

**TRAFFIC COURT RULES
FOR THE
SUPERIOR COURT OF GUAM**

**ADOPTED
BY THE JUDICIAL COUNCIL
FEBRUARY 1, 1979**

EFFECTIVE DATE: MAY 3, 1979

**CURRENT AS OF
DECEMBER 31, 1994**

**RULES REGULATING PRACTICE
BEFORE THE
TRAFFIC COURT OF GUAM**

- Rule 1. Purpose and Construction.
- Rule 2. Jurisdiction.
- Rule 3. Burden of Proof.
- Rule 4. Definitions.
- Rule 5. Complaint and Summons; Form.
- Rule 6. Improper Disposition of Traffic, Litter and Boating
Complaints: Contempt of Court.
- Rule 7. Procedure on Failure to Appear: Notice; Warrant.
- Rule 8. Objection Before Trial; Waiver.
- Rule 9. Presence of the Defendant.
- Rule 10. Plea of Guilty: Procedure.
- Rule 11. Retention of Legal Counsel by Defendant.
- Rule 12. Traffic Violation Bureau: Violation Clerk.
- Rule 13. Local Rules.
- Rule 14. Amendment.
- Rule 15. Appeals.
- Rule 16. Effective Date.

Rule 1. Purpose and Construction.

These rules govern the procedures in the Traffic Court, a division of the Superior Court. They are intended to provide for the just determination of these cases and to that effect shall be construed to secure simplicity and uniformity in procedure, fairness in administration and the elimination of unjustifiable expense and delay. These Rules may be known and cited as the Traffic Court Rules.

Rule 2. Jurisdiction.

The Traffic Court shall hear and determine cases involving traffic offenses, litter offenses, and boating offenses for which the penalty upon conviction does not exceed a fine of \$500.00, or imprisonment of sixty (60) days, or both. The Traffic Court not being a court of record, the record of proceedings need not be taken verbatim and no court reporter shall be required. The original pleading by the people shall be by "Complaint", a form adopted by the Judicial Council of Guam for such purpose; and the

defendant shall not be entitled to trial by jury.

Rule 3. Burden of Proof.

The degree of proof required for conviction in Traffic Court shall be by a preponderance of the evidence.

Rule 4. Definitions.

As used in these rules, unless the context clearly requires otherwise:

(a) *Traffic Offense* means any violation of the Motor Vehicle Code of Guam relating to the operation or use of [a] motor vehicle and violation of a statute relate to the use of any other vehicle.

(b) *Non-Moving Traffic Offense* means any parking or standing of vehicle not in operation in violation of a statute, ordinance, or regulation.

(c) *Non-Traffic Offense* means any violation of statute or ordinance and regulation relating to the litter and boating laws.

(d) *Litter and Littering Offense* means any violation of 10 GCA 51204 as defined in 10 GCA 51202 and any violation of any other statute or ordinance relating to litter.

(e) *Boating Offense* means any violation of the Territorial Boating Act of Guam relating to the operation or use of any vessels, boats, or motorboats in the territorial waters and any violation of statute or ordinance relating to the use of any vessels, boats, or motorboats.

(f) *Court* means any tribunal with jurisdiction to hear and determine traffic, litter and boating violation cases and the magistrate or judge thereof sitting as a court.

(g) *Magistrate* or *Judge* includes any officer authorized by law to sit as a court of which these rules apply.

(h) *Disposition* as used in these rules means determination of

¹ The use of brackets [-] indicates words which appear to have been left out of the official text, without whose inclusion the sentence would make little or no sense. However, these words are not a part of the official text of the Rules.

² References to statutes changed to refer to new litter law amended by P.L. 16-70 and recodification of law.

proceeding by judicial hearing or by waiver permissive within the scope of these rules.

(i) *Law Enforcement Officer* means police officer of the Guam Police Department, Marshal or deputy marshal of the Superior Court, and apprehending officer designated in 10 GCA §51202(a) (as amended by P.L. 16-70).

Rule 5. Complaint and Summons; Form.

(a) **Traffic Cases.** In traffic cases the complaint and summons shall be in the form known as the Guam Uniform Complaint and Citation. The Guam Uniform Complaint and Citation shall consist of four parts (separated by carbon paper) adopted and approved by the Judicial Council of Guam.

1. The complaint printed on white paper and the reverse side shall be set out in a form adopted and approved for the purpose of recordation of [the court proceedings in the case].

2. The abstract or court record for the Motor Vehicle Registration and License Section, Department of Revenue and Taxation, which shall be a copy of the complaint printed on yellow paper.

3. The police record, which shall be a copy of the complaint printed on pink paper; and

4. The summons, printed on white stock.

(b) **Litter and Boating Cases.** In litter and boating cases, the complaint and summons shall be substantially the same in for as set forth for traffic tickets in Rule 4(a) of these Rules, but shall be in the form known as Guam Uniform Litter Complaint and Citation, and shall be printed for such purpose.

(c) **When Used.**

³ The "Department of Public Safety" was reorganized and all references in these Rules to that Department will henceforth use its new title, the "Guam Police Department" and the "Chief of Police", where appropriate.

⁴ The forms in current use utilize carbonless paper having the same effect and purpose as carbon paper.

⁵ The matter within brackets [-] is missing from court rules, but follows current form approved by the Judicial Council.

1. The complaint forms shall be used in traffic and boating cases when the complaint is made by a police officer.

2. The complaint form shall be used in litter cases when the complaint is made by a police officer or an apprehending officer designated in 10 GCA 51202 (P.L. 16-70).

(d) Records and Reports. The presiding judge of the Traffic Court shall be responsible for all citations issued to law enforcement officer[s] or others in his jurisdiction and for their proper disposition. He shall prepare or cause to be prepared records and reports relating to those Complaints and Citations.

Rule 6. Improper Disposition of Traffic, Litter and Boating Complaints: Contempt of Court.

Any person who solicits or aids in the disposition, or attempted disposition of a traffic, litter, boating complaint or summons in any unauthorized manner is in criminal contempt of the court.

Rule 7. Procedure on Failure to Appear: Notice; Warrant.

(a) Notice. If a defendant who is a resident or nonresident of this Territory fails to appear on answer a traffic, litter or boating complaint or summons served upon him, the court shall mail a notice to the defendant at the address stated in the complaint. The notice shall require the defendant to appear before the Court on a date in ten (10) days nor more than 15 days from the date of mailing of the notice. If the defendant fails to appear or otherwise answer on or before the [date] designated on the notice, the court shall issue a warrant for the arrest of the defendant, complying with Rule 6(b) of these Rules.

(b) Warrant.

(1) The Court shall issue a warrant pursuant to 8 GCA 15.50 (Criminal Procedure) for the arrest of any defendant who is a resident or nonresident of the Territory and who fails to appear or answer to a notice mailed to him in compliance with Rule 6(a) of these Rules.

The warrant shall be executed by the arrest of the defendant by the Marshal of the Superior Court, his deputy or a police officer. The

⁶ While "date" is not in the rules, it makes no sense to omit the word, since that is what is implied in the whole subsection.

officer executing a warrant shall make a return thereof to the court and shall take the arrested person before the court pursuant to 8 GCA 45.10.

(2) If the warrant is not executed within 30 days after issue, the court shall promptly report the name of the defendant, the date and nature of the offense charged, the license number of the vehicle, vessel or motorboat number, or if it is litter offense, all pertinent information, to the Chief of Police and the Vehicle Registration and License Section, Department of Revenue & Taxation. A copy of the report shall be filed with the complaint. The court shall then mark the case closed on its records, subject to being reopened if the appearance of the defendant is thereafter obtained. If the warrant has been executed and satisfied, the court shall report the same.

Rule 8. Objection Before Trial; Waiver.

An objection to the validity or regularity of the complaint or process issued thereunder shall be made by the defendant only before the entry of any plea.

Rule 9. Presence of the Defendant.

The Defendant shall be present at the imposition of sentence in all traffic cases, except in cases involving parking, standing, non-moving traffic offenses, first litter or boating offense, and cases in which a plea of guilty may be accepted by the violation clerk.

Rule 10. Plea of Guilty: Procedure.

(a) **Rights of Defendant.** Before accepting a plea of guilty to a traffic offense other than parking, standing, non-moving traffic offense, [or] first litter or boating offense, the court shall inform the defendant of his rights, which shall include, but not be limited to, the rights:

1. to engage counsel;
2. to a reasonable continuance to engage counsel;
3. to have process issued by the court, without expense to him, to compel the attendance of witnesses in his own behalf;
4. to testify or not to testify in his own behalf;
5. to appeal where appealable in conformity with Rule 15 of these Rules.

The court shall inform the defendant that a record of the conviction of a traffic or non- moving conviction will be sent to the Chief of Police and Motor Vehicle Registration and License Section, Department of Revenue & Taxation, of this territory and of the state where the defendant received his license to drive, to become a part of his driving record.

In any conviction of litter or boating offense, the court shall inform the defendant that a record of the conviction will be sent to the Chief of Police or to the agency who made the complaint to become a part of his record.

(b) Hearing Witnesses. In all cases, except those where a plea of guilty has been entered, the court shall hear all witnesses reasonably available which are necessary for a just adjudication of the case, prior to judgment and sentence.

Rule 11. Retention of Legal Counsel by Defendant.

(a) A defendant shall notify the court at the time set for entry of plea whether he intends to retain legal counsel, and the name of said legal counsel shall be noted on the Court copy of the citation.

(b) If the defendant retains legal counsel at any time after entry of a plea and before trial, he or his counsel shall inform the Court of such representation forthwith.

(c) Immediately upon receiving notification of (a) or (b), above, the Clerk of the Court shall immediately forward to the Office of the Attorney General:

1. A copy of the Citation involved together with trial date;
2. The name of the defendant's legal counsel.

(d) If the defendant appears at trial with legal counsel without first having informed the Court of said representation pursuant to (a) and (b), above, or if the Clerk of the Court has not complied with (c), above:

1. The Court shall continue the case for a period of 10 days and immediately inform the Office of the Attorney General pursuant to (c), above.
2. If the notification required in (a) or (b), above, is within 10 days of trial, said trial shall be continued to allow the Office of the Attorney General at least 10 days notice prior to trial of defendant's representation.

(e) If notification pursuant to (a), (b), or (d), above, is given the Office of the Attorney General, a representative of that office may represent the complaining police officer(s) at trial and serve as prosecutor.

(f) If a defendant appears at Traffic Court without counsel and desires to proceed without counsel, then the Court shall proceed with the case and there is not necessity for a prosecutor. The proceedings shall go forward with the Court impartially receiving testimony from the defendant, the complaining officer and any other witnesses called.

Rule 12. Traffic Violation Bureau: Violation Clerk.

(a) **Functions.** There shall be established a Traffic Court Violations Bureau (TVB). A clerk of the Superior Court shall be designated as Violations Clerk by the Presiding Judge. The Violations Clerk or deputies shall accept written appearance, waivers of trial, pleas of guilty, and payment of fines and costs in traffic, litter, and boating offense cases, subject to the limitations hereinafter prescribed. The Violation Clerk shall serve under the direction and control of the court appointing him.

(b) **Offenses Within the Authority of the Violations Clerk: Schedule of Fines.** The Judicial Council shall by rule, which may from time to time be amended, supplemented or repealed, designate the traffic, litter, and boating offenses within the authority of the Violation Clerk. Such offenses shall not include:

1. indictable offenses;
2. offenses resulting in an accident;
3. operation of a motor vehicle, vessel, boat, or motorboats while under the influence of intoxicating liquor or a narcotic or habit-producing drug;
4. permitting another person, who is under the habit-producing drug, to operate a motor vehicle, vessel, boat, or motorboats owned by or in the custody or control of the defendant;
5. reckless driving (of motor vehicle, vessel, boat, or motorboats);
6. leaving the scene of an accident;
7. driving or operating a motor vehicle, vessel, boat, or motorboat while driver's license or permit is suspended or revoked;
8. a third moving traffic offense and a litter or boating offense within a twelve month's period;

9. litter offenses involving "Dumping".

The Judicial Council shall establish schedules, within the limits prescribed by law, of the amounts of fines to be imposed for first, second and subsequent offenses, designating each offense specifically. The schedules shall be prominently posted in the place where fines are paid. Fines and costs shall be paid to, received by and accounted by the Violation Clerk or deputies in accordance with these Rules.

(c) Plea and Payment of Fines and Costs.

1. Parking and Non-Moving Offenses. Any person charged with a parking, standing, non-moving, litter, or boating offense, provided it is his first within the preceding twelve-month period, may mail or deliver the amount of the fine and costs indicated on the ticket for violation, together with a signed plea of guilty and waiver of trial, to the Violation Clerk.

2. Other Offenses. Any person charged with a traffic offense within the authority of the Violation Clerk, other than a parking, standing, litter, or boating offense, provided that it is his first within the preceding twelve-month period, may appear before the Violation Clerk and, upon signing an appearance plea of guilty and a waiver of trial, pay the fine established for the offense charged and costs. He shall, prior to the plea, waiver and payment, be informed of his right to stand trial, that his signature to a plea of guilty will have the same force and effect as a judgment of the court, and that the record of conviction will be forwarded to [the officers prescribed in and] in accordance with Rule 9(a) of this procedure [these Rules] relative to conviction.

(d) Procedure After Two or More Convictions. Any person who has been found guilty of or who has signed a plea of guilty to two or more previous moving traffic, litter, or boating offenses within the preceding twelve-month period within the jurisdiction of the court, shall not be

⁷ Obviously, a phrase is missing. The Compiler believes the matter within brackets [--] to fill in the absent meaning.

⁸ There is no Rule 9(a) "of this procedure". Presumably, Rule 10(a), second paragraph, is intended.

permitted to appear before [the] Violation Clerk unless the court shall, by general order applying to certain specified offenses, permit such appearance.

(e) Authority of Violations Clerk: Litter and Boating Offenses. The Violations Clerk shall accept written appearance, waivers of trial, pleas of guilty and payments on all first and second offenses of littering, other than an offense involving heap or mass dumping. The fine for first offense is \$50.00. A second offense within a twelve-month period shall increase [the fine] 50%, and a third shall require a mandatory court appearance.

The clerk shall accept the same on a boating offense from any person who violates any provision of the Territorial Boating Act, except that the fine for the first boating offense shall be \$10.00. A third offense shall require mandatory court appearance, as shall any violation of any provision of, or any other offense at the discretion of the court or Officer.

Rule 13. Local Rules.

Any magistrate or judge may make rules for orderly conduct of the proceedings of his court, not inconsistent with these Rules.

Rule 14. Amendment.

The court may amend or permit to be amended any process or pleading for any omission or defect therein, or for any variance between the complaint and the evidence adduced at the trial. If the defendant is substantially prejudiced in the presentation of his case as a result of the amendment, the court shall adjourn the hearing to some future time, upon such terms as the court shall think proper.

Rule 15. Appeals.

(a) Appeal from the Traffic Court shall be to the Superior Court of Guam made by written notice of appeal filed with the Clerk of the Superior Court within five (5) court days after the judgment is rendered and payment of filing fee as in civil cases.

(b) Upon appeal by the defendant or the Government to the Superior Court of Guam the case shall be tried de novo.

(c) When the appellant is not the Government, a bond or deposit of

⁹ See 8 GCA §1.09 for statutory right to appeal. See also 8 GCA §130.20 and §130.25 for situations in which the Government may and may not appeal cases.

\$100.00 shall be made to cover the costs or the appeal in case of judgment against the appellant.

Rule 16. Effective Date.

[These Rules became effective on May 3, 1979.]

NOTE: The *Department of Public Safety* was reorganized and all references in these Rules to that Department will henceforth use its new title, the *Guam Police Department* and the *Chief of Police*, where appropriate.
