activities and functions requiring a fee.

(d) The lease agreement specified under this Chapter may include a provision requiring the sharing of payment of utilities charges at the Paseo Stadium. Such provision, however, shall be implemented in the following manner:

(1) payment by the Department of Parks and Recreation of all utilities charges incurred during the first year of the effective date of the lease agreement; provided, that the Department is allotted funds for this purpose by I Liheslaturan Guåhan in its annual budget appropriations;

(2) payment of all utilities charges during the second year of the agreement, to be shared equally between the Department of Parks and Recreation and the Guam Baseball Federation; provided, that the Department of Parks and Recreation is allotted funds for this purpose by I Liheslaturan Guåhan in its annual budget appropriations; and

(3) payment of all utilities charges to be borne solely by the Guam Baseball Federation during the third year and every year thereafter that the lease is in effect.

(e) Any lease agreement inclusive of the Stadium Master Plan entered into pursuant to this Chapter shall be subject to legislative approval. (

f) Exempted Funds. The GBF is authorized to retain an amount not to exceed twenty-five percent (25%), but in no case to exceed Twenty-five Thousand Dollars (\$25,000.00) per year of all MSOF generated funds including stadium sponsorship revenues for the development and enhancement of baseball programs and activities approved by the GBF Board. These retained funds shall not be a part of the MSOF. The exempted funds shall be audited annually and the GBF shall submit, no later than March 15 of each year, an annual audited financial statement to the Office of Public Accountability, to the Speaker of *I Liheslaturan Guåhan*, and to *I Maga'lahaen Guåhan*.

(g) The GBF Commissioner and the Director of Parks and Recreation shall be the custodian of the MSOF. All MSOF disbursement checks shall require the signatures of the president and either the treasurer or secretary.

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(h) Unless the GBF shall submit, no later than March 15 of each year, an annual audited financial statement of the MSOF to the Director of DPR, the Parks and Recreation Commission, and the Office of Public Accountability, the lease is terminated. All funds and accounts established pursuant to this Section are subject to the scrutiny of the Office of Public Accountability.

(i) No funds collected or donated pursuant to this Chapter or any lease pursuant to this Chapter, shall be used to pay past due obligations of the Guam Baseball Federation.

(j) The Guam Baseball Federation shall report semi-annually to *I Liheslaturan Guåhan* the cost of improvements it makes to the Stadium from funds other than the tax credits authorized herein.

SOURCE: Added by P.L. 27-27:3 (repealing and reenacting P.L. 26166:3).

2009 NOTE: Reference to Office of Public Auditor changed to Office of Public Accountability pursuant to P.L. 30-027:2 (June 16, 2009).

§ 77112.3. Application of Tax Credits.

(a) Individuals, corporations, or limited liability companies making up-front contributions, as approved by the Director of Parks and Recreation and the GBF Board of Directors, towards the development, upgrading, repair and maintenance of the Paseo Stadium and ancillary facilities, consistent with a Stadium Master Plan, shall be authorized tax credits against Excise Taxes levied pursuant to Chapter 22 (Annual Excise and Admission Taxes), Article 3 of Chapter 26 (Alcoholic Beverage Tax), Article 4 of Chapter 26 (Liquid Fuel Tax), Article 6 of Chapter 26 (Tobacco Tax), Chapter 28 (Use Tax Law), and Chapter 30 (Monthly Excise Tax on Occupancy of Hotel and Similar Lodging House Facilities), of Division 2 of Title 11, Guam Code Annotated, not to exceed the aggregate amount for all contributors collectively, of Five Hundred Thousand Dollars (\$500,000.00) annually for the first two (2) years following the enactment of this Law and One Hundred Thousand Dollars (\$100,000.00) annually for five (5) subsequent years. The Director of the Department of Revenue and Taxation shall determine the allocation of the aggregate annual tax credits between contributors. Any donation of merchandise authorized pursuant to this Section shall be the actual cost of the item plus the cost of transportation from the point of origin to its destination without profit, mark-up or taxes. All tax credits referred to in this Section shall mean tax credits applied against excise tax liabilities. The Guam Economic Development and Commerce Authority ('GEDCA') shall submit to *I Liheslatura* within thirty

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(30) days upon the enactment of this Act, rules and regulations governing the implementation of tax credits portion of this Chapter.

(b) Tax credits which cannot be applied during a tax year may be applied during subsequent tax years.

(c) Tax credits shall not be applied to more than fifty percent (50%) of the contributor's monthly excise tax liability.

(d) GEDCA shall certify that participants are in compliance with this Section, other provisions of law, the GBF Master Plan, the lease between GBF and the government of Guam, and with applicable provisions contained in tax credits previously granted to sports based activities, and shall provide a copy of this certification to the Department of Revenue and Taxation for the issuance of such tax credits.

(e) All expenditures hereunder shall be in accordance with the Guam Procurement Law.

SOURCE: Added by P.L. 27-2:4.

§ 77113. Parks Division: Duties.

The Parks Division shall have the following duties:

(a) To control, manage, develop and maintain all areas of the Guam Territorial Park System except as provided in § 77112; and

(b) To keep a listing of all areas of the Guam Territorial Park System according to classification, with current, accurate descriptions thereof as determined by the Director in accordance with § 77108.

(c) **[Repealed]**.

SOURCE: GC § 26011 repealed and reenacted by P.L. 12-209; subsection (c) added by P.L. 16-105:6, repealed by P.L. 28-078:3 (Dec. 5, 2005).

§ 77114. Public Recreation Services Fund.

(a) Notwithstanding any other provision of law, there is hereby created, within the Department of Parks and Recreation, the 'Public Recreation Services Fund', which shall be a fund separate and apart from the General Fund and from any other special funds of the government of Guam. Any and all funds generated through department fees, fines and assessments by the Department of Parks and Recreation shall be deposited into the Public Recreation Services Fund. The Director of the Department shall administer said funds independently from the General Fund, with a

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minimum requirement of dual signatures for the expenditure of any funds within the authorized guidelines.

Expenditures of the Public Recreation Services Fund shall be restricted to expenditures in the following areas, and for the following purposes:

(1) the maintenance, upgrade and upkeep of all parks and recreational facilities within the jurisdiction of the Department;

(2) the purchase of supplies, materials and equipment to support the activities outlined in Subsection (i) above; and

(3) the creation or continuance of existing community related programs and activities for the benefit of the island.

Funds from the Public Recreation Services Fund shall *not* be expended for personnel services, but used *solely* for operations as highlighted above. The expenditure of all funds in the Public Recreation Services Fund shall be subject to legislative appropriation.

The Director of the Department of Parks and Recreation shall provide a monthly financial report on the funds generated each month, within ten (10) days following the preceding month.

(b) The establishment of the Public Recreation Services Fund shall replace all funds previously identified in Chapter 77 of Title 21, Guam Code Annotated, including the ‘Parks Fund’, ‘Parks and Recreation Revolving Fund’, and the ‘Recreation Revolving Fund’, with said funds to be closed immediately. The balances of all the funds following reconciliation of the respective accounts shall be included in a written report to be provided to the Speaker of *I Liheslaturan Guåhan*, *no later than* ten (10) days after such transaction.

SOURCE: GC § 26012 repealed and reenacted by P.L. 12-209 as amended by P.L. 16-44:16. R/R by P.L. 21-105:1. Amended by P.L. 27-106:VI:22.

§ 77114.1 Fees.

The Parks and Recreation Commission (the "Commission") may collect fees, charges and assessments for the following:

The use of park shelters, pavilions and open areas by the public and by park vendors, the use of recreation facilities, sign-up fees, concession, billboards, equipment rentals, facility rentals, overnight

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camping fees, and commercial photography fees as established by the Commission.

The Commission shall establish a fee schedule for the foregoing uses of the Guam Territorial Park System and recreational facilities. All such fee schedules shall be adopted in compliance with the Administrative Adjudication Law. All fees collected under such schedules shall be deposited into the Fund. Any fee schedule and the Recreation Activity Revolving fee schedule adopted by the Commission prior to the enactment of this 26012.1 shall remain in effect until altered and may be so altered or modified by the Commission only after public hearing on any proposed changes, in compliance with the Administrative Adjudication Law.

SOURCE: Added as GC § 26012.1 by P.L. 21-105:2.

§ 77114.2. Management.

The Director of Parks and Recreation (the *Director*) shall be the custodian of the Fund and may deposit monies collected therein in one (1) or more local banks. The Director is authorized to draw monies from the Fund, at the request of the Commission, for the development, improvement or maintenance of the Territorial park System under the jurisdiction of the Department, for recreational facilities, or for on-island sports programs and to underwrite the cost of implementing the recreational on-island sports programs established by the Department, not to exceed Twenty-Five Thousand Dollars (\$25,000) for any one project or program. No monies from the Fund shall be used for off-island travel. The existing Recreation Activity Revolving Fund rules and regulations that are not in conflict with § 77114, § 77114.1 and § 77114.2 of this Chapter shall remain in effect. The Commission shall submit, no later than January 31st of each year, an annual audited financial statement of the Fund to the Governor and to the Legislature.

SOURCE: Added as GC § 26012.2 by P.L. 21-105:3. Amended to give Director of Parks & Recreation control over Fund by P.L. 22-29:5 (1993).

§ 77114.3 Guam Beautification Fund.

There is established a fund to be known as the Guam Beautification Fund which shall be maintained separate from any other funds of the government of Guam. Independent records and accounts shall be maintained by the Department of Administration in connection therewith. Fifty percent (50%) of assessments, fines, bail forfeitures and other funds collected or received pursuant to §51204 of Title 10, Guam Code

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Annotated, and subject to the conditions of §40115 of Title 5, Guam Code Annotated, shall be deposited in the Beautification Fund and used for landscaping, for planting of grass, shrubs, trees and flowers, and for other improvements to public recreational areas or other public lands that are the most visible to the public.

SOURCE: Added as GC § 26012.1 by P.L. 21-128:5.

§ 77115. Revenue From Concessions and Uses.

The Director is authorized to grant permits to individuals or groups to establish concessions on or otherwise use any part of the Guam Territorial Park System, the fees for which shall be deposited in the Parks Fund; provided, that any person or group granted such a permit shall not be required to give bond or obtain products liability insurance or personal injury liability insurance.

SOURCE: GC § 26013 repealed and reenacted by P.L. 12-209 as amended by P.L. 15-132:30.

NOTE: The legislation providing regulation of Parks Vendors enacted by P.L. 19-5:102-106 (Govt. Code §§ 26013.1-26013.5) will be found in 22 GCA *Business Regulation* when that Title is published.

§ 77115.1. Concession Facility Design.

The Guam Visitors Bureau (GVB), and the Department of Public Works (DPW), are hereby tasked to work with the Department to determine the appropriate design, quantity, locations and construction costs of permanent concession facilities for public parks and historic sites in place of canopies presently being used by vendors. The three entities shall work in close cooperation to insure that the final product will be aesthetical pleasing to both residents and visitors. The design of the facilities should take into account the following:

- (a) Reasonable cost for construction;
- (b) Thematic relationship, whenever feasible, to the park or historic site upon which the facility is to be located;
- (c) Utilization of standardized basic designs; and
- (d) Basic structures must be resistant to Guam's tropical weather conditions, except that decorative or culturally appropriate finishing materials, which may or may not be resistant to Guam's tropical weather, may be used to achieve a desired thematic effect.

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SOURCE: Added by P.L. 23-52:2 as § 77115.5; however renumbered by Compiler of Laws as § 77115.1.

§ 77116. Same: Donations: Proviso.

Money or the proceeds of any property donated, granted or bequeathed generally for the benefit of the Guam Territorial Park System shall be deposited in the Parks Fund; provided, however, that money or property donated, granted or bequeathed for specific purposes, concerning the System or any part thereof shall be held in trust by the Director, and may be used for such purposes only upon authorization by the Legislature.

SOURCE: GC § 26014 repealed and reenacted by P. L. 12-209.

§ 77117. Voluntary Improvements.

The Parks and Recreation Commission may permit a person or legal entity to improve and maintain, without expense to the government of Guam, any part of the Guam Territorial Park System. Permits may be renewed annually by the Governor. No permit shall grant any exclusive use of any park property to the permittee nor shall a permit impair or limit the government of Guam from controlling access to and use of park property.

SOURCE: GC § 26015 repealed and reenacted by P.L. 12-209. Amended by P.L. 20-188:6. R/R by P.L. 21-105:4.

§ 77118. Damage To Property.

Any person who injures or damages any property within the Guam Territorial Park System, or who removes, destroys, or defaces any free, shrub, plant, or other attraction of any nature on or in such property is guilty of a violation.

SOURCE: GC § 26016 repealed and reenacted by P.L. 12-209 as amended by P.L. 13-187:180.

§ 77119. Recreation Division: Powers and Duties.

The Recreation Division shall be responsible for:

(a) Initiating, promoting and supervising recreational programs on areas within the Guam Territorial Park System, except as provided in § 77120, and, with the consent of the Department of Education, initiating, promoting and supervising recreational programs on properties under the control of the Department of Education;

(b) Providing equipment necessary to accomplish (a) above;

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(c) Formulating comprehensive recreation policy and a long range plan relative to the development of new recreational facilities and programs within the territory; such policy and plan to be developed in cooperation with other federal and territorial agencies, interested organizations and citizens, and to be submitted to the Legislature within one (1) year of the effective date of this section;

(d) Maintaining and arranging for such ceremony as is befitting the awarding of Ronnie Tavares Memorial Trophy, created by § 77123 of the Government Code; and

(e) Performing such other duties and functions pertaining to the promotion of public recreation as may from time to time be prescribed by the Director.

(f) Formulating a comprehensive plan and policy for the operation of motorized water recreational craft which plan shall be adopted and promulgated according the provisions of the Administrative Adjudication Law. The plan shall include designations and descriptions of those areas within Guam's territorial waters where motorized water recreational craft may be operated, compulsory safety regulations regarding the noise levels of motorized water recreational craft, and regulations requiring appropriate training prior to the use of motorized water recreational craft. Motorized water recreational craft shall be registered and licensed by the Department of Parks and Recreation for a reasonable fee charged to cover administrative costs.

SOURCE: GC § 26017 repealed and reenacted by P.L. 12-209. Subsection (d) repealed and new subsections (d) and (e) added by P.L. 14-6:2. Subsection (f) added by P.L. 20-117:1. Section 2 of the same law required rules and regulations for enforcement of the new subsection to be ready within 90 days of enactment.

2009 NOTE: P.L. 28-045:10 (June 6, 2005) changed the name of the Department of Education to the Guam Public School System. P.L. 30-050:2 (July 14, 2009) reverted the name of the Guam Public School System to the Department of Education. References to Guam Public School System have been changed to Department of Education pursuant to P.L. 30-050:3.

§ 77120. Admission of Older Residents Free of Charge.

All residents of Guam sixty (60) years of age or older shall be admitted free of charge to those games, entertainments, or other recreational activities sponsored by the Department of Parks and Recreation or by any other department or agency of the government of Guam. When the Department of Parks and Recreation or any other department or agency enters into an

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agreement with a private sports or entertainment club or association for the use of facilities belonging to the government of Guam, one of the terms of such agreement must be that such residents of Guam sixty (60) years of age or older be so admitted free of charge to the game, games or other activity the subject of such contract; provided, however, that when the association seeking use of the facilities itself is composed of older residents and those expected to patronize the facilities are also older residents, then the provisions of this Section shall not apply. The Director of Parks and Recreation shall establish rules and regulations to accomplish the purpose of this Section.

SOURCE: GC § 26017.1 enacted by P.L. 14-26:1.

§ 77121. Community Recreation Programs.

The initiation, promotion, and supervision of recreation programs in Community Parks and Recreation Facilities, and the supplying of equipment therefor, is the responsibility of the Commissioners of the municipality or village in which such Park or Recreation Facility is located.

SOURCE: GC § 26018 repealed and reenacted by P.L. 12-209.

§ 77122. Compliance with Federal Programs.

The Department may serve as the agency for compliance with the terms of any Federal program, as determined by the Governor, which concerns the implementation or development of plans for the conservation or utilization of water and related land resources.

SOURCE: GC § 26019 repealed and reenacted by P.L. 12-209.

§ 77123. Ronnie Tavares Memorial Trophy.

There is hereby established the Ronnie Tavares Memorial Trophy to be awarded annually to the most outstanding Guam Major League Player, as determined through balloting by the league's players and coaches. This trophy shall be maintained by the Department of Parks and Recreation, who shall engrave or cause to be engraved names of recipients of such trophy. In addition, a replica of the trophy shall be awarded to the annual winner as a permanent token of his accomplishments.

SOURCE: GC § 26020 enacted by P.L. 14-6:1.

§ 77124. Sports Fund for Off-Island Travel: Establishment: Management.

(a) There is established in the Treasury of Guam the Sports Fund for

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Off-Island Travel (the Fund). Beginning on October 1, 2012, and for each year thereafter, Two Hundred Thousand Dollars (\$200,000) *shall* be annually appropriated from the Healthy Futures Fund to the Sports Fund for Off-Island Travel. The Fund *shall* be managed by the Director. The Department's certifying officer *shall* be the certifying officer for the Fund. *I Maga'lahaen Guåhan* may transfer funds as may be appropriate to supplement the Sports Fund for Off-Island Travel. No portion of the Fund, including principal and interest, shall be transferred to any other fund, or used, or appropriated, *except* as provided for under this Article.

(b) The Fund is to be expended to provide grants for transportation expenses for off-island travel by civilian sports organizations and individuals who engage in athletic competition. The Commission is authorized to accept on behalf of, and in the name of the government of Guam, from any government or agency thereof, or any person, natural or legal, advisory services, donations and gifts for the Sports Fund for Off-Island Travel; provided, however, that any grant-in-aid or other form of assistance involving an obligation on the part of the Department or the government of Guam *shall* require the prior approval of *I Maga'lahi* (the Governor) and a determination by the Department's certifying officer of the availability of funds. Gifts and donations authorized *shall* be consistent with the PEACE Council's position on not receiving funds, promotional items or donations from alcohol and tobacco industries, and no beneficiaries will be sponsored by such industries.

(c) The grants *shall* be used for a maximum of fifty percent (50%) of transportation expenses of team members and coaches for competitions in sports events, such as regional, national and international tournaments.

(d) Youth organizations *shall* be given preference in the awarding of grants.

(e) The Commission *shall* administer the Fund pursuant to Chapter 5, Division 1 of Title 21 of the Guam Administrative Rules and Regulations for Sports Fund for Off-Island Travel. The Director *shall* give adequate public notice as to the availability of funds for travel awards including application submission periods.

(f) The Director of the Guam Council on the Arts and Humanities Agency and the Director of the Department of Parks and Recreation *shall* work in collaboration with the members of the Governor's Prevention and Early Intervention Advisory Community Empowerment (P.E.A.C.E)

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Advisory Council, such as the Department of Mental Health and Substance Abuse and the Department of Public Health and Social Services, to identify effective prevention and early intervention programs and strategies that will directly benefit youth and adult recipients of the Off-Island Educational Training and Cultural Enhancement Fund and the Sports Fund, and *shall* focus on the following:

(1) to prevent/reduce alcohol, tobacco and drug use, including underage drinking;

(2) to promote alcohol-free, tobacco-free and drug-free lifestyles; and

(3) to reduce the harmful outcomes associated with alcohol, tobacco and drug use.

(4) At the very minimum, the program *shall* include a mentoring and leadership program.

(g) The Commission *shall* review all applications for awarding of the grants and may impose conditions for expenditure. The Director *shall* then disburse the grant to a representative of the organization prior to the departure of the grantees.

(h) The representative of the recipient organization shall provide the Director with an accurate accounting of the expenditure of all funds for air transportation within thirty (30) days of returning to Guam. If the report is *not* completed and filed within thirty (30) days or if there is a misuse of funds in the opinion of the Commission, the organization *shall not* receive further grants from the Fund, and *shall* reimburse the Fund in an amount determined by the Commission.

(i) The Director *shall* make an annual report to *I Maga'lahi* (the Governor) and provide a courtesy copy to the Governor's PEACE Council and *I Liheslatura* (the Legislature) on June 30th of each year, which *shall* include the information, number of applications, number and amounts of grants actually made, information on number of participants referred to prevention and early intervention programs and activities, and other data concerning the management of the Fund.

(j) Any person who willfully misuses a grant received under this Section *shall* be guilty of a petty misdemeanor and subject to a fine *not* to exceed Five Hundred Dollars (\$500).

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SOURCE: GC § 26020 enacted by P.L. 14-33:7. Subsection (b) added by P.L. 14-76:4. Amended by P.L. 31-132:7 (Nov. 17, 2011).

NOTE: The Section naming Jose V. Atoigue Memorial Park, also enacted as GC § 26020, was placed in 1 GCA as § 802 by the Compiler.

§ 77125. Authorization to Lease Land under the Administration of the Department of Parks and Recreation to the Guam National Tennis Federation.

(a) *I Maga'lahren Guåhan* is authorized to lease a portion, *no less than* 20,235± square meters of land area, of Lot No. 10142-New, municipality of Dededo, consisting of 242,694.07± square meters to the Guam National Tennis Federation.

(b) Terms of the Lease. *I Maga'lahren Guåhan* shall execute all instruments necessary to carry out the provisions of Subsections (1) through (5) of this Section.

(1) The Department of Parks and Recreation shall identify the portion of Lot No. 10142-New (Lot), Dededo, *no less than* 20,235 square meters, to be leased;

(2) The Government *shall* lease the Lot to the Guam National Tennis Federation for the sum of One Dollar (\$1.00) per annum for twenty-five (25) years, with an option to renew for another twenty-five (25) years. The GNTF may subject the property and its improvements to a leasehold mortgage, subject to the approval of *I Liheslatura* (the Legislature);

(3) The use of the leasehold *shall be limited* to those activities consistent with the mission and purpose of the lessee, as detailed in GNTF's governing documents, and for the activities authorized herein;

(4) The leasehold is not assignable nor may it be sublet without *I Liheslaturan Guåhan's* approval; and

(5) Any change in the tax status of the lessee *shall* require an immediate renegotiation of the lease. *If* such change *shall* be to a for-profit entity, the annual rate of the lease *shall be no less than* ten percent (10%) of the actual market value of the property.

(c) Approval of Lease. Notwithstanding any other laws to the contrary, the lease by the government of Guam to the GNTF of the Lot and improvements thereon, shall be executed by *I Maga'lahi* and the duly

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authorized representative of the GNTF and shall require the concurrence of *I Liheslaturan Guåhan*.

SOURCE: Added by P.L. 31-067:2 (May 24, 2011).

§ 77126. Lifeguard Volunteer Corps; Authorization.

The Department *shall* be authorized to establish a Lifeguard Volunteer Corps program for the purpose of supplementing its water safety programs and activities relative to lifeguard services. The Commission *shall* establish rules and regulations necessary and applicable to the program pursuant to Article 3 of Chapter 9, Title 5, Guam Code Annotated – Rule Making Procedures. The Department *shall* establish the necessary forms which volunteers *shall* complete, which at a minimum *shall* include the following: (1) Lifeguard Volunteer Corps application form; (2) confidentiality form; and (3) candidate interview form. The Department *shall* consult with the Department of Administration in the development of applicable forms and recruitment procedures.

(a) Definitions. *Volunteer* means any duly qualified person, as provided pursuant to this Section, who performs a service for the Department of Parks and Recreation without promise or expectation of services rendered as a member of the Lifeguard Volunteer Corps.

(b) Recruitment. Volunteers *shall* be recruited by the Director of the Department of Parks and Recreation on a continuous and ongoing basis consistent with the Department's policy on equal opportunity nondiscriminatory employment. The primary qualification in the application process *shall* be the interest in assisting the Department of Parks and Recreation with providing protection to the public at beaches and pools under the custodianship of the Department.

(c) Qualification Screening. Individuals desiring to apply to be a Lifeguard Volunteer *shall* first provide the following documentation to the Director, which at a minimum *shall* include, but is *not* limited to:

- (1) Red Cross Lifeguard Certification;
- (2) Guam Police Department Clearance; and
- (3) Superior Court of Guam Clearance.

(d) The Director *shall* establish and oversee a review and selection panel to review the qualifications and conduct subsequent interviews with all applicants whose applications have passed an initial administrative

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background qualification screening. Due to the dangerous nature of the work involved, and the inherent public safety issues requiring competent personnel, the result of the interview *shall* be pass or fail, *not* conditional.

(e) Training. (1) Volunteers *shall* be provided with an orientation program to acquaint them with the Department's personnel policies, and procedures that have direct impact on them as a volunteer. (2) Volunteers *shall* receive location-specific training from their assignment supervisor or designee. (3) Volunteers *shall* receive periodic training as required, or as deemed necessary by their supervisor or volunteer coordinator. (4) All volunteers *shall* comply with the rules of conduct and with all other directives, either oral or written, issued by the Department.

(f) Selection and Placement.

(1) Upon selection, applicants *shall* receive notification prior to the start of service.

(2) Volunteers *shall* be placed *only* in job assignments that are consistent with their skills, abilities and the needs of the Department provided funding is identified.

SOURCE: Added by P.L. 31-086:2 (Sept. 30, 2011).

2011 NOTE: In maintaining the general codification scheme of the GCA the Compiler changed the hierarchy of subsections beginning with "lower-case roman numerals" to "numbers" in this section.

§ 77127. Functions and Duties.

The general functions and duties of the Volunteer Lifeguard Corps *shall* be to provide backup, supplemental manpower for the provision of the lifeguard duties and services of the Department. The Director *shall* formulate a program whereby the members of the Volunteer Lifeguard Corps program *shall* adhere to the functions and duties herein prescribed. From time to time the Director, with the consent of the Commission, *shall* review and revise the functions and duties of the volunteer lifeguard to insure an amicable discharge of responsibilities and duties knowing the fact that their roles are the extension of duties of the regular personnel.

SOURCE: Added by P.L. 31-086:3 (Sept. 30, 2011).

§ 77128. Recruitment.

The Director *shall* recruit, on an entirely voluntary basis, local residents who desire to make available their services to assist the

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Department in carrying out its lifeguard program functions. The Director, with the concurrence of the Commission, *shall* further promulgate rules and regulations regarding the age, health and other requirements for recruitment.

SOURCE: Added by P.L. 31-086:4 (Sept. 30, 2011).

§ 77129. Training, Equipping and Maintenance of Records.

The Director *shall* devise a program whereby the Department *shall* provide the volunteer lifeguards with training on an ongoing basis, so as to ensure their continuing competence and qualification for participation in the Department's lifeguard program. The Department *shall* maintain a roster of volunteers who have received the training prescribed herein. In order to maintain membership as a Volunteer, each member must keep up with his scheduled training, and *no* Volunteer may remain as a member if he or she is unable to keep up with or otherwise absorb the training. Additionally, basic supplies and equipment *shall* be provided to assure the constant operability of the Volunteer Lifeguard Corps program, including a continuing program for replacement.

SOURCE: Added by P.L. 31-086:5 (Sept. 30, 2011).

§ 77130. Volunteer: Authority.

Whenever the members of the Volunteer Lifeguard Corps program are rendering assistance to the Department, such volunteers *shall* have the same powers, duties, privileges and immunities, as if they were paid, full-time members of the Department, *except* that they shall earn recruitment credit for services performed as volunteers.

SOURCE: Added by P.L. 31-086:6 (Sept. 30, 2011).

§ 77131. Participation of Qualified Lifeguards Authorized.

Privately employed lifeguards who are certified pursuant to the requirements of law may be accepted as "volunteers", and *shall* be exempted from the qualification screening requirements contained in § 77126 (d) of Article 1, Chapter 77, Title 21, Guam Code Annotated, *except* that all other requirements for a government employed lifeguard *shall* be applicable to the privately employed lifeguard volunteer.

SOURCE: Added by P.L. 31-086:7 (Sept. 30, 2011).

§ 77132. Honorarium.

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Each member of the Volunteer Lifeguard Corps program who successfully completes probationary requirements as established by the Department, and who contributes a minimum of forty-two (42) hours or more per month, *shall* receive an honorarium of Three Hundred Five Dollars (\$305) per month, to defray the costs of maintenance of their equipment and travel costs. The Department *shall* identify funds within their Department appropriations to satisfy the intent of this Section.

SOURCE: Added by P.L. 31-086:8 (Sept. 30, 2011).

**ARTICLE 2
PARK PROTECTION SECTION**

- § 77201. Statement of Purpose.
- § 77202. Definitions.
- § 77203. Creation: Park Protection Service.
- § 77204. Territorial Park Patrol: Powers.
- § 77205. Same: Duties.
- § 77206. Same: Training.
- § 77207. Rules and Regulations.

§ 77201. Statement of Purpose.

The Legislature hereby finds that there exists a special need to provide for general visitors services, protection of persons and property, and the enforcement of laws and rules and regulations within all parts of the Park System. It is determined that the establishment of a Park Protection Section within the Department of Parks and Recreation will effectively meet these objectives.

§ 77202. Definitions.

As used in this Chapter:

- (a) *Department* means the Department of Parks and Recreation.
- (b) *Director* means the Director of Parks and Recreation.
- (c) *Park System* means the Guam Territorial Park System as described in § 26007 of this Code.

§ 77203. Creation: Park Protection Service.

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There is hereby established within the Department a Park Protection Section which shall be responsible for the effective and specialized protection of the Park System. The Director shall select persons based on qualifications prescribed by the Director of Administration as employees of the Section's Territorial Park Patrol. The Park Protection Section shall be under the Parks Division of the Department, and it shall coordinate its functions and activities with other government of Guam agencies, particularly law enforcement agencies.

SOURCE: Amended by P.L. 28-068:IV:42 and 47 (Sept. 30, 2005), effective January 1, 2006; reference to Civil Service Commission changed to Director of Administration.

§ 77204. Territorial Park Patrol: Powers.

A Territorial Park Patrol Officer, while within the Park System and acting within his official capacity, shall have the authority and powers conferred by law on a peace officer, including, but not limited to, the following:

- (a) The power to arrest persons for public offenses committed within the Park System;
- (b) The power to enforce all laws, rules and regulations relating to the Park System;
- (c) The power to enforce the Vehicle Code of Guam; and
- (d) The power to enforce the Litter Control Law.

§ 77205. Same: Duties.

The duties of a Territorial Park Patrol Officer shall include, but not be limited to, the following:

- (a) Enforcement of all laws, rules and regulations relating to the Park System;
- (b) Patrol of the Park System to provide information, assistance, and protection for visitors and to protect park resources;
- (c) Issuance of litter citations within the Park System;
- (d) Investigation and preparing reports on motor vehicle, boat and personal accidents; and
- (e) Arrest of persons for the commission of public offenses within the Park System.

§ 77206. Same: Training.

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A Territorial Park Patrol Officer shall be required to complete training with a minimum of at least 120 hours on the laws of arrest, search, seizures, the Vehicle Code of Guam, the Criminal and Correctional Code, the Criminal Procedure Code, laws, rules and regulations relating to the Park System, the use and handling of firearms, and such other training as is required to effectively carry out such officer's duties and responsibilities as a peace officer. Such training shall be primarily conducted by the Guam Community College, applying the standards used in the training of the police officers for the Guam Police Department.

§ 77207. Rules and Regulations.

The Department shall, pursuant to the Administrative Adjudication Law, establish rules and regulations as may be deemed necessary to implement the provisions of this Chapter.

SOURCE: Added by P.L. 20-201:2.

**ARTICLE 3
HISTORIC PRESERVATION**

- § 77301. Guam Historic Resources Division Created.
- § 77302. Guam Historic Preservation Officer.
- § 77303. Guam Historic Preservation Officer; Duties.
- § 77304. Guam Historic Preservation Officer; Compensation.

§ 77301. Guam Historic Resources Division Created.

There is hereby created the Guam Historic Resources Division within the Department of Parks and Recreation, which division shall be responsible for establishing a comprehensive historic preservation program for Guam.

SOURCE: GC § 26030 added by P.L. 20-151:2 (Mar. 21, 1990). Public Law 25-69:9 repealed P.L. 20-151:2. However, P.L. 25-69:9 was itself repealed by P.L. 25-72:IV:13(c), which reverted the enactment of P.L. 20-151:2.

§ 77302. Guam Historic Preservation Officer.

The position of Guam Historic Preservation Officer is hereby created in the classified service under the Department of Parks and Recreation (the "Department"), the holder of which position shall be the State Historic Preservation Officer for federal purposes. The Director of Parks and

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Recreation (the “Director”) shall select a qualified candidate to fill the position based on training, work experience and education pertinent to cultural resources management. The Guam Historic Preservation Officer shall be under the supervision of the Director and shall be the head of the Historical Resources Division of the Department and Executive Director for the Guam Preservation Trust Fund.

SOURCE: GC § 26031 added by P.L. 20-151:3 (Mar. 21, 1990). Public Law 25-69:9 repealed P.L. 20-151:3. However, P.L. 25-69:9 was itself repealed by P.L. 25-72:IV:13(c), which reverted the enactment of P.L. 20-151:3.

§ 77303. Guam Historic Preservation Officer; Duties.

The Guam Historic Preservation Officer shall administer the comprehensive program for historic preservation, restoration and presentation prescribed by 21 GCA § 76103.

SOURCE: GC § 26032 added by P.L. 20-151:4 (Mar. 21, 1990). Public Law 25-69:9 repealed P.L. 20-151:4. However, P.L. 25-69:9 was itself repealed by P.L. 25-72:IV:13(c), which reverted the enactment of P.L. 20-151:4.

§ 77304. Guam Historic Preservation Officer; Compensation.

The Civil Service Commission shall establish the necessary qualifications and wage standards of the Guam Historic Preservation Officer.

SOURCE: GC § 26033 added by P.L. 20-151:5 (Mar. 21, 1990). Public Law 25-69:9 repealed P.L. 20-151:5. However, P.L. 25-69:9 was itself repealed by P.L. 25-72:IV:13(c), which reverted the enactment of P.L. 20-151:5.
