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GOVERNMENT OF GUÅHAN
DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES
DIVISION OF ENVIRONMENTAL HEALTH

**RULES AND REGULATIONS GOVERNING THE
ISSUANCE OF SANITARY PERMITS**

Title 26 Guam Administrative Rules and Regulations

Chapter 4

Article 5

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1 **§4501. Purpose.** The purpose of these rules and regulations is to govern the issuance,
2 fees, and administrative penalty for Sanitary Permits.

3 **§4502. Authority.** Section 20105 of Chapter 20 and Section 21102 of Chapter 21, Title
4 10 Guam Code Annotated authorizes the Director of the Department of Public Health and Social
5 Services to promulgate rules and regulations necessary to carry out the provisions of the law
6 governing the sanitary operations of health-regulated establishments. Section 20118 of Chapter
7 20 of Title 10 Guam Code Annotated authorizes the Department to promulgate rules and
8 regulations for administrative penalties.

9 **§4503. Title.** These rules and regulations shall also be known and cited as the *Sanitary*
10 *Permit Rules and Regulations*.

11 **§4504. Definitions.** As used in these rules and regulations:

12 (a) *Cosmetic Establishment* shall mean any premises or portion thereof, wherein any
13 of the following is practiced for compensation:

14 (1) Shaving, clipping, trimming, or cutting human hair;

15 (2) Singeing, shampooing, arranging, adorning, dressing, curling, waving,
16 permanent waving, tinting, applying tonic to or dyeing human hair;

17 (3) Giving facial, scalp, neck or body massages or treatments with oils, creams,
18 lotions, or other preparations either by hand or mechanical appliances;

19 (4) Applying cosmetic preparations, antiseptics, powders, oils, clays, lotions, or
20 other preparations to scalp, face, neck, or hands; or

21 (5) Manicuring or pedicuring.

22 (b) *Department* shall mean the Department of Public Health and Social Services of the
23 government of Guam.

1 (c) *Director* shall mean the Director of the Department of Public Health and Social
2 Services, or his designated representative.

3 (d) *Dry Cleaning Establishment* shall mean any place, building, structure, room,
4 premises, or portions thereof, used in the business of dry cleaning and dyeing of wearing apparel,
5 household linens and other articles, including coin-operated dry-cleaning establishments.

6 (e) *Eating and Drinking Establishment* shall mean any food service establishment,
7 mobile food service establishment, or vending machine.

8 (f) *Edible Garbage Feeding Establishment* shall mean a farm, ranch, facility, premises,
9 site, or any place approved by the Director for operation to process edible garbage for the purpose
10 of livestock feeding.

11 (g) *Employee* shall mean any individual, including the owner, operator, manager, or
12 other person performing any function in a health-regulated establishment, whether for
13 compensation or otherwise.

14 (h) *Food Establishment* shall mean and includes every establishment or place which is
15 used or occupied as a bakery, confectionary, cannery, dairy, creamery, packing house, grocery,
16 supermarket, meat or poultry market, fruit or vegetable market, delicatessen, beverage plant,
17 slaughterhouse, poultry processing plant, fish processing plant, frozen food processing plant,
18 public market, food warehouse, or for the production, processing, manufacture, preparation for
19 sale, canning, bottling, packing, packaging, storage, sale, or distribution of food.

20 (i) *Health-Regulated Establishment* shall mean any (1) eating and drinking
21 establishment; (2) food establishment; (3) institutional facility; (4) hotel; (5) cosmetic
22 establishment; (6) laundry and dry-cleaning establishment; (7) public swimming pool; (8)

1 mortuary; (9) edible garbage feeding establishment; and (10) any other establishment required to
2 possess a Sanitary Permit issued by the Department.

3 (j) *Hotel* shall mean any structure or any portion of any structure, including any
4 lodging house, rooming house, dormitory (including a dormitory housing for contract employees),
5 health spa, bachelor hotel, studio hotel, motel, private club, containing four (4) or more guest
6 rooms and which is occupied or is intended or designed for occupancy, by four (4) or more guests,
7 whether rent is paid in money, goods, labor, or otherwise, or whether with or without meals. It
8 does not include any penal institutions, hospital, clinic, nursing home, school, laboratory, or child
9 care facility.

10 (k) *Institutional Facility* shall mean any structure or any portion of any structure
11 operating as a child care facility, penal institution, school, hospital, clinic, nursing home, or
12 laboratory as defined in Title 10 GCA, Chapter 25.

13 (l) *Mortuary* shall mean any place used for such activities as are incident, convenient,
14 or related to the preparation and arrangements for the funeral, transportation, burial, cremation, or
15 other disposition of dead human bodies.

16 (m) *Public Laundry* shall mean any place, building, structure, room, establishment,
17 premises or portions thereof, used in the business of making, sorting, washing, drying, starching,
18 ironing, or wearing apparel, household linens and other articles, including any establishment
19 providing laundering equipment for use by customers for a fee, and known by various terms such
20 as laundromat, wash-o-mat, or launderette.

21 (n) *Public Swimming Pool* shall mean any artificial structure, basin, chamber, or tank
22 constructed of impervious material used or intended to be used for swimming, diving, wading, or
23 recreational bathing (but *does not* include conventional bath-tubs where the primary purpose is the

1 cleaning of the body or individual therapeutic tubs) and that is available for public use, whether
2 for a fee or free of charge; or owned or used by any business, partnership, corporation or person
3 for the use of their customers, clients, guests or employees, including, but not limited to, a
4 commercial pool, a community pool or a pool at a hotel, motel, resort, auto park, trailer park,
5 apartment house, or other multiple rental unit, private club, public club, public or private school,
6 gymnasium or health establishment.

7 (o) *Sanitary Permit* shall mean the official document issued by the Department of
8 Public Health and Social Services authorizing a health-regulated establishment to operate its
9 business.

10 (p) *Temporary Food Service Establishment (also known as TFSE)* shall mean any
11 eating and drinking establishment which operates at a fixed location for a period of 1 to 180 days
12 in conjunction with a carnival, fair, circus, exhibition, or other transitory gathering not of a
13 permanent structure, which are further described and identified below based on its duration of
14 operation:

- 15 (1) *TFSE-1* which shall be those operating for 1 day only;
- 16 (2) *TFSE-W* which shall be those operating for 1 day, every week, for a year;
- 17 (3) *TFSE-7* which shall be those operating for up to 7 days, but not less than two
18 consecutive days;
- 19 (4) *TFSE-180* which shall be those operating for up to 180 consecutive days; and
- 20 (5) *TFSE-X* which shall be those operating in various combination of days not
21 defined elsewhere; provided, it does not exceed 180 days.

1 (q) *Special Village Event* shall mean a carnival, fair, circus, exhibition, or other
2 transitory gathering sponsored by the village Municipal Planning Council, *not to exceed* seven (7)
3 consecutive days.

4 **§4505. Sanitary Permit Applications for New and Renewal.**

5 (a) All applications, and supporting documents, for a Sanitary Permit shall be in a
6 form, format, and medium prescribed by the Director.

7 (b) A non-refundable deposit of Thirty Dollars (\$30.00) shall be made to the
8 ‘Treasurer of Guam’ at the time the application for Sanitary Permit is submitted to the Department.
9 Upon completion and processing of the application, the deposit amount shall be deducted from the
10 appropriate fee listed in §4506. In the event the calculated, prorated fee for the Sanitary Permit is
11 less than the non-refundable deposit then the applicant shall pay the prorated fee as the deposit.

12 (c) Any application that remains inactive for sixty (60) consecutive days because of
13 the inaction by the applicant (i.e., pending submission of required supporting documents), shall be
14 considered permanently inactive, removed from the file for processing, and then destroyed, and
15 the non-refundable deposit shall be automatically forfeited.

16 (d) An applicant who wishes to re-apply after his or her application has become
17 permanently inactive under the provision of §4505(c) shall be considered a new applicant and shall
18 re-submit the application and supporting documents and pay all required fees, including the non-
19 refundable deposit fee.

20 (e) Failure to renew a Sanitary Permit within sixty (60) days of the due date shall void
21 the Sanitary Permit. A valid Sanitary Permit may not be reinstated until a new application is filed
22 and approved by the Department and payment is received, along with any other fees and monetary
23 penalty.

1 (f) A health-regulated establishment that fails to renew its Sanitary Permit for two
2 consecutive renewal periods shall be considered inactive, and any application received thereafter
3 for that establishment shall be treated as a new application and meet all the requirements as a new
4 applicant.

5 (g) The expiration date of a Sanitary Permit issued for a Temporary Food Service
6 Establishment shall be the final date of the temporary event.

7 (h) Any Temporary Food Service Establishment or Special Village Event that meets
8 criteria, as determined by the Department, based on the event's anticipated number of people
9 attending, including highly susceptible populations; expected number of vendors; and types of
10 food to be served or offered for sale must provide at least one designated, reserved parking space
11 near the event and a sheltered booth to be utilized by the Department for the duration of the event
12 by the organizer. The designated parking space shall be no further than the nearest parking made
13 available to the event organizer and/or the public, whichever is closer, and the booth shall have, at
14 a minimum, a table for writing that is no less than 24 sq. ft. in size, two chairs, and an overhead
15 protection from the elements, such as a canopy or other covering.

16 **§4506. Fees.** Fees for the issuance of a Sanitary Permit *shall* be as follows:

17 (a) Excluding TFSE, the Sanitary Permit fee for all health-regulated establishments
18 shall be the following, which shall be pro-rated based on the annual renewal date of the permit:

19 (1) Three Hundred Sixty-Eight Dollars (\$368.00), effective immediately upon
20 the adoption of these rules and regulations, if the establishment has 1 to 10 employees. For
21 health-regulated establishments with 11 or more employees, Five Dollars (\$5.00) shall be
22 assessed for each additional employee above 10.

1 (2) Four Hundred Sixty-Eight Dollars (\$468.00) on the second anniversary of
2 these rules and regulations adoption, if the establishment has 1 to 10 employees. For
3 health-regulated establishments with 11 or more employees, Five Dollars (\$5.00) shall be
4 assessed for each additional employee above 10.

5 (3) Five Hundred Sixty-Eight Dollars (\$568.00) on the third anniversary of these
6 rules and regulations adoption, if the establishment has 1 to 10 employees. For health-
7 regulated establishments with 11 or more employees, Five Dollars (\$5.00) shall be assessed
8 for each additional employee above 10.

9 (4) Six Hundred Sixty-Eight Dollars (\$668.00) on the fourth anniversary of these
10 rules and regulations adoption, if the establishment has 1 to 10 employees. For health-
11 regulated establishments with 11 or more employees, Five Dollars (\$5.00) shall be assessed
12 for each additional employee above 10.

13 (5) Seven Hundred Sixty-Eight Dollars (\$768.00) on the fifth anniversary of
14 these rules and regulations adoption, and thereafter, if the establishment has 1 to 10
15 employees. For health-regulated establishments with 11 or more employees, Five Dollars
16 (\$5.00) shall be assessed for each additional employee above 10.

17 (b) The Sanitary Permit fee for Temporary Food Service Establishments shall be:

18 (1) Fifty Dollars (\$50.00) for TFSE-1;

19 (2) One Hundred Fifty-Five Dollars (\$155.00) for TFSE-W;

20 (3) One Hundred Twenty-Five Dollars (\$125.00) for TFSE-7;

21 (4) Two Hundred Dollars (\$200.00) for TFSE-180;

22 (5) Three Hundred Dollars (\$300.00) for TFSE-X; and

1 (6) Twenty-Five Dollars (\$25.00) for Special Village Events officially sponsored
2 by a village Municipal Planning Council, provided, however, that the vendor shall be
3 limited to three (3) events per calendar year per permit issued.

4 (c) The Sanitary Permit fee for vending machines shall be:

5 (1) Five Hundred Dollars (\$500.00) per vending machine for each of the first
6 style or model of vending machine; and

7 (2) Ten Dollars (\$10.00) for each additional vending machine.

8 (d) Issuance of a duplicate Sanitary Permit shall be Ten Dollars (\$10.00).

9 (e) Amendments to an existing Sanitary Permit shall be Ten Dollars (\$10.00).

10 (f) An applicant for a Sanitary Permit may request for the permit to be expedited and
11 processed within 24 hours the request is submitted. The Department may grant such request
12 provided the applicant has met all the requirements of the Department to obtain a Sanitary Permit,
13 including the requirement for the Pre-Operational Inspection. The Department shall assess a fee
14 One Hundred Dollars (\$100.00) for expedited processing in addition to the regular processing fee.
15 Applications for a Sanitary Permit for Temporary Food Service Establishments which are
16 submitted one day or less prior to the event will automatically be assessed an expedited processing
17 fee of Fifty Dollars (\$50.00), in addition to the regular processing fee.

18 (g) The cost of the Pre-Operational Inspection is included in the initial payment for the
19 Sanitary Permit. However, a fee of Fifty Dollars (\$50.00) an hour shall be assessed for all
20 subsequent inspections. With the exception of the first hour, fractional hours shall be rounded up
21 to the nearest whole hour if more than one half (0.5) hour, and rounded down if less than one half
22 (0.5) hour.

1 (h) Request for an expedited Pre-Operational Inspection may be granted, as determined
2 by the Director, if such inspection does not cause the disruption of any pre-existing inspections
3 scheduled for other applicants. The fee for expedited Pre-Operational Inspection shall be Two
4 Hundred Dollars (\$200.00) in addition to all other required fees established in these rules and
5 regulations if performed during normal Government of Guam business hours (8:00 am – 5:00 pm;
6 Monday through Friday). Expedited Pre-Operational Inspection conducted outside normal
7 business hours, including weekends, shall be Five Hundred Dollars (\$500.00).

8 (i) Any establishment that has its Sanitary Permit suspended under the provision of
9 Title 10 GCA, Chapter 21, §21109:

10 (1) That requests and obtains a re-inspection from the Department that results
11 in the finding that it had not corrected all of its violations shall be assessed a fee of One
12 Hundred Twenty-Five Dollars (\$125.00), which must be paid by the establishment prior to
13 any subsequent re-inspection by the Department.

14 (2) That requests to be re-inspected outside normal Government of Guam
15 business hours (8:00 a.m. to 5:00 p.m.; Monday through Friday) may submit a request to
16 the Department, and if approved, shall be assessed a flat fee of Three Hundred Dollars
17 (\$300.00). For any Government of Guam holiday, the fee shall be Six Hundred Dollars
18 (\$600.00), if the request is approved. Payment shall be made on the first business day
19 immediately after the inspection, and if such payment is not made, the Department may re-
20 suspend the Sanitary Permit immediately without any advanced notice and assess all other
21 applicable fees. If the re-inspection results in the non-reinstatement of the Sanitary Permit
22 (i.e., failed inspection) and the establishment fails to make the requirement payment, the

1 Department shall not conduct another re-inspection until such time all outstanding fees
2 have been paid by the establishment.

3 (j) Request for a follow-up sanitation inspection, prior to the date noted in the
4 inspection report, may be granted by the Department if resources permit. The fee for early follow-
5 up sanitation inspection shall be One Hundred Dollars (\$100.00), which shall be paid in advance
6 prior to the inspection.

7 (k) An application to renew a Sanitary Permit shall be received by the Department prior
8 to the date of that permit's expiration date, and any application received after the expiration date
9 shall be assessed a penalty fee of Twenty-Five Dollars (\$25.00), in addition to all other applicable
10 fees.

11 (l) Any health-regulated establishment that operated, regardless of the duration,
12 without a Sanitary Permit shall pay the required Sanitary Permit fee for its annual permit,
13 Temporary Food Service Establishment permit, or the Special Village Event permit, retroactively,
14 for that time period, inclusive of the Twenty Dollars (\$20.00) late application submission fee, if
15 applicable.

16 (m) A Temporary Food Service Establishment, or a sponsor of an event with such
17 establishment, that requests, and is granted, a variance pursuant to the Guam Food Code, which
18 causes the Department to increase its inspection frequency or duration so to closely monitor the
19 establishment in ensuring that the approved modification or waiver does not create any health
20 hazard or nuisance shall pay a fee of Three Hundred Dollars (\$300.00).

21 (n) All fees collected pursuant to these rules and regulations shall be non-refundable.

22 (o) The fee schedule established pursuant to these rules and regulations shall become
23 effective immediately upon enactment.

1 **§4506.1 Notification of Fee Schedule.** The Director shall ensure that notification is
2 provided to all Sanitary Permit licensees relative to the cost for permit renewal prior to the
3 expiration of the Sanitary Permit. The notification may be in a form of a press release to the local
4 news media.

5 **§4507. Administrative Penalty.**

6 (a) Any establishment, which had its Sanitary Permit suspended under the provision of
7 Title 10 GCA, Chapter 21, §21109, is granted reinstatement by the Department as set out in Title
8 10 GCA, Chapter 21, §21110, shall first pay a re-opening fee of Three Hundred Dollars (\$300.00),
9 if it has ten or less employees, or Five Hundred Dollars (\$500.00), if it has eleven or more
10 employees, before the Sanitary Permit is returned or re-issued by the Department.

11 (b) The Department, at its discretion, shall assess monetary fine in accordance with the
12 following:

13 (1) Operating an establishment without a valid Sanitary Permit shall be a fine of no
14 more than Two Thousand Five Hundred Dollars (\$2,500.00) but no less than Three
15 Hundred Fifty Dollars (\$350.00)

16 (2) Transferring a Sanitary Permit to another person or to another location, or
17 posting on or using the permit in any way at any other premises other than for which it was
18 issued shall be a fine of no more than Two Thousand Five Hundred Dollars (\$2,500.00),
19 but no less than Three Hundred Fifty Dollars (\$350.00).

20 (3) Prohibiting the Department from accessing and inspecting its permitted health-
21 regulated establishment shall be a fine of no more than Two Thousand Five Hundred
22 Dollars (\$2,500.00), but no less than Three Hundred Fifty Dollars (\$350.00).

1 (4) Prohibiting the Department from examining and copying its records that are
2 required to be kept and maintained by the health-regulated establishment shall be a fine of
3 no more than One Thousand Dollars (\$1,000.00), but no less than Two Hundred Dollars
4 (\$200.00).

5 (5) Removing, defacing, destroying, or concealing an inspection report, letter
6 grade, or closure notice shall be a fine of no more than One Thousand Dollars (\$1,000.00),
7 but no less than Two Hundred Fifty Dollars (\$250.00).

8 (6) Knowingly authorizing a person to work who has a communicable disease that
9 can potentially be transmitted to the public in the course of that person's employment shall
10 be a fine of no more than Five Thousand Dollars (\$5,000.00), but no less than Five Hundred
11 Dollars (\$500.00).

12 (7) Having a repeat violation of the same critical requirement, with the assigned six
13 (6) demerit points, within a one-year period (365 days) shall be a fine of no more than One
14 Thousand Dollars (\$1,000.00), but no less than One Hundred Dollars (\$100.00) per
15 violation.

16 (8) Operating an eating and drinking establishment or food establishment without
17 a manager who possesses a Certificate of Management Certification shall be a fine of no
18 more than One Thousand Dollars (\$1,000.00), but no less than Two Hundred Dollars
19 (\$200.00).

20 (9) Importing a consumer item regulated by Title 10 Guam Code Annotated,
21 Chapter 32 (Hazardous Substances Act) and Chapter 40 (Guam Food, Drug and Cosmetic
22 Act) that is misbranded, adulterated, or otherwise prohibited by law shall be a fine of no

1 more than Twenty-Five Thousand Dollars (\$25,000.00), but no less than Five Hundred
2 Dollars (\$500.00).

3 (c) Assessment of monetary penalty may occur concurrently with other administrative,
4 civil, and/or criminal penalty authorized by law.

5 (d) Before imposing an administrative penalty against a person or a health-regulated
6 establishment, the Director shall issue a notice of intent to impose the penalty and provide the
7 individual or business an opportunity to request a hearing on the proposed penalty. The request
8 must be made within fifteen (15) business days of the date the notice of intent is served upon the
9 person or health-regulated establishment. Serving of the notice of intent to the person in charge
10 of the health-regulated establishment, or by certified mail to the last known mailing address of the
11 health-regulated establishment, shall be acceptable means of notification.

12 (e) The administrative penalty hearing shall be held in accordance with the
13 Administrative Adjudication Law (Title 5 GCA, Chapter 9).

14 (f) Any person or health-regulated establishment may seek review of any administrative
15 penalty imposed before the Superior Court of Guam. Such review shall be upon the record
16 established before the Director and not de novo. The Superior Court may sustain, modify, or
17 vacate any administrative penalty it reviews.

18 (g) If any person or health-regulated establishment fails to comply with an administrative
19 penalty order after it has become final:

20 (1) The Director may suspend the Sanitary Permit of the health-regulated
21 establishment until such time that the payment is made in full, but not before a written
22 notice is issued to the establishment notifying it of the action by serving of such notice to
23 the person in charge of the health-regulated establishment, or by certified mail to the last

1 known mailing address of the health-regulated establishment, at least seven (7) calendar
2 days before the suspension takes effect; or

3 (2) The Director may forward the matter to the Attorney General of Guam to bring
4 a civil action to enforce the order, or to recover the amount ordered or assessed, in
5 accordance to law.

6 (3) The Director may pursue both §4507(g)(1) and §4507(g)(2), if he/she so
7 desires.

8 **§4508. Suspension or Revocation of Sanitary Permit.**

9 (a) The Director may suspend or revoke any Sanitary Permit under the provisions of Title
10 10 GCA, Chapter 21, §§21107(2)(d) and 21109, or upon any violation by a health-regulated
11 establishment or by any of its employees for any environmental health violation under Title 10 of
12 the Guam Code Annotated, Chapters 20 through 33 and 35 through 40, or any rules and regulations
13 promulgated concerning Sanitary Permits.

14 (b) A health-regulated establishment with a suspended Sanitary Permit, as one of its
15 conditions in having its Sanitary Permit reinstated, shall be required the following:

16 (1) The staff and management receive applicable training and/or consultation
17 from the Department; and

18 (2) Submits a corrective action plan and/or other applicable, related
19 documentation to the Department.

20 The date, time, and venue for the training or consultation shall be coordinated between the
21 Department and the health-regulated establishment.

1 **§4509. Hearing.** (a) Any health-regulated establishment whose Sanitary Permit is to be
2 suspended or revoked *shall* be notified by the Director in writing of the Department’s intention
3 and the reasons therefore.

4 (b) Any health-regulated establishment that receives a notice of violation with intent to
5 suspend or revoke as described in Subsection (a) of this §4508 and that wishes to contest *shall*
6 request a hearing with the Director in writing *no later than* fifteen (15) calendar days after receipt
7 of the notice, and *shall* state the grounds for objecting to the intended suspension or revocation.
8 The Administrative Adjudication Law’s hearing procedure applies.

9 (c) Upon completion of a hearing, the Director *shall* make a written determination
10 concerning the violation and whether a suspension or revocation is to be imposed.

11 **§45010. Suspension without Hearing.** (a) In accordance ~~to~~ with Title 10 GCA, Chapter
12 21, §§21107(d) and 21109(a) and (b), a Sanitary Permit may be suspended without prior hearing:

13 (1) when the demerit score of the establishment is more than forty (40);

14 (2) at the discretion of the Director for violating any provisions of Title 10
15 GCA, Chapters 20 through 40; and

16 (3) for twice violating the same requirement deemed critical under the
17 applicable rules and regulations of the Department within any six-month period, in which
18 case, it *shall not* exceed five (5) days.

19 (b) A suspension without prior hearing may remain in effect until the violation is
20 corrected by the establishment, or resolved after a hearing in accordance with the Administrative
21 Adjudication Law. The Director *shall* have the discretion to decide whether the suspension shall
22 be continued pending a hearing.

1 **§4511. Effective Date.** These rules and regulations *shall* become effective immediately
2 upon enactment.

3 **§4512. Severability.** *If* any provision or application of any provision of these rules and
4 regulations are held invalid, such invalidity shall *not* affect the other provisions or applications of
5 these rules and regulations.