



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and statutory civil violations not included in the 2014 adoption of the Interim Traffic Court Rules, remove a violation repealed by law, and make various minor corrections to the Interim Traffic Court Rules; and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: 1-23-2020

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 GUCCs 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.
- (f) **No Jury Trial.** There is no right to a jury trial in Traffic Court. Traffic Court is not a court of record, and therefore, no verbatim record of proceedings is required.

RULE 11. Entry of Judgment. A Judgment may be entered when:

- (a) A respondent admits to the violation;
- (b) The Traffic Court Judicial Officer has determined after a hearing that the respondent committed a violation; or
- (c) A respondent fails to appear after being served an Order to Show Cause or has failed to appear at trial.

RULE 12. Dismissal.

- (a) **After Hearing.** The GUCC shall be dismissed if the Traffic Court Judicial Officer has determined after a hearing that the respondent did not commit the violation.
- (b) **Peace Officer Not Appearing.** Failure of any peace officer or apprehending officer to appear at trial in order to prove the violation shall be grounds for dismissal.

RULE 13. Repeat Offender - Penalties - Suspension.

- (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.
- (d) **Disabled Parking.** Upon a second violation, the respondent shall be required to appear and answer under oath before the Traffic Court Judicial Officer as to the circumstances giving rise to the repeat violation, and if found in the discretion of the Traffic Court Judicial Officer to have abused the privileges of

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).

RULE 14. Retention of Counsel - Entry of Appearance.

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.