

## **Part 100 - Sanitary Permits**

### **§ 140-20.1-101 Sanitary Permits Required**

It shall be unlawful for any person to operate or open the following business without a valid and current sanitary permit for such establishment or activity:

- (a) Funeral establishments, crematoriums, and cemeteries;
- (b) Any establishment or activity involving food or drink service, temporary food service, food retail, wholesale and transportation operations, pushcarts, caterers, or motor vehicle food vendors;
- (c) Food manufacturing, processing, packaging, importation, distribution, and warehousing facilities;
- (d) Barber shops and beauty parlors;
- (e) Ice, water, and other beverage bottling plants and distributors thereof;
- (f) Tattoo and/or body piercing shops;
- (g) Massage parlors, bathing houses, spas, and gymnasiums;
- (h) Health-clinics and convalescent homes;
- (i) Schools and other child-care facilities;
- (j) Penal institutions;
- (k) Hotels, motels, and other room accommodations;
- (l) Vector control and sanitation of aircraft, ships, and commercial premises;
- (m) Swimming pools and water parks.

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

Commission Comment: The Commission created the section title. The Commission inserted commas after the words “crematoriums” in subsection (a), “spas” in subsection (g), and “ships” in subsection (l) pursuant to 1 CMC § 3806(g).

### **§ 140-20.1-105 Display of Sanitary Permits**

Each establishment’s current sanitary permit shall be displayed at all times in a conspicuous place on the premises so that it may be readily viewed by members of the public.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

Commission Comment: The Commission changed “establishments” to “establishment’s” to correct a manifest error.

### **§ 140-20.1-110 Compliance with CNMI and Federal Law**

Only persons who comply with the Act and the regulations in this subchapter shall be entitled to receive and retain such permit. Permit issuance and approval by the Secretary does not relieve the applicant from the obligation and responsibility of obtaining all necessary and required CNMI and/or federal government permits.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

Commission Comment: The Commission created the section title.

### **§ 140-20.1-115 Pre-operation Inspections Required**

Before any person shall commence to operate or open for business any establishment or activity listed above, where a sanitary permit is required, he or she shall complete an application requesting a pre-operation inspection by a health inspector.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

Commission Comment: The Commission created the section title.

### **§ 140-20.1-120 Compliance with Act and Regulations**

The health inspector shall inspect the location to determine whether such business or establishment satisfies the sanitation and environmental health standards established by the Act and the regulations in this subchapter. If the application is for a temporary food service establishment, then it shall also include the beginning and ending dates of the proposed operation.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

Commission Comment: The Commission created the section title.

### **§ 140-20.1-125 Form and Charges for Permit and Annual Renewal**

The Secretary shall prescribe the form of the permit. All sanitary permits issued under this Act and regulations promulgated there under shall terminate and be renewable annually on the anniversary of the date of application. No refunds shall be made on the unused portions of the permit or upon applications that have been denied.

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

### **§ 140-20.1-130 Fees**

Fees for the issuance of sanitary permits, the duplication of sanitary permits, inspections, compliance education and consultation, and other activities provided for under this Act are as set forth on the attached Department of Public Health, Bureau of Environmental Health Fee Schedule [Appendix A]. Any other charges shall be established by posting in the offices of the Bureau.

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

### **§ 140-20.1-135 Transfer of Permit 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 other than that for which it was issued.

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

#### **Part 200 Inspection**

### **§ 140-20.1-201 Pre-operation Inspections**

Before a sanitary permit is issued, a health inspector shall conduct one or more pre-operation inspections to verify that:

- (a) The applicant has been issued a business license by the Department of Commerce to conduct the particular business for which the sanitary permit is being requested;
- (b) The applicant has obtained a certificate of occupancy from the Department of Public Works after establishing that the building and equipment, as defined in the Building and Safety Code at 7 CMC § 7122, are in compliance with law; and
- (c) The applicant's establishment is sanitary and complies with the requirements of the Act and the regulations in this subchapter.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

Commission Comment: In subsection (c), the Commission inserted the final period.

### **§ 140-20.1-205 Inspection Frequency**

- (a) Once a sanitary permit has been granted to an applicant, a health inspector shall conduct an inspection of the establishment at least once every six months thereafter unless otherwise provided below.

(b) Except as provided under additional inspections below, at such time that an establishment receives a grade “A” on three consecutive inspections, inspections of the establishment shall be reduced to one per year until such time that the establishment receives a grade “B” or lower on an inspection. After receiving a grade “B” or lower, the establishment shall be subject to inspections once every six months until such time that the establishment again qualifies for the reduced number of inspections under this section.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

### **§ 140-20.1-210 Inspection for Permit Renewal**

The health inspector shall inspect an establishment before issuing an annual renewal of the sanitary permit.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

### **§ 140-20.1-215 Additional Inspections**

Additional inspections shall be prioritized, and may be conducted more frequently than once every six months based on consideration of the following:

- (a) Past performance on an inspection, which uncovered adverse public health conditions and nonconformance with critical control points;
- (b) The risk of potential hazards unique to the specific type of business conducted, including the extent of potential hazard to the public;
- (c) The number of people who may be affected should an imminent health hazard occur, and whether the population served is a highly susceptible population to the potential hazard; and
- (d) Complaints received by the Secretary concerning the establishments operation or sanitary condition that may present an unacceptable health risk.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

### **§ 140-20.1-220 Access to Premises and Due Notice**

After the health inspector presents official credentials and provides notice of intent to inspect the establishment or premises during the hours of operation or other reasonable time, the person in charge shall permit the health inspector access, either in the company of an employee or otherwise, to all persons employed by, and to all parts of the establishment or premises, and shall permit

examination and copying of any and all records, to insure compliance with this Act and the regulations promulgated there under.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

#### **§ 140-20.1-225 Denial of Access**

If the person in charge denies access to the health inspector, the health inspector shall inform the person in charge that:

- (a) The holder of a sanitary permit is required to allow access to health inspectors as specified under the Act; and
- (b) Access to the establishment or premises is a condition of maintaining a sanitary permit to operate an establishment.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

Commission Comment: The Commission created the section title.

#### **§ 140-20.1-230 Suspension of Sanitary Permit**

If, after the health inspector presents this information, the person in charge is still unwilling to grant access to the establishment or premises, the health inspector shall schedule a hearing within ten working days to suspend the sanitary permit on the basis of being unable to conduct an inspection. The health inspector shall note in the inspection report the details surrounding the person in charge's refusal to grant access to the establishment or premises.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

Commission Comment: The Commission created the section title.

### **Part 300 - Inspection Reports; Demerit Values; Demerit Scores**

#### **§ 140-20.1-301 Inspection Reports**

Whenever the health inspector makes an inspection and discovers that any provision of the Act or regulations has been violated, he shall record his findings on an inspection report form for the permit holder or person in charge.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

Commission Comment: The Commission created the section titles in part 300.

### **§ 140-20.1-305           Demerit Values**

For each violation of a critical control point, a demerit value shall be assigned. Upon completion of an inspection, the health inspector shall total the demerit point values for all requirements in violation, such total becoming the grade for the establishment.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

### **§ 140-20.1-310           Demerit Scores; Grades**

Grades shall be based on the following demerit scores:

- (a)     Grade A - An establishment having a score of not more than ten demerits.
- (b)     Grade B - An establishment having a score of more than ten, but not more than twenty.
- (c)     Grade C - An establishment having a score of more than twenty, but not more than thirty.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

### **§ 140-20.1-315           Failing Grade; Imminent Health Hazard**

An establishment with a score of more than thirty demerits shall be considered an imminent health hazard and shall not be granted a sanitary permit, or in the case of a renewal, shall be subject to immediate suspension and closure.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

### **§ 140-20.1-320           Closure Notice**

Immediately following such a grading during an inspection, the health inspector shall post a closure notice placard in an obvious location at the front door of the establishment to alert the public. Anyone other than the Secretary or a health inspector is prohibited from removing this placard.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

## **Part 400           Inspection Reports**

## **§ 140-20.1-401           Content of Inspection Reports**

Whenever a health inspector makes an inspection, he shall notify the permit holder or person in charge of such violations by means of an inspection report. In such notification, the health inspector shall:

- (a)     Set forth the specific violations found, together with the demerit score of the establishment;
- (b)     Establish a specific and reasonable period of time for correction of the violations found;
- (c)     State that failure to correct any deficiencies in accordance with the provisions of any applicable laws, rules, or regulations may result in suspension of the permit;
- (d)     State that an opportunity for appeal from any inspection findings will be provided if a written request for a hearing is filed with the Secretary within the period of time established for notice of corrections; and
- (e)     Request that the person in charge sign an acknowledgment of receipt of the inspection report. However, failure or refusal to sign receipt of the inspection report shall not relieve the permit holder or person in charge from the obligation to correct the violations noted in the inspection report within the specified time frame.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

Commission Comment: In subsection (b), the Commission changed the final period to a semi-colon to ensure consistent punctuation. The Commission inserted a comma after the word “rules” in subsection (c) pursuant to 1 CMC § 3806(g).

## **§ 140-20.1-405           Service of Inspection Reports**

Inspection reports provided for under this Act 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 inspection report has been sent by registered or certified mail return receipt requested, to the last known address of the permit holder. The permit holder or person in charge shall be required to maintain copies of the inspection report forms at the establishment for a period of seven years. The Secretary shall also maintain files of the inspection report and proof of service.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

## **Part 500           Timely Correction of Violations of Critical Control Points**

### **§ 140-20.1-501           Corrective Actions**

A permit holder who has received a demerit score of more than ten points shall correct a violation of a critical control point and implement corrective actions within a reasonable time period as specified in the inspection report, or as provided below.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

Commission Comment: The Commission created the section title.

### **§ 140-20.1-505            Time Allowed for Corrective Action**

Considering the nature of the potential health risk involved and the complexity of the corrective action needed, a permit holder may avoid suspension of the sanitary permit, if the permit holder can make corrections or repairs within the following time frames and the deficiencies do not constitute an imminent health hazard which would require immediate suspension and closure:

- (a) Five working days for deficiencies that involve general cleaning and easily resolvable critical control point violations;
- (b) Fifteen working days for deficiencies or violations that require more man-hours due to the scope of work, including but not limited to minor building repairs and the purchase of necessary equipment;
- (c) Thirty working days for deficiencies requiring the purchase of equipment or materials necessary for remodeling that may not be found on island, but must be requested from an off-island supplier or contractor.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

Commission Comment: The Commission created the section title.

### **§ 140-20.1-510            Extensions of Compliance Period**

The Secretary may but is not required to agree to an extension of the compliance period if:

- (a) The permit holder provides in writing sufficient evidence that the specified time frame with which to comply is not feasible due to insurmountable circumstances and agrees to an alternative date;
- (b) No imminent health hazard would result from the delay; and
- (c) The reasons are deemed justified by the Secretary. However, a second request for an extension will be cause for suspension of the sanitary permit.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

Commission Comment: The Commission created the section title.

### **§ 140-20.1-515 Re-grading After Corrective Action**

The applicant or person in charge of any establishment or premises that received a low grade may at any time make a written request for an inspection for the purpose of re-grading the establishment after corrective action has been completed. Upon receipt of a written request, which includes a signed statement from the person in charge that the initial inspection report's corrective actions have been carried out, a health inspector will schedule an inspection, for a fee, within ten working days of receipt at the Bureau of Environmental Health Office.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

### **§ 140-20.1-520 Verification and Documentation of Correction**

(a) At the next inspection, after a health inspector advised an establishment or person to make a correction of a violation of a critical control point or deviation, the health inspector shall enter the specifics about the previous violation and information about the corrective action on the inspection report.

(b) After receiving notification that the permit holder has corrected a violation of a critical control point, or at the end of the specified period of time for correction, the health inspector shall verify correction of the violation through inspection, document the information on an inspection report, and enter the report in Bureau of Environmental Health records.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

## **Part 600 Suspension and Revocation of Permit**

### **§ 140-20.1-601 Imminent Health Hazard; Suspension and Closure**

The Secretary may suspend a sanitary permit without prior hearing thereby immediately closing the establishment if a violation is of a nature so as to constitute an imminent health hazard. Suspension without prior hearing may be imposed for such time until the violation is corrected, or may be imposed pending a hearing. Notice of suspension and closure shall be provided to the permit holder or person in charge prior to the suspension and closure taking effect. Hearings requested following the suspension of a permit without prior hearing should be scheduled as soon as possible, but not later than five business days from the date of closure. Hearings shall be conducted in accordance with the provisions of the Administrative Procedure Act [1 CMC §§ 9101, et seq.].

Modified, 1 CMC § 3806(e), (g).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

Commission Comment: The Commission changed “Procedures” to “Procedure” to correct a manifest error. The Commission created the section title.

### **§ 140-20.1-605            Suspension; Notice and Hearing**

A sanitary permit may be suspended by the Secretary upon a finding that the permit holder or a person in his employ or under his suspension or control has continuously violated the requirements of this Act or the regulations promulgated there under, although such violations do not constitute an imminent health hazard; or if the establishment has failed to pay fees assessed against it for violations of the Act or the regulations promulgated there under; or if the establishment has in any way continuously disregarded the Secretary’s efforts to satisfy the requirements of the Act or the regulations in this subchapter. The Secretary shall provide notice of intent to suspend a sanitary permit by giving written notice thereof to the holder, in which case, the permit holder shall have ten calendar days within which to request a hearing. Suspension 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 six months. Hearings shall be conducted in accordance with the provisions of the Administrative Procedure Act [1 CMC §§ 9101, et seq.].

Modified, 1 CMC § 3806(d), (e), (g).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

Commission Comment: The Commission changed “Procedures” to “Procedure” to correct a manifest error. The Commission created the section title.

### **§ 140-20.1-610            Revocation; Notice and Hearing**

Revocation of a permit may occur after a permit holder has had his permit suspended on two separate occasions, but continues to violate the requirements of the Act or the regulations promulgated there under, or if the establishment has resumed operations after being closed by the Secretary. The Secretary shall provide notice of intent to revoke a sanitary permit by giving written notice thereof to the permit holder, in which case the permit holder shall have ten calendar days within which to request a hearing. A hearing for revocation of the sanitary permit shall be conducted in accordance with the provisions of the Administrative Procedure Act [1 CMC §§ 9101, et seq.].

Modified, 1 CMC § 3806(e), (g).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

Commission Comment: The Commission changed “Procedures” to “Procedure” to correct a manifest error. The Commission created the section title.

### **§ 140-20.1-615            Judicial Review of Decisions**

Following a hearing, a judicial review of the Secretary's decision may be held in accordance with the provisions of the Administrative Procedure Act [1 CMC §§ 9101, et seq.]. 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.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

Commission Comment: The Commission changed "Procedures" to "Procedure" to correct a manifest error. The Commission created the section title.

### **§ 140-20.1-620 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 write a letter to the Secretary for reinstatement of the permit. The Secretary, upon receipt of such letter, shall schedule an inspection of the premises within five working days. If the findings of this inspection show that the violation has been corrected, the Secretary shall reinstate the permit where suspension was imposed until such time that the violations were corrected. If suspension of the permit was imposed for reasons other than the need to take corrective action, the suspension will remain in effect through the period specified for suspension.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

### **§ 140-20.1-625 Revoked Permit May Not Be Reinstated**

A permit is no longer valid and may not be reinstated when it has been revoked, except upon order of the court.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

### **§ 140-20.1-630 No New Permit**

No person whose permit has been revoked shall be eligible to obtain a new permit for a period of one year.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

### **§ 140-20.1-635 Closing**

The Secretary shall effect the closing of any establishment or activity whose permit has been suspended or revoked. Upon the request of the Secretary, the Commissioner of the Department of Public Safety shall provide police personnel to enforce such closing.

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

#### **§ 140-20.1-640 Notification of Commissioner of Public Safety**

The Secretary shall notify the Commissioner of Public Safety of any suspension or revocation of a permit and the Commissioner of Public Safety shall assure that the suspended or revoked permit holder shall not resume operation until reinstated by the Secretary.

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

#### **§ 140-20.1-645 Notice Posted of Closure**

Whenever any establishment requiring a permit is closed by the Secretary, the health inspector shall post a notice, easily visible to the public, stating that said establishment is closed by order of the Secretary for violations of this Act or the regulations promulgated there under. No person other than the Secretary or the health inspector shall remove, deface, destroy, or conceal such notice.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

Commission Comment: The Commission inserted a comma after the word “destroy” pursuant to 1 CMC § 3806(g).

#### **§ 140-20.1-650 Inspection Report Public Information**

The inspection report shall be considered a public document and the Secretary shall make it available for inspection and copying as provided by law.

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

### **Part 700 Penalties and Fines for Violations**

#### **§ 140-20.1-701 Penalties**

Those permit holders found violating the requirements of the Act or the regulations in this subchapter shall, upon issuance of notice to the permit holder or person in charge by the Secretary, be fined and penalized in the following manner:

- (a) First Offense: The permit holder shall receive a warning letter.
- (b) Second Offense: A fine of up to \$500.00.

(c) Subsequent Offenses: The permit holder shall be subject to a fine of up to \$1,000.00 for each subsequent offense.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

Commission Comment: The Commission created the section title.

### **§ 140-20.1-705 Hearings on Fines**

A permit holder who has received notice of imposition of a fine shall have ten calendar days from the date of service of the notice to request a hearing. Hearings shall be conducted in accordance with the provisions of the Administrative Procedure Act [1 CMC §§ 9101, et seq.].

Modified, 1 CMC § 3806(e), (g).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

Commission Comment: The Commission changed “Procedures” to “Procedure” to correct a manifest error. The Commission created the section title.

## **Part 800 Ceasing Operations and Reporting**

### **§ 140-20.1-801 Notification of Imminent Health Hazard**

A permit holder shall immediately discontinue operations and notify a health inspector if an imminent health hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent food borne, waterborne, vector borne illness or communicable disease outbreak, gross unsanitary occurrence or condition, or other circumstance that may endanger public health.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

Commission Comment: The Commission created the section title.

### **§ 140-20.1-805 Unaffected Areas**

A permit holder need not discontinue operations in an area of an establishment that is unaffected by the imminent health hazard.

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

Commission Comment: The Commission created the section title.

### **§ 140-20.1-810 Resumption of Operations**

If operations are discontinued as specified above or otherwise according to law, the permit holder shall obtain approval from a health inspector before resuming operations.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

## **Part 900 Infectious Disease Control**

### **§ 140-20.1-901 Employees Carrying Communicable Diseases**

No person managing an establishment identified above, that due to the nature of the services offered, poses a direct mode for disease transmission to the general public, shall permit an employee to work knowing or having reason to know that such employee has a communicable disease or is a carrier of such disease that would readily spread to the patrons of the establishment and the general public.

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

Commission Comment: With the exception of § 140-20.1-920, the Commission created the section titles in part 900.

### **§ 140-20.1-905 Employees with Other Health Problems**

No person managing an establishment identified above shall allow an employee or employee applicant with any form of head or body lice, scabies, or infected with an active viral disease, such as chicken pox, measles, mumps, or tuberculosis, or afflicted with an unprotected pustular lesion on the hands, wrists, or exposed portions of the body, to work in their establishment. No employee or employee applicant shall work in such establishment knowing himself to have or having reason to believe that he has any of the diseases set forth above or is a carrier of any such disease.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

### **§ 140-20.1-910 Employees with Food or Water Borne Illness**

No person managing any food or drink service, or handling, establishment shall permit an employee or employee applicant to work in an area of the establishment where there would be a danger of disease transmission, knowing or having reason to know that such employee has a food borne or waterborne illness or is a carrier of such illness. No employee shall work in such an area of an establishment knowing him to have or having reason to believe that he has a food borne or waterborne illness or is a carrier of any such illness. If the manager or a person in charge suspects that any employee has a food borne or waterborne illness or is a carrier of such illness, he shall notify the Secretary immediately.

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

### **§ 140-20.1-915 Tattoo or Body Piercing Shops; Employees with Blood Borne Illnesses**

No person managing a tattoo and/or body piercing shop shall permit a tattoo or body piercing artist or applicant to work in an area of the establishment where there would be danger of disease transmission, knowing or having reason to know that such employee has a blood borne illness or is a carrier of such illness. No tattoo or body piercing artist or applicant shall work in such an area of an establishment knowing himself to have or having reason to believe that he has a blood borne illness or is a carrier of any such illness. If the manager or a person in charge suspects that any employee has a blood borne illness or is a carrier of such illness, he shall notify the Secretary immediately.

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

### **§ 140-20.1-920            Procedures When Infection Is Suspected**

When suspicion arises as to the possibility of transmission of infection from an employee or employee applicant, the Secretary is authorized to require:

- (a) The immediate exclusion of the employee from all activity within the specific establishment for which transmission of a food borne, waterborne, or blood borne illness or communicable disease is possible due to the nature of the services offered;
- (b) The immediate closing of the establishment until no further danger of illness or communicable disease outbreak exists;
- (c) Medical examination of the employee and/or his fellow employees, with such laboratory examinations as may be indicated.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).

Commission Comment: In subsection (a), the Commission changed the final period to a semi-colon to ensure consistent punctuation.

## **Part 1000    Miscellaneous Provisions**

### **§ 140-20.1-1001            Severability**

If any provision of the regulations in this subchapter or the application of any provision of these regulations to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of these regulations or the application of its provisions to person or circumstances other than those to which it is held invalid shall not be affected hereby.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Amdts Proposed 25 Com. Reg. 20427 (July 15, 2003).