

SECTION C — Legal Authority

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- **Administrative Adjudication Law Authority**



GUAM FIRE DEPARTMENT
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TITLE 10 GCA CHAPTER 72 AUTHORITY MEMORANDUM

Guam Fire Department

Legal Authority and Justification for Proposed Fee Schedule Adjustments

PURPOSE

This memorandum provides the statutory and administrative legal basis supporting the Guam Fire Department's ("GFD") authority to establish, amend, and collect fees associated with fire prevention, inspection, permitting, emergency medical, and related public safety services pursuant to Guam law.

This memorandum further provides legal justification supporting the Department's proposed modernization of existing fees through the administrative rulemaking process.

STATUTORY AUTHORITY — TITLE 10 GCA CHAPTER 72

Creation and Authority of the Guam Fire Department

The Guam Fire Department derives its statutory authority from Title 10 of the Guam Code Annotated, Division 3, Chapter 72.

Pursuant to 10 GCA § 72101, the Department is legally charged with:

“control and extinguish injurious or dangerous fires and to remove that which is liable to cause such fires, and to enforce all laws relating to the preventing or spreading of fires and all laws pertaining to fire control and fire hazards within Guam.”

This statutory provision establishes broad governmental police powers relating to:

- Fire suppression;
- Fire prevention;

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- Hazard mitigation;
- Fire inspections;
- Fire safety enforcement;
- Emergency response activities;
- Public safety protection.

The statutory language expressly authorizes the Department to undertake operational and regulatory actions necessary to reduce fire hazards and protect life and property throughout Guam.

Authority to Conduct Fire Prevention and Inspection Activities

Under Chapter 72, the Guam Fire Department is specifically authorized to:

- Conduct inspections;
- Enforce fire and life safety laws;
- Issue permits;
- Investigate fire hazards;
- Regulate hazardous conditions;
- Enforce fire prevention requirements.

These operational responsibilities inherently require administrative review processes, personnel deployment, technical inspections, permit administration, and public safety oversight.

As such, Guam law recognizes that these governmental services may be supported through authorized fee collection mechanisms.

Fire, Life, and Medical Emergency Fund (“FLAME Fund”) Authority

The clearest statutory authority supporting fee establishment is contained in **10 GCA § 72106**.

10 GCA § 72106(a)

This section establishes the: “Fire, Life and Medical Emergency Fund (FLAME Fund).”

The statute authorizes revenues generated through fire prevention and EMS-related activities to be deposited into the FLAME Fund for operational public safety purposes.

Statutory Fee Authority

10 GCA § 72106(b)

This subsection expressly authorizes the Guam Fire Department to establish fees through administrative rulemaking procedures.

The statute provides: “The Guam Fire Department shall establish, in accordance with the Administrative Adjudication Law, a schedule of fees...”

The statutory language is mandatory and affirmative.

The Legislature therefore expressly delegated authority to GFD to:

- Establish fee schedules;
- Amend fee schedules;
- Collect fees;
- Utilize collected revenues for authorized operational purposes.

Scope of Authorized Fees

The statute authorizes fees associated with:

- Fire prevention inspections;
- Permit issuance;
- Non-emergency ambulance transportation;
- Burning permits;
- Related operational services.

The Department's proposed fee schedule adjustments fall squarely within the statutory scope contemplated under 10 GCA § 72106.

No Changes to Fines or Penalties

Importantly, the proposed fee adjustments do not constitute amendments to criminal penalties, civil fines, or enforcement sanctions.

The proposal concerns administrative service fees only.

Existing statutory and regulatory fine authorities remain unchanged unless separately amended pursuant to law.

This distinction is legally significant because:

- Fees are cost-recovery mechanisms associated with services rendered;
- Fines are punitive enforcement measures associated with violations.

The current proposal concerns operational cost recovery and administrative modernization only.

ADMINISTRATIVE ADJUDICATION LAW AUTHORITY

Rulemaking Requirements

The Guam Administrative Adjudication Law governs agency rulemaking authority and administrative procedures applicable to fee schedules.

The Administrative Adjudication Law establishes procedural requirements for:

- Public notice;
- Public participation;
- Written comment periods;
- Publication requirements;
- Agency review and adoption of rules.

Because 10 GCA § 72106 specifically references the Administrative Adjudication Law, the Legislature expressly intended that GFD fee schedules be adopted through formal administrative rulemaking procedures.

Public Participation Requirements

Administrative rulemaking laws require agencies to provide meaningful opportunity for public participation prior to adoption of administrative rules or fee schedules.

The Guam Fire Department's public informational town halls and public comment process therefore serve several legally important purposes:

- Ensuring transparency;
- Providing procedural due process;
- Creating administrative record support;
- Demonstrating compliance with statutory notice requirements;
- Allowing stakeholder participation.

The Department's public review process substantially supports the legal defensibility of the proposed fee schedule modernization.

Administrative Record Development

Under general principles of administrative law, agencies should establish a rational basis supporting regulatory or fee adjustments.

The Department's operational and fiscal analysis therefore properly includes:

- Inflationary cost data;
- Equipment and maintenance expenditures;
- EMS operational cost increases;
- Staffing and training considerations;
- Fire prevention operational demands;
- Emergency readiness needs.

This information establishes a reasonable governmental basis supporting the fee adjustments.

RULEMAKING AUTHORITY ANALYSIS

Delegated Legislative Authority

The Guam Legislature expressly delegated authority to the Guam Fire Department to establish fees under 10 GCA § 72106.

This constitutes a lawful delegation of administrative authority because:

- The Legislature established the governing statutory framework;
- The Legislature identified permissible fee categories;
- The statute identifies authorized fund uses;
- Administrative procedures are governed by existing adjudication laws.

Accordingly, the Department possesses clear statutory authority to modernize fees through rulemaking.

Rational Basis for Fee Modernization

Government agencies may lawfully adjust fees where a rational relationship exists between:

- The service provided; and
- The operational costs associated with providing the service.

The Department's proposed fee adjustments are supported by multiple operational realities, including:

Inflationary Pressures

Emergency service delivery costs have increased substantially due to:

- Fuel costs;
- Vehicle maintenance;
- Medical supplies;
- Firefighting equipment;
- Protective gear;
- Technology systems;
- Utilities and infrastructure costs.

EMS Operational Costs

Emergency medical services represent one of the Department's highest-cost operational functions.

EMS operations require:

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- Ambulance procurement;
- ALS equipment;
- Pharmaceuticals;
- EMT and paramedic certifications;
- Continuing education;
- Medical compliance systems.

The Legislature specifically recognized these operational realities through the FLAME Fund framework.

Aging Infrastructure and Equipment

The Department must maintain:

- Emergency apparatus;
- Fire stations;
- Communications systems;
- Rescue equipment;
- Fire suppression equipment;
- Disaster readiness capabilities.

Operational sustainability requires stable funding mechanisms.

Increased Fire Prevention Responsibilities

Modern fire prevention operations involve:

- Complex plan review;
- Inspection activities;
- Hazard mitigation;
- Permit administration;
- Enforcement activities;
- Public education and risk reduction.

These activities require trained personnel and administrative support infrastructure.

Cost Recovery vs. Revenue Generation

Legally, administrative fees should generally relate to:

- Cost recovery;
- Operational support;
- Regulatory administration.

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The proposed fee schedule is legally supportable because the Department's justification demonstrates a direct relationship between:

- Fees charged; and
- Actual service delivery costs.

The proposal is not structured as a punitive measure or unauthorized tax.

CONCLUSION

The Guam Fire Department possesses clear statutory and administrative authority to establish and adjust fees associated with fire prevention, permitting, inspection, and emergency medical-related services pursuant to:

- Title 10 GCA Chapter 72;
- The FLAME Fund statute;
- The Administrative Adjudication Law;
- Guam administrative rulemaking authority.

The proposed fee adjustments are legally supportable because they:

- Are expressly authorized by statute;
- Follow administrative rulemaking procedures;
- Support operational cost recovery;
- Promote public safety readiness;
- Maintain transparency through public participation;
- Do not increase fines or penalties.

Accordingly, the proposed fee schedule modernization constitutes a lawful and operationally justified exercise of the Guam Fire Department's delegated administrative authority.