

Title 4.

Municipalities, Towns and Local Governments.

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CHAPTER 1.

GENERAL PROVISIONS.

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§ 1. Incorporation of a community. — When in the opinion of the High Commissioner such action is warranted by the circumstances and by the stage of development of a community, the High Commissioner may, upon application of the advisory council, grant a charter for the community represented by the council. Such charter shall provide for the organization of the community to exercise governmental functions not inconsistent with the laws of the Trust Territory. The charter shall provide for legislative, executive, and judicial instrumentalities which shall exercise such powers as may be assigned to them by the charter. (Code 1966, § 42; Code 1970, tit. 4, § 1.)

§ 2. Local political institutions, systems or customs preserved. — Nothing in section 1 of this chapter or section 55, title 3 of this code shall be construed to affect the authority of existing municipalities, organized advisory councils or other local political institutions, systems or customs insofar as they are in consonance with the trusteeship agreement and the laws of the Trust Territory. (Code 1966, § 44; Code 1970, tit. 4, § 2.)

§ 3. Use of terms "congress" and "legislature" by municipal governments. — (1) No municipal government shall use, designate, label or refer to itself as "congress" or "legislature" or use any combination of the two terms as a part of its corporate or chartered name in any way whatsoever.

(2) Prior to the effective date of this section any chartered or incorporated municipal government heretofore formed or existing and coming within the purview of the provisions of subsection (1) shall by resolution recommend to the High Commissioner, and the High Commissioner may adopt such charter name as may be deemed appropriate and consistent with this section.

(3) Nothing herein shall in any way be construed to apply to the district governments, or the legislative bodies thereof. (Code 1966, § 42-A; Code 1970, tit. 4, § 3.)

CHAPTER 2.

RESPONSIBILITIES AND POWERS.

Sec.

51. Enumeration; limitations.

§ 51. Enumeration; limitations. — (1) Subject to all territory-wide laws and all district laws of their respective districts, municipalities shall be primarily responsible for:

(a) Legislation affecting particularly the peace, safety, and public welfare of their own inhabitants without special or discriminatory effect on those from outside the municipality who are licensed by either the district or the Trust Territory.

(b) Licensing and collecting license fees of all retail and service business within the municipality, subject, however, to all applicable territorial government or district laws.

(c) The imposition and collecting of head taxes, property taxes on any items other than foodstuffs, and such excise taxes as the district may authorize; provided, however, that none of these shall be based on imports, or the value or volume of imports.

(d) The construction and maintenance of public roads and docks which have not been designated as either primary or secondary, including acquiring or providing for adequate space for public utilities and set-back from such roads and docks and control of harbors in which such docks are located, if deemed advisable.

(e) All necessary law enforcement not otherwise provided for.

(f) Making available to the courts a suitable municipal building for court sittings away from established courthouses; providing incidental clerical assistance for such sittings, including all sittings of the community court in their municipality, to the extent this may be done without serious detriment to municipal business; and providing a bailiff for all community court sittings and such occasional sittings of the high court or the district court as may be held for short periods in their municipality away from established courthouses.

(g) Support of public education and health as may be required by law.

(2) No municipal ordinance shall provide for any penalty greater than a one hundred dollar fine, or ninety days imprisonment, or both; nor shall any municipality legislate on any of the subjects specified in section 1, chapter 1, title 2 or section 2, title 3 of this code as the primary responsibility of the territorial and the district governments.

(3) Effective July 1, 1966, any municipal charter inconsistent herewith is hereby amended to accord with this section. (Code 1966, § 48; Code 1970, tit. 4, § 51; P.L. No. 4C-27, § 1; P.L. No. 4C-59, § 1.)

CHAPTER 3.

MUNICIPAL ORDINANCES.

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§ 101. Adoption. — Municipalities may adopt ordinances not in conflict with other written laws. The method of adoption (including decision as to who within the municipality need consent and whether or not the district administrator need approve) shall be as determined in the case of each municipality by the district administrator and may vary from one district to another as the district administrator deems best in the public interest particularly in view of the organization of the municipality, the wishes of its inhabitants, and their cultural and educational development, or as provided by charter in accordance with section 1, chapter 1 of this title. (Code 1966, § 31(a); Code 1970, tit. 4, § 101.)

§ 102. Promulgation. — After its adoption, each municipal ordinance shall be made public as follows:

(1) By posting a copy thereof in both the local language and in English, both signed by the magistrate or a secretary of the municipality, in one or more conspicuous public places within the municipality; or

(2) By posting such a copy in the local language only, in the case of municipalities where the district administrator determines that posting in English would be an undue burden, but posting in the local language is practical; or

(3) By public oral proclamation in the presence of the magistrate or a secretary of the municipality, at a meeting to which all adult residents present in the municipality are invited by whatever means is usual there, in the case of municipalities where the district administrator determines that any posting would be an undue burden.

Each district administrator shall publish a list of the municipalities where he determines posting in English would be an undue burden but posting in the local language is practical, and a list of those where he determines any posting would be an undue burden; shall send a copy of each of these lists, and of any changes in them, to the High Commissioner and to the clerk of courts in his district; and shall notify each municipality of his determination as to it. (Code 1966, § 31(b); Code 1970, tit. 4, § 102.)

§ 103. Effective date. — Each municipal ordinance shall become effective on the date it is made public as directed in section 102 of this chapter or on such later date, if any, as may be specified in the ordinance. (Code 1966, § 31(c); Code 1970, tit. 4, § 103.)

§ 104. Notice to district administrator and clerk of courts. — Each municipality required to make its ordinances public by posting shall send a copy of each ordinance as posted to its district administrator and clerk of courts as soon as practicable with a statement of the date of posting. Each municipality permitted to make public its ordinances by oral proclamation shall notify the district administrator and the clerk of courts of the substance of each ordinance and the date it was proclaimed as soon as practicable. (Code 1966, § 31(d); Code 1970, tit. 4, § 104.)

Ordinance passed prior to executive order requiring filing. — Fact that no signed copy of municipal ordinance is on file with the clerk of courts for the Truk District is

immaterial in conviction for a violation of ordinance, where ordinance was passed prior to executive order requiring such filing. *Timas v. Trust Territory*, 2 TTR 109 (1959).

§ 105. Construction. — In construing municipal ordinances which are made public by posting in both a local language and in English, both versions shall be considered; but, in case of doubt as to the intent of any part of the ordinance, special weight shall be given to the version in the local language. (Code 1966, § 31(e); Code 1970, tit. 4, § 105.)

§ 106. Revocation, amendment, or suspension by higher authority. — Any municipal ordinance may be revoked, amended, or suspended (indefinitely or for a stated period which may later be altered, or upon any conditions deemed best) by the High Commissioner or the district administrator at any time by written notice. Such notice shall become effective on being made public in the same manner the ordinance involved was made public except that the notice shall be signed by the official issuing it. A copy of each such notice with a statement of the date it was made public as provided in section 103 of this chapter, shall be sent to the clerk of courts of the district involved as soon as practicable after it is made public. (Code 1966, § 31(f); Code 1970, tit. 4, § 106.)

§ 107. Delegation of authority to revoke, amend, or suspend. — Authority to issue and sign a notice or notices under section 106 of this chapter may be delegated in writing by the High Commissioner or the district administrator to anyone, subject to such limitations, if any, as the official making the delegation deems best. A copy of each such delegation shall be filed with the clerk of courts of any district as to which it is to be used either before it is used or as soon as practicable thereafter. (Code 1966, § 31(g); Code 1970, tit. 4, § 107.)

§ 108. Notice to High Commissioner. — Each district administrator shall send to the High Commissioner a copy in English of each municipal ordinance received by him or a statement of the substance thereof in the case of those of which only the substance reported to him. He shall similarly send to the High Commissioner a copy of each notice issued by him or under his authority under section 106 of this chapter. (Code 1966, § 31(h); Code 1970, tit. 4, § 108.)

§ 109. Existing municipal ordinances. — Nothing contained in this chapter or in section 101 of title 1 of this code shall of itself affect the validity of any existing municipal ordinance, but all such ordinances shall be subject to revocation, amendment, and suspension as provided in this chapter. (Code 1966, § 31(i); Code 1970, tit. 4, § 109.)

CHAPTER 4.

KWAJALEIN ATOLL ORDINANCES.

Sec.

151. Definitions.
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§ 151. Definitions. — (1) Kwajalein missile range includes those islands, parts of islands, and the territorial waters adjacent thereto, in the Kwajalein Atoll, Marshall Islands District that are now or may hereafter be used by the United States military establishment pursuant to agreement with the government of the Trust Territory.

(2) Notice is written communication by teletype or air mail as appropriate, but does not include communication by regular mail. (Code 1966, § 49(a); Code 1970, tit. 4, § 151.)

§ 152. Adoption. — Whenever the commanding officer of Kwajalein missile range in the Kwajalein Atoll, Marshall Islands District desires the adoption of an ordinance applicable within Kwajalein missile range, he may propose that such an ordinance be adopted by forwarding a draft thereof to the district administrator of the Marshall Islands District. If the district administrator approves the proposed ordinance he shall adopt it. (Code 1966, § 49(b); Code 1970, tit. 4, § 152.)

§ 153. Promulgation. — Whenever an ordinance is adopted as provided in this chapter, it shall be promulgated by the commanding officer of Kwajalein missile range, who shall cause a copy thereof to be posted in a place that is accessible to all the residents of and visitors to Kwajalein missile range. (Code 1966, § 49(c); Code 1970, tit. 4, § 153.)

§ 154. Effective date. — Any ordinance adopted as provided in this chapter shall become effective on the date it is promulgated. (Code 1966, § 49(d); Code 1970, tit. 4, § 154.)

§ 155. Notice. — Within three days after the promulgation of an ordinance, the commanding officer who promulgated it shall notify the district administrator of the Marshall Islands District of the date that the ordinance was promulgated and forward copies thereof to the legislature of the Marshall Islands District, the clerk of courts for the Marshall Islands District Court, the High Commissioner and the legislative counsel of the Congress of Micronesia. (Code 1966, § 49(e); Code 1970, tit. 4, § 155.)

§ 156. Revocation or suspension. — Any ordinance adopted and promulgated as provided in this chapter may be revoked or suspended by the commanding officer of Kwajalein missile range, the district legislature or district administrator for the Marshall Islands District, the High Commissioner or the Congress of Micronesia. All officials or legislative bodies having such power and the clerk of courts of the Marshall Islands district court shall be notified of such revocation or suspension, and the date thereof, within three days after such action by the official or legislative body taking such action. (Code 1966, § 49(f); Code 1970, tit. 4, § 156.)

§ 157. Limitations. — No ordinance adopted and promulgated as provided in this chapter shall provide for a criminal penalty exceeding a fine of one

hundred dollars, or thirty days imprisonment, or both, nor shall an ordinance be effective with respect to any person who is unable to read and understand the English language unless the substance of the provisions of such an ordinance have been translated into the language understood by such a person. (Code 1966, § 49(g); Code 1970, tit. 4, § 157.)