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DIVISION 5: LOCAL GOVERNMENT

§ 5107. Mayor: Additional Duties.

A mayor shall also have the power and duty to:

(a) Appoint the necessary staff for which appropriations have been made by the legislature.

(b) Create or abolish positions within the office of mayor as provided by law and for which appropriations have been made by the legislature.

(c) Submit an operating and capital programs and budget requirements annually to the Governor for his consideration and necessary actions.

(d) Make an annual report to the Governor and the legislature and monthly reports informing the public on local policies, programs, and operations.

(e) Have a voice, but no vote, in the proceedings of all local boards or commissions provided by law.

(f) Be responsible for Commonwealth programs and activities pertaining to:

(1) Improvement of local communities and villages, community development and community action programs;

(2) Services to and programs for children, young people, adults, and the elderly;

(3) Local registration and licensing formerly exercised by the chartered municipalities of Saipan, Rota, and Tinian;

(4) Regulation and licensing of dogs, cats, and other domestic animals;

(5) Local public recreation programs not provided by any other government agency or department;

(6) Licensing of restaurant and other eating establishments;

(7) Licensing of privately owned or operated public recreation or sport activities, including cockfights, motion picture houses, bars and night clubs; and

(8) Any consumer protection activities that may be authorized by law.

(g) The office of the Mayor of Saipan is charged with an additional responsibility to repair, improve and to maintain in good condition all secondary roads and roads leading to farm areas, tourist scenic sites, and other remote public areas.

(h) the offices of the Mayors may provide the following services; provided, however, that such services are, deemed to be in the public interest or are of benefit to the local community:

(1) road clearing, repair, improvement, or maintenance leading to residences for the purpose of assisting with village fiestas, funerals, or other cultural and social occasions;

(2) water service to individual residences or community centers in villages, farms, or homestead areas;

(3) land clearing or earth moving activities for the purpose of allowing community access to isolated or enclosed areas where village fiestas, funerals, or other social and cultural events are to be held.

Source: PL 1-4, § 4, modified; amended by PL 4-11, § 3; PL 4-23, § 3; PL 6-5, § 321; PL 7-33, § 3; new subsection (h) added by PL 11-44, § 4.

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Commission Comment: See N.M.I. Const. art. VI, § 3.

Executive Order 94-3, the “Second Reorganization Plan of 1994” (effective August 23, 1994), reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3, §§ 402 and 404:

Section 402. Development Advisory Council.

(a) There is hereby established a Development Advisory council consisting of nine members, including five from Saipan, two from Rota and two from Tinian, who shall be appointed by and serve at the pleasure of the Governor. The Council is allocated to the Department of Lands and Natural Resources for purposes of administration and coordination. The Council shall advise the governor, the head of any agency involved in the development process, the Development Appeals Board (including the Board of Zoning Appeals), the Zoning Board of Rota, the mayors, the Legislature, and the respective delegations regarding the effect of government policies and actions on private sector development in the Commonwealth. The Council may comment upon or intervene in any application for or hearing, appeal, or other proceeding concerning any permit or approval required for development.

(b) To the extent that the Zoning Advisory Council has not fully disbanded as required by 2 CMC § 7223(d), it is abolished and its records, property, facilities, equipment, and supplies transferred to the Development Advisory Council.

. . . .

Section 404. Saipan Street Directory Commission. The Saipan Street Directory Commission is abolished and its records, property, facilities, equipment, and supplies are transferred to the Office of the Mayor of Saipan.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

PL 11-44 that added a new subsection (h) to this section took effect on October 5, 1998. PL 11-44 set forth its short title, findings and purpose as follows:

Section 1. Short Title. This bill may be known as the “Mayoral Technical Act of 1998”.

Section 2. Findings. The Legislature finds that the duties of the Mayors' Offices set forth under 1 CMC § 5107 require clarification with regard to services pertaining to roads, water service, and the use of equipment of the Mayors' Offices.

The Legislature also finds that the municipal equipment has been traditionally used to assist the community with land clearing, earthmoving (e.g., road grading) and water service. Such activities have been historically part of the responsibility of the Mayors' Offices stemming from the period when village commissioners assisted with such undertakings. The

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Mayors' Offices have assisted the community in this manner particularly with funerals and other cultural or social events.

The Legislature asserts that the use of the Mayors' Offices equipment for such activities are permitted when they benefit the village or local community with the primary purpose of public benefit being accessibility to a particular residence and water service for the community. Indeed, the Legislature recognizes, for example, that water service to individual residences benefits private individuals but are a necessary part of the Mayors' function to assist the community in general.

On the other hand, the Legislature declares that the Mayors' Offices equipment may not be used where there is no benefit to the community and only benefits a private property owner as a personal favor. Such assistance is impermissible and may subject offending employees to civil or criminal prosecution.

Section 3. Purpose. The purpose of this Act is to articulate in greater detail those activities which have been historically and culturally performed by the Mayors' Offices. Further, the Legislature intends, through this Act, to provide guidance to the Mayors' Offices in providing services where there is a community benefit, such as funerals, village fiestas, and other cultural or social events.