

PROPOSED SAIPAN MUNICIPAL ORDINANCE

To authorize the Mayor of Saipan to appoint a staff for the position of Saipan Municipal Treasury within the Office of the Mayor of Saipan; and for other local public purposes.

BE IT ADOPTED BY THE TENTH SAIPAN & NORTHERN ISLANDS MUNICIPAL COUNCIL PURSUANT TO ART. VI SECT. 7(a) OF THE NMI CONSTITUTION AND CHAPTER 9, DIVISION 9, TITLE 1 OF THE COMMONWEALTH CODE.

Section 1. Title. This proposed municipal ordinance shall be known and cited as the "Saipan Municipal Treasury Ordinance of 2008"

Section 2. Findings & Purpose. The 10th Saipan and Northern Islands Municipal Council is cognizant of a local Supreme Court case referenced in Commonwealth vs. Tinian Gaming Commission, wherein the Commonwealth Supreme Court ruled " (i)t is important, however, that each (senatorial) district, in enacting local laws by municipal ordinance ... ensure that local laws enacted do not encroach upon or adversely impact upon those interests relating to the entire Commonwealth." Indeed, Title V, Chapter 5, § 4 of the Code of the Municipality of Saipan mandates "the Saipan Municipal Council shall levy taxes, licenses, and fees to provide funds for the support of the Municipality...". The Northern Marianas Constitution in Article VI, § 3(b) also mandates that "(a) mayor shall administer government programs, public services, and appropriations provided by law, for the island or islands served by the mayor." As a result of Amendment 25 in 1985, Article VI § 8 of the constitution was altered to provide that "(l)ocal taxes paid to the chartered municipal governments of ... Saipan may be expended for local public purposes on the island or islands producing those revenues." The Constitution in § 7 vested "(t)he powers of the municipal councils to all local matters of a predominately local nature..." in § 7(a) and mandates the council to "(a)ssist the mayor in the formulation of the annual budget delineating local needs." In addition, Article VI, § 3(d) mandates the submission of proposed budgets for government operations and capital improvement projects to the Municipal Council, including federal programs funding extended to the islands to the island or islands served by the mayor in § 3(e). Section 5 of Article VI mandates the chairpersons of the Municipal Councils to "regularly" provide "advise (to) the governor on government operations and local matters" not fewer than four times annually on the "r"elationship" between the Commonwealth and the separate municipalities.

Therefore, the council finds that Article VI, §8 of the constitution mandates and directs the use of "local taxes paid to the chartered municipal governments of ... Saipan (to be) expended

for local public purposes on the island or islands producing those revenues", which comports with the purpose of the proposed ordinance herein to authorize the Mayor of Saipan to appoint a Saipan Municipal Treasurer within the Office of the Mayor of Saipan. Moreover, Title V, Chapter 5, § 4 of the Code of the Municipality of Saipan provides "the Saipan Municipal Council shall levy taxes, licenses, and fees to provide funds for the support of the Municipality..." in which § 5 of the Saipan municipal code directs that "(a)ll taxes shall be paid... and collected by the Treasurer of the Municipality". 1 SMC Chapter 4 § 41 directs the treasurer to "issue receipts for all monies received by him for the benefit of the Saipan Municipal Government."

Section 3. Definitions. As used in this municipal ordinance:

(a) "Saipan Municipal Treasurer" means a person in the in the Office of the Mayor of Saipan whose primary responsibility and function is to collect, issue receipt and hold all license, registration, fee, and Saipan municipal tax pursuant to the constitution and Saipan Municipal Code, not pre-empted by the Legislature, except any taxes and fees levied by the Commonwealth Government.

(b) "Mayor of Saipan" means the Mayor of the Municipality of Saipan.

(c) "Person" means any individual, estate, corporation, company, joint venture, association, partnership, trust, receiver, club, syndicate, cooperative association or any other entity.

(d) "Constitution" means the constitution of the Commonwealth of the Northern Mariana Islands.

(e) "Saipan Municipal Treasury" means a division or entity established within the Office of the Mayor of Saipan.

Section 4. Establishment: There is hereby established a division of municipal treasury within the Office of the Municipality of Saipan Mayor. This division may have personnel appointed by the Mayor. The Mayor shall, in consultation with the Saipan and Northern Islands Municipal Council, identify the funds necessary to implement the functions and duties of the division and hire the personnel to staff the required positions and such funding shall be a specific line item budget each fiscal year.

Section 5. Management of Saipan Municipal Funds. The division shall:

(a) regulate and control the expenditure of local municipal funds that are appropriated and allocated by the Saipan and Northern Islands Municipal Council, the Legislature, members of the Third Senatorial District and all other funds as provided by law and by the applicable provision in the constitution so that no activity may expend appropriated funds or federal funds contrary to local municipal management policies and practices of the Municipality, the Commonwealth or the Federal Government.

- (b) prepare and transmit an analysis of funds or quarterly financial status, including but not limited to expenditure, encumbrance, accounts payable, lapsed or carry over funds reports to the Saipan and Northern Islands Municipal Council and the Mayor of Saipan within 45 days after each quarter has expired.
- (c) ensure that all expenditures for any public purpose of local municipal funds or federal funds shall be in a certified form of request, certified for the availability of funds by the Saipan Municipal Treasurer, and approved by the Mayor in that order.
- (d) establish separate sub-accounts in the amount in amount to be determined by law for each member of the Saipan and Northern Islands Municipal Council in consultation with the Mayor. The funds shall be used for public purposes in their capacities as elected officials for the Municipality of Saipan and the Northern Islands. The Saipan Municipal Treasurer shall transmit a quarterly report of these expenditures to the Mayor of Saipan, the Saipan and Northern Islands Municipal Council and the Secretary of Finance.
- (e) create a sub-account within the public programs within which all travel performed in the furtherance of any public program shall be accounted for. The Saipan Municipal Treasurer shall report within 45 days of each quarter ended to the Mayor of Saipan, the Saipan and Northern Islands Municipal Council, and the Secretary of Finance an accounting of all travel performed under this account.
- (f) create a special account for which the amount of one-half of each monthly payment received from license, fee, registration, and taxes shall be deposited to generate funds for the construction, maintenance and operation of the Saipan Cultural and Performing Arts Center, the cultural heritage activities of the indigenous residents of Saipan, the Northern Marianas Descent Saipan Municipal Scholarship Program, the Northern Marianas Descent Saipan Health and Medical Program and other programs as identified by the Saipan and Northern Islands Municipal Council in consultation with the Mayor of Saipan.
- (g) shall not authorize or cause to be authorized any vacancy position announcement or filled any FTE without certification of available funds and approved for expenditure by the Mayor.
- (h) not authorize or caused to be authorized any zero-funded full-time employment position to be announced or filled, unless authorized by resolution by the Saipan and Northern Islands Municipal Council.
- (i) enforce without limitation on the applicability of any other part of the Planning and Budgeting Act of 1983, as amended, the criminal penalties set forth therein
(1 CMC § 7701 et seq.).
- (j) comply with any other provisions as provided by resolution or ordinance by the Saipan and Northern Islands Municipal Council with the concurrence of the Mayor of Saipan.

(k) specific duties, responsibilities and functions of this division shall be as provided by municipal resolution. All staff in the division shall be bonded in an amount commensurate with the assigned duties and responsibilities and based on a risk analysis performed by any duly licensed United States certified public accounting entity.

Section 6. Rule and Regulation. The Mayor of Saipan shall adopt rules and regulations as necessary for the proper administration and management of the division pursuant to this ordinance as required by the Administrative Procedure Act (1 CMC § 9101 et seq.).

Section 7. Interagency Notification and Coordination. Any department, agency, public corporation, or other instrumentality of the Municipality of Saipan or Commonwealth Government of competent jurisdiction which is adverse by any provision of this ordinance shall consult with the Mayor of Saipan before seeking administrative review and determination by the Saipan and Northern Islands Municipal Council or judicial review by any court of competent jurisdiction.

Section 8. Saipan Municipal Treasury Account.

- (a) Any and all account(s) established in accordance with section 5 in this ordinance shall be established and maintained by the Saipan Municipal Treasurer and the account shall be separated and apart from other funds of the Municipality of Saipan and independent records and accounts shall be maintained.
- (b) All moneys received by the Saipan Municipal Treasury shall only be expended in accordance with applicable provisions of Saipan Municipal Ordinance.
- (c) The expenditure authority of funds for the Office of the Mayor of Saipan shall be the Mayor of Saipan.
- (d) The Saipan Municipal Treasurer shall provide annual accounting of all fees, fines, taxes, registrations or permits, collected by the Municipality of Saipan to the Mayor of Saipan and the Saipan and Northern Islands Municipal Council.
- (e) Notwithstanding any other provision of law, all revenues collected pursuant to this ordinance or any regulations for the purposes provided herein shall

be subject to appropriation by the Saipan and Northern Islands Municipal Council for expenditure of municipal funds for local public purposes.

Section 9. Enforcement Powers. Personnel in the division of Saipan Municipal Treasury who are assigned as enforcement staff shall be vested with enforcement powers to enforce the rules and regulations adopted by the division in addition to applicable provisions of this ordinance or any other applicable law.

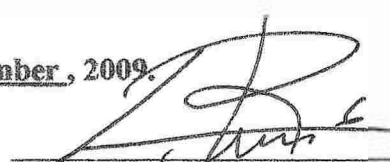
Section 10. Severability. If any provision of this ordinance or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this ordinance or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be effected thereby.

Section 11. Savings Clause. This ordinance and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under Saipan municipal ordinance repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this proposed ordinance shall not affect any proceeding instituted under

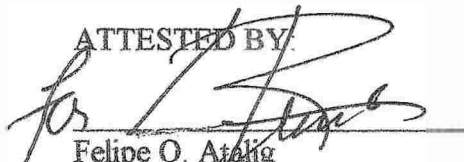
or pursuant to prior ordinance or law. The adoption of this ordinance shall not have the effect of terminating, or in any way modifying, any liability civil or criminal, which shall already be in existence at the date this proposed ordinance becomes effective.

Section 10. Effective Date. This proposed ordinance shall take effect upon its approval by the Mayor of Saipan or upon its becoming a Saipan municipal ordinance without such approval.

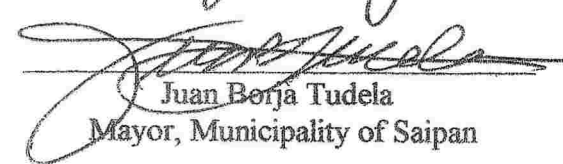
PASSED AND ADOPTED this 22nd day December, 2009.


Ramon Blas Camacho
Acting Chairman

ATTESTED BY:


Felipe Q. Atalig
Acting Secretary

Approved/Disapproved this 8th day January, 2010.


Juan Berja Tudela
Mayor, Municipality of Saipan