

**MINA TRENTAI UNU NA LIHESLATURAN GUAHAN**

**2011 (FIRST) Regular Session**

Bill No. 137-31(LS)

Introduced by:

**D. G. RODRIGUEZ, JR.**  
**THOMAS C. ADA**

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D.G.R.

**AN ACT TO ESTABLISH THE ADMINISTRATIVE  
RULES AND REGULATIONS OF THE DEPARTMENT  
OF PUBLIC HEALTH & SOCIAL SERVICES RELATIVE  
TO THE ISSUANCE OF SANITARY PERMITS, UNDER  
ARTICLE 5 OF CHAPTER 4, DIVISION 1, TITLE 26,  
GUAM ADMINISTRATIVE RULES AND REGULATIONS.**

**BE IT ENACTED BY THE PEOPLE OF GUAM:**

**Section 1. Legislative Findings and Intent.** *I Liheslaturan Guahan* finds that the proposed administrative rules and regulations pursuant to this Act for the issuance of sanitary permits, as provided pursuant to §20105 and §21102 of Chapter 20, Division 2, Part 1, Title 10, Guam Code Annotated (GC §9500.2), and as further provided pursuant to §26308 of Chapter 26A, Division 2, Title 10, Guam Code Annotated (P.L. 30-64), which authorizes the Director of the Department of Public Health and Social Services to promulgate rules and regulations necessary to carry out the provisions of the law governing the sanitary operations of health-regulated establishments, is appropriate and necessary.

1 Further, *I Liheslaturan Guahan* takes due note that the Department of Public  
2 Health & Social Services, in the development of the proposed guidelines addressed  
3 herein, made a good faith effort to be inclusive of the affected stakeholders in the  
4 industry.

5 It is the intent of *I Liheslaturan Guahan* to provide for the initial  
6 establishment of the administrative rules and regulations for the issuance of  
7 sanitary permits, as provided pursuant to §26308 of Chapter 26A, Division 2, Title  
8 10, Guam Code Annotated (P.L. 30-64), and applicable law.

9 Further, so as to insure that the rules adopted pursuant to this Act remain  
10 pertinent to and consistent with the needs of the community, it is the intent of *I*  
11 *Liheslaturan Guahan* to provide an authorization and mandate for the Department  
12 of Public Health & Social Services to regularly review the rules adopted pursuant  
13 to this Act, and as appropriate promulgate amendments thereto pursuant to Article  
14 3 - Rule Making Procedures, of Chapter 9, Title 5, Guam Code Annotated.

15 **Section 2.** The Rules and Regulations provided pursuant to Article 5 of  
16 Chapter 4, Division 1, Title 26, Guam Administrative Rules and Regulations, are  
17 hereby repealed in its entirety.

18 **Section 3. Adoption of Rules.** Notwithstanding any other provision of law,  
19 rule, regulation and Executive Order, the rules and regulations of the Department  
20 of Public Health & Social Services for the Issuance of Sanitary Permits, and  
21 attached hereto as Exhibit “A”, to be codified under Article 5 of Chapter 4,  
22 Division 1, Title 26, Guam Administrative Rules and Regulations, **is hereby**  
23 **adopted** by *I Mina Trentai Unu Na Liheslaturan Guahan*.

24 **Section 4. Amendment of Rules.** The Department of Public Health &

1 Social Services *shall*, at a minimum of every five years, and pursuant to Article 3-  
2 Rule Making Procedures, of Chapter 9, Title 5, Guam Code Annotated, review and  
3 amend the administrative rules and regulations adopted pursuant to Section 3 of  
4 this Act.

5 **Section 5. Effective Date.** The administrative rules and regulations  
6 adopted pursuant to Section 2 of this Act shall become effective upon enactment.

1 **Exhibit “A”**

2 **Title 26 Guam Administrative Rules and Regulations**

3 **Chapter 4**

4 **“Article 5**

5 **“RULES AND REGULATIONS GOVERNING THE ISSUANCE OF**  
6 **SANITARY PERMIT”**

7 **DIVISION OF ENVIRONMENTAL HEALTH**

8 **DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES**

9 **123 CHALAN KARETA**

10 **MANGILAO, GUAM 96910-6304**

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1 of the law governing the sanitary operations of health-regulated establishments.

2       **§4503. Title.** These rules and regulations shall also be known and cited as  
3 the *Sanitary Permit Rules and Regulations*.

4       **§4504. Definitions.** As used in these rules and regulations:

5       (a) *Chemical Toilet* shall mean a building or structure housing one (1) or  
6 more water-tight containers of liquid chemical disinfectants intended to receive  
7 and hold human excrement.

8       (b) *Cosmetic Establishment* shall mean any premises or portion thereof,  
9 wherein any of the following is practiced for compensation:

10           (1) shaving, clipping, trimming, or cutting human hair;

11           (2) singeing, shampooing, arranging, adorning, dressing, curling,  
12 waving, permanent waving, tinting, applying tonic to or dyeing human hair;

13           (3) giving facial, scalp, neck or body massages or treatments with  
14 oils, creams, lotions, or other preparations either by hand or mechanical  
15 appliances;

16           (4) applying cosmetic preparations, antiseptics, powders, oils, clays,  
17 lotions, or other preparations to scalp, face, neck, or hands; or

18           (5) manicuring or pedicuring.

19       (c) *Department* shall mean the Department of Public Health and Social  
20 Services of the Government of Guam;

21       (d) *Director* shall mean the Director of the Department of Public Health and  
22 Social Services, or his designated representative;

23       (e) *Dry cleaning* shall mean any place, building, structure, room, premises,

1 or portions thereof, used in the business of dry cleaning and dyeing of wearing  
2 apparel, house-hold linens and other articles, including coin-operated dry cleaning  
3 establishments;

4 (f) *Eating and Drinking Establishment* shall mean any food service  
5 establishment, mobile food service establishment, or vending machine;

6 (g) *Edible Garbage Feeding Establishment* shall mean swill or leavings of  
7 food or any abandoned, spoiled, condemned meat, fish, fowl, vegetable matter or  
8 offal from slaughtered animals, liquid or solid, which is free of toxic, or deleterious  
9 substances, and is deemed by the Director as being suitable for use solely as animal  
10 feed;

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

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

22 (j) *Health-Regulated Establishment* shall mean any (1) eating and  
23 drinking establishment; (2) food establishment; (3) institutional facilities; (4) hotels;  
24 (5) cosmetic establishment; (6) laundry and dry cleaning establishment; (7) public

1 swimming pool; (8) mortuary; (9) edible garbage feeding establishment; (10)  
2 chemical toilet; and (11) any other establishment required to possess a Sanitary  
3 Permit issued by the Department;

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

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

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

20 (n) *Mortuary* shall mean any place used for such activities as are incident,  
21 convenient, or related to the preparation and arrangements for the funeral,  
22 transportation, burial, cremation, or other disposition of dead human bodies;

23 (o) *Public swimming pool* shall mean any artificial structure, basin,  
24 chamber, or tank constructed or impervious material used or intended to be used



1 for swimming, diving, wading, or recreational bathing, except it does not include  
2 conventional bath-tubs where the primary purposes is the cleaning of the body or  
3 individual therapeutic tubs, and that is available for public use, whether for fee or  
4 free of charge; or any business, partnership, corporation or person for the use of  
5 their customers, clients, guests or employees including but not limited to a  
6 commercial pool, a community pool or a pool at a hotel, motel, resort, auto park,  
7 trailer park, apartment house, or other multiple rental unit, private club, public club,  
8 public or private school, gymnasium or health establishment;

9 (p) *Sanitary Permit* shall mean the official document issued by the  
10 Department of Public Health and Social Services authorizing a health-regulated  
11 establishment to operate its business; and

12 (q) *Temporary Food Service Establishment* shall mean any eating and  
13 drinking establishment which operates at a fixed location for a period of time not  
14 exceeding six (6) months in conjunction with a carnival, fair, circus, exhibition, or  
15 other transitory gathering not of a permanent structure.

16 **§4505. Applications.** (a) All applications for sanitary permits shall be  
17 in a form prescribed by the Director.

18 (b) A non-refundable deposit of Twenty Dollars (\$20.00) shall be made  
19 to the ‘Treasurer of Guam’ at the time the application for Sanitary Permit is  
20 submitted to the Department. Upon completion and processing of the application,  
21 the deposit amount shall be deducted from the appropriate fee listed in §4506.

22 (c) Any application that remains inactive for sixty (60) consecutive days  
23 shall be considered permanently inactive, removed from the file for processing,

1 and then destroyed, and the non-refundable Twenty Dollars (\$20.00) deposit shall  
2 be automatically forfeited.

3 (d) An applicant who wishes to re-apply after his or her application has  
4 become permanently inactive under the provision of §4505(c) shall be considered a  
5 new applicant and shall re-submit the application and supporting documents and  
6 pay all required fees, including the Twenty Dollars (\$20.00) non-refundable  
7 deposit fee.

8 (e) The expiration date of a Sanitary Permit issued for a temporary food  
9 service establishment shall be the final date of the temporary event.

10 **§4506. Fees.** Fees for the issuance of a Sanitary Permit shall be as follows:

11 *(a) The Sanitary Permit fee for the following health-regulated*  
12 *establishments shall be Two Hundred Ninety Dollars (\$290) if the*  
13 *establishment has 1 to 10 employees, and Five Dollars (\$5.00) for each*  
14 *additional employee thereafter.*

15 (1) Eating and drinking establishments, excluding vending  
16 machines and temporary food service establishments;

17 (2) Food establishments;

18 (3) Institutional facilities;

19 (4) Hotels;

20 (5) Cosmetic establishments;

21 (6) Laundry and dry cleaning establishments;

22 (7) Public swimming pools;

23 (8) Mortuaries;

24 (9) Edible garbage feeding establishments;

25 (10) Commercial animal establishments; and

1 (11) Any other establishment required to obtain a Sanitary Permit  
2 from the Department not explicitly mentioned in these rules and regulations.

3 (b) *The Sanitary Permit fee for temporary food service establishments*  
4 *shall be:*

5 (1) *One Hundred Dollars (\$100.00) for those operating for less*  
6 *than six (6) months, but more than three (3) days; and*

7 (2) *Fifty Dollars (\$50.00) for those operating for three (3) days or*  
8 *less.*

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

10 (1) Two Hundred Ninety Dollars (\$290) per vending machine for  
11 each of the first style or model of vending machine; and

12 (2) Five Dollars (\$5.00) for each additional vending machine.

13 (d) The Sanitary Permit fee for chemical toilet operator shall be Five  
14 Hundred Dollars (\$500.00) regardless of the number chemical toilets possessed by  
15 the operator.

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

17 (f) Amendments to an existing Sanitary Permit shall be Ten Dollars  
18 (\$10.00).

19 (g) An applicant for a Sanitary Permit may request for the permit to be  
20 expedited and processed on the same day the request is submitted. The Department  
21 may grant such requests provided the applicant has met all the requirements of the  
22 Department to obtain a Sanitary Permit, including the requirement for the pre-  
23 operational structural inspection. The Department shall assess a fee of Seventy-  
24 Five Dollars (\$75) for expedited processing in addition to the regular processing fee.

1 Applications for a Sanitary Permit for temporary food service establishments which  
2 are submitted one day or less prior to the event will automatically be assessed an  
3 expedited processing fee.

4 (h) The cost of the structural inspection, also known as a pre-operation  
5 inspection, is included in the initial payment for the Sanitary Permit. However, a  
6 fee of Fifty Dollars (\$50) an hour shall be assessed for all subsequent inspections.  
7 With the exception of the first hour, fractional hours shall be rounded up to the  
8 nearest whole hour if more than 0.5 hour, and rounded down if less than 0.5 hour.

9 (i) Requests for an expedited structural inspection may be granted as  
10 determined by the Director if such inspection does not cause the disruption of any  
11 pre-existing inspections scheduled for other applicants. The fee for expedited  
12 structural inspections shall be One Hundred Fifty Dollars (\$150) in addition to all  
13 other required fees established in these rules and regulations.

14 (j) Any establishment whose Sanitary Permit is suspended under the  
15 provisions of Title 10 GCA, Chapter 21, §21109, and who is granted reinstatement  
16 by the Department as set out in Title 10 GCA, Chapter 21, §21110, shall first pay a  
17 re-opening fee of One Hundred Dollars (\$100) before the permit is returned or re-  
18 issued.

19 **§4507. Suspension or Revocation of Sanitary Permit.** The Director  
20 may suspend or revoke any Sanitary Permit under the provisions of Title 10 GCA,  
21 Chapter 21, §21107(2)(d) or upon any violation by a health-regulated  
22 establishment or by any of its employees for any environmental health violation  
23 under Title 10 of the Guam Code Annotated, Chapters 20 through 40, or any rules  
24 and regulations promulgated concerning Sanitary Permits.

1           **§4508. Hearing.** (a) Any health-regulated establishment whose Sanitary  
2 Permit is to be suspended or revoked shall be notified by the Director in writing of  
3 the Department’s intention and the reasons therefore.

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

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

13           **§4509. Suspension without Hearing.** (a) In accordance to Title 10 GCA,  
14 Chapter 21, §§21107(d) and 21109(a) and (b), a Sanitary Permit may be suspended  
15 without prior hearing:

16           (1) When the demerit score of the establishment is more than forty  
17 (40);

18           (2) At the discretion of the Director for violating any provisions of  
19 Title 10 GCA, Chapters 20 through 40; and

20           (3) For twice violating the same requirement deemed critical under  
21 the applicable rules and regulations of the Department within any six-month  
22 period, in which case, it shall not exceed five (5) days.

23          (b) A suspension without prior hearing may remain in effect until the  
24 violation is corrected by the establishment, or resolved after a hearing in

1 accordance with the Administrative Adjudication Law. The Director shall have the  
2 discretion to decide whether the suspension shall be continued pending a hearing.

3 **§4510. Effective Date.** These rules and regulations shall become effective  
4 immediately upon enactment.

5 **§4511. Severability.** If any provision or application of any provision of  
6 these rules and regulations are held invalid, such invalidity shall not affect the  
7 other provisions or applications of these rules and regulations.”