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CH. 21 SANITATION**

**CHAPTER 21  
SANITATION**

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**§ 21101. Sanitary Permit.**

It shall be unlawful for any person to operate or open for business:

(a) Any establishment or activity as a food service establishment, temporary food service establishment, mobile food service establishment or vending machine, as defined in Chapter 23;

(b) Any food establishment as defined in Chapter 24;

(c) Any institutional facility as defined in Chapter 25;

(d) Any hotel as defined in Chapter 26;

(e) Any cosmetic establishment as defined in Chapter 27;

(f) Any public laundry or dry cleaning establishment as defined in Chapter 28;

(g) Any public swimming as defined in Chapter 29; or

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(h) Any mortuary as defined in Chapter 30 without a valid sanitary permit for such establishment or activity, (hereinafter referred to as "permit"); issued by the Director. Such permit shall be displayed at all times in a conspicuous place in the premises designated by the Director. Only persons who comply with the pertinent provisions of this Part shall be entitled to receive and retain such permit. This Chapter shall not apply to the operation of any establishment, including any market, wayside stand or roadside stand used exclusively for the sale of (1) fresh, unprocessed fruits, vegetables and nuts; (2) eggs; (3) live poultry; (4) live pigs; (5) other live animals, except dogs and cats and other such animals as stipulated by the Director, by the original producer thereof in his own property; or (6) liquor or canned or bottled soft drinks.

**SOURCE:** GC 9510.

**§ 21102. Regulations.**

(a) The Director shall promulgate regulations as required relative to the physical structure required for sanitary operations of:

- (1) eating and drinking establishments as defined in Chapter 23;
- (2) a food establishment as defined in Chapter 24;
- (3) institutional facilities as defined in Chapter 25;
- (4) hotels as defined in Chapter 26;
- (5) a cosmetic establishment as defined in Chapter 27;
- (6) laundry and dry cleaning establishments as defined in Chapter 28; and
- (7) mortuary as defined in Chapter 30.

(b) The regulations adopted by the Director shall include requirements for sanitation, plumbing or drainage.

(c) Plans and specifications shall be submitted to the Director in accordance with the requirements established in regulations which shall include at least the following:

- (1) the total area to be used for the regulated establishment;

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(2) the rooms in which the regulated activities are to be conducted;

(3) the location, number and types of plumbing fixtures including all water supply facility and toilet rooms; and

(4) general layout of fixtures and other equipment.

(d) No person shall construct, reconstruct or alter any of the regulated establishments without first obtaining a permit from the Department. To apply for a permit, the applicant must submit complete, detailed plans of the regulated establishment, site plans and any other information as required by the Director. Construction, reconstruction or alteration shall not be started until the plans for the establishment are approved by the Director.

The requirements of this Subsection are in addition to the building permit program administered by the Department of Public Works. Permit issuance and approval by the Director of Public Health and Social Services does not relieve the applicant from the obligation and responsibility of obtaining all necessary and required Public Works building permits.

(e) Before any person shall commence to operate or open for business any establishment or activity listed in Subsection (a) of this Section, he shall notify the Director in writing of his intent to operate. The Director shall review the plans and specifications and inspect the location to determine whether plans have been in compliance with the regulations promulgated and other provisions of this Part.

(f) If the application is for a temporary food service establishment, then it shall also include the inclusive dates of the proposed operation which shall not exceed six (6) months.

**SOURCE:** GC § 9510.1.

**§ 21103. Form, Duration and Charges for Permit and Annual Renewal.**

The form of the permit shall be prescribed by the Director. It shall be renewed on June 30 of every year. The fee for the permit shall be determined by the Director by regulation and shall be collected by him.

**SOURCE:** GC § 9510.2.

**§ 21104. Inspection.**

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As often as may be deemed necessary and, at least once every three (3) months, the Director shall inspect every establishment or activity subject to this Chapter. The date of each inspection shall be noted on the permit. The person in charge shall upon request permit access to all parts of the establishment and shall permit examination and copying of any or all records and persons employed.

**SOURCE:** GC § 9510.3.

**§ 21105. Posting of Report.**

One (1) copy of the inspection report shall be posted by the Director in a conspicuous place on the premises designated by him. No person other than the Director shall remove, deface, destroy or conceal such report. The original of the report shall be retained by the Director.

**SOURCE:** GC § 9510.4.

**§ 21106. Inspection Records; Demerit Values; Demerit Scores.**

Whenever the Director makes an inspection, he shall record his findings on an inspection report form to the permit holder or operator. For each violation, a demerit value shall be assigned. Upon completion of an inspection, the Director shall total the demerit point values for all requirements in violation, such total becoming the demerit score for the establishment.

**SOURCE:** GC § 9510.5.

**§ 21107. Issuance of Notices.**

Whenever the Director makes an inspection and discovers that any of the applicable law or rule has been violated, he shall notify the permit holder or operator of such violations by means of an inspection report form or other written notice. In such notification, the Director shall:

(1) Set forth the specific violations found, together with the demerit score of the establishment;

(2) Establish a specific and reasonable period of time for correction of the violations found, in accordance with the following provision:

(a) when the demerit score of the establishment is twenty (20) or less, all violations of two (2) or four (4) demerits must be corrected within a period of time not to exceed thirty (30) days; or

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(b) when the demerit score of the establishment is more than twenty (20) but not more than forty (40), all items of two (2) or four (4) demerit points must be corrected within a period of time not to exceed fifteen (15) days; or

(c) when one (1) or more six (6) demerit point items are in violation, regardless of demerit score, such items must be corrected within a period of time not to exceed ten (10) days; and

(d) when the demerit score of the establishment is more than forty (40), the sanitary permit shall be immediately suspended; and

(e) in the case of temporary food service establishments, violations must be corrected within a specified period of time not to exceed twenty-four (24) hours. Failure to comply with such notice shall result in immediate suspension of the permit.

(3) State that failure to comply with any notice issued in accordance with the provisions of any applicable laws, rules or regulations may result in immediate suspension of the permit or the establishment downgraded; and

(4) State that an opportunity for appeal from any notice or inspection findings will be provided if a written request for a hearing is filed with the Director within the period of time established in the notice for corrections.

**SOURCE:** GC § 9510.6.

**§ 21108. Service of Notices.**

Notices provided for under this Section shall be deemed to have been properly served when a copy of the inspection report form or other notice has been delivered personally to the permit holder or person in charge, or such notice has been sent by registered or certified mail return receipt requested to the last known address of the permit holder. A copy of such notice shall be filed with the records of the Director.

**SOURCE:** GC § 9510.7.

**§ 21109. Suspension and Revocation of Permit.**

(a) A permit may be suspended by the Director pursuant to § 21107(2)(d) or upon the violation by the holder or by a person in his employ or under his supervision or control of any of the provisions of this Part.

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(b) Suspension of a permit may be imposed without prior hearing in the discretion of the Director by giving written notice thereof to the holder, in which case, the holder shall have five (5) days within which to request a hearing. Suspension without prior hearing may be imposed for such time until the violation is corrected; or may be imposed as a penalty for repeated violations, in which case, it shall not exceed five (5) days; or may be imposed pending a hearing under Subsections (c) or (d) of this Section. When a hearing is requested following a suspension without prior hearing, it shall be discretionary with the Director as to whether the suspension shall be continued pending the hearing. Hearings requested following the suspension of a permit without prior hearing shall be conducted in accordance with the provisions of the Administrative Adjudication Law.

(c) Suspension of a permit may occur following a hearing conducted in accordance with the provisions of the Administrative Adjudication Law. Suspension may be imposed for such time until the violation is corrected or may be imposed as a penalty for repeated violation, in which case, it shall not exceed six (6) months. Hearings shall be conducted in accordance with the provisions of the Administrative Adjudication Law.

(d) Revocation of a permit may occur following a hearing conducted in accordance with the provisions of the Administrative Adjudication Law.

(e) Following a hearing, a judicial review of the Director's decision may be held in accordance with the provisions of the Administrative Adjudication Law. Pending final determination upon such judicial review, it shall be discretionary with the Court to stay the enforcement of the order of suspension or revocation upon the furnishing of adequate bond.

**SOURCE:** GC § 9510.8.

**§ 21110. Reinstatement of Permit.**

When the holder of a permit believes he has corrected a condition upon his premises or some other violation for which his permit has been suspended, he may make application to the Director for reinstatement of the permit. This application may be in the form of a letter. Upon the receipt of such an application, the Director shall make an inspection of the premises. If the findings of this inspection show that the violation has been corrected, the Director may, in his discretion, reinstate the permit, but shall reinstate

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the permit where suspension was imposed for such time until violations were corrected.

**SOURCE:** GC § 9510.9.

**§ 21111. Revoked Permit May Not be Reinstated.**

When a permit has been revoked, it no longer has any validity and may not be reinstated except upon order of a court.

**SOURCE:** GC 9510.10.

**§ 21112. New Permit Barred for Six (6) Months.**

No person whose permit has been revoked shall be eligible to obtain a new permit for a period of six (6) months.

**SOURCE:** GC § 9510.11.

**§ 21113. Closing; Chief of Police.**

The Director shall effect the closing of any establishment or activity whose permit has been suspended or revoked. Upon the request of the Director, the Chief of Police shall provide police personnel to enforce such closing.

**SOURCE:** GC § 9510.12.

**NOTE:** References to "Director of Public Safety" changed to *Chief of Police* pursuant to P.L. 17-78:1, which repealed §5102 GC providing for the Department of Public Safety and reenacted §5102 establishing the Guam Police Department.

**§ 21114. Closure to Be Posted.**

Whenever any establishment requiring a permit is closed by the Director, the Director shall post a notice, easily visible to the public, stating that said establishment is closed by order of the Director.

**SOURCE:** GC 9510.13.

**§ 21115. Automatic Suspension of Alcoholic Beverage License and Business License.**

Upon the suspension or revocation of a permit, any alcoholic beverage license previously issued to the permit holder with respect to the same premises shall thereby be automatically suspended and it shall be unlawful to operate under such alcoholic beverage or business license during the period of suspension or after the revocation. This Section shall not be

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construed to preclude any action under the Alcoholic Beverage Control Law or Business License Law for enforcement of the provisions of such law.

**SOURCE:** GC § 9510.14.

**§ 21116. Notification of Chief of Police.**

The Director shall notify the Chief of Police of any suspension or revocation of a permit.

**SOURCE:** GC § 9510.15.

**NOTE:** References to "Director of Public Safety" changed to *Chief of Police* pursuant to P.L. 17-78:1, which repealed §5102 GC providing for the Department of Public Safety and reenacted §5102 establishing the Guam P

**§ 21117. Transfer Forbidden.**

It shall be unlawful to transfer a permit to another person or to another location or to post it on or use it in any way in connection with any other premises than that for which it is issued.

**NOTE:** GC § 9510.16.

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