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CH. 26A - TEMPORARY WORKFORCE HOUSING

CHAPTER 26A
TEMPORARY WORKFORCE HOUSING

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§ 26A101. Definitions.

(a) *Temporary worker* means:

(1) a worker from a point of origin outside of Guam who is sponsored by an employer, or has come to Guam on his own to seek employment for a specific project; and

(2) is on Guam for the purpose of being employed for a specific work project expected to be completed in a specific period of time; and

(3) will exit Guam upon completion of their work contract on this specific project.

(b) *Temporary workforce housing* means any enclosures of living spaces, reasonably contiguous, together with the land appertaining thereto, established, operated or used as living quarters and, at a minimum, fifty-one percent (51%) of the residents are temporary workers, including, but *not* limited to, facilities known by varying nomenclatures or designations as dormitories, hotels, motels, travel lodges, or tourist homes.

(c) *Change of Temporary Workforce Housing Status* means any significant variances to temporary workforce housing in relation to the most recent prior inspection. Such variances *shall* be determined or defined by the Department of Public Health and Social Services (DPHSS) and include,

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but *not* be limited to, significant change in the number of occupants, structural change, or change of ownership.

(d) *Sanitary Permit* means the official document issued by the DPHSS authorizing the establishment to operate its business.

(e) *Workers' Dormitory Permit* means the official sanitary permit issued by the DPHSS for temporary workforce housing.

(f) *Environmental Health Specialist* means an individual who has been hired to perform inspections in accordance with established DPHSS environmental health inspection procedures.

(g) *Independent Environmental Health Inspection Company* means an association, a corporation, individual, other legal entity or agency that is duly licensed to do business on Guam and has been certified by the DPHSS as being competent and capable to conduct sanitary inspections in accordance with established DPHSS environmental health inspection procedures.

(h) *Temporary Workforce Housing Operator* means a person, or business entity, who owns, leases or manages, or proposes to own, lease or manage, a temporary workforce housing, and herein *shall* be referred to as an *operator*.

§ 26A102. Powers and Duties.

The Department of Public Health and Social Services (DPHSS) is hereby authorized to establish and hire *up to* a total of fifteen (15) personnel to fill positions in the DPHSS Division of Environmental Health (DEH) to include: one (1) Environmental Health Supervisor, ten (10) Environmental Health Specialists, two (2) Environmental Health Engineers, one (1) Administrative Assistant, and one (1) Customer Service Representative, and to certify and contract an independent environmental health inspection company(s) to conduct sanitary inspections at temporary workforce housing, and other required inspections related to temporary workforce housing, as deemed necessary by DPHSS.

§ 26A102.1. Untitled.

The recruitment and hiring of personnel to fill positions in the DPHSS Division of Environmental Health (DEH), to include: one (1) Environmental Health Supervisor, ten (10) Environmental Health Specialists, two (2) Environmental Health Engineers, one (1) Administrative Assistant, and one

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(1) Customer Service Representative, *shall* be in accordance with established Government of Guam Personnel regulations.

§ 26A102.2. Untitled.

Contracting for the services of an independent environmental health inspection company(s) *shall* be in accordance with Government of Guam Procurement procedures, and in accordance with duly approved Rules and Regulations that establish the certification and operating parameters of a contracted independent environmental health inspection company. Said parameters *shall* include, but *not* be limited to, the following:

(a) The DPHSS shall determine certification requirements for the independent environmental health inspection company(s) and shall periodically review and evaluate the performance and eligibility of the company.

(b) Independent environmental health inspection company(s) under certification by DPHSS shall conduct sanitary inspections only on behalf of and at the direction of DPHSS.

(c) The company does not perform work for an operator of a temporary workforce housing or related company, which may require the sanitary inspection that may come under its inspection review,

(d) The company has no conflict of interest as determined by the DPHSS.

(e) The DPHSS reserves the right to terminate its contract with the company in the event that the company conducts negligent work.

(f) The DPHSS shall retain sole authority to grant sanitary permits.

(g) independent environmental health inspection company(s) certified by DPHSS may act as agents of DPHSS, provided that they meet the following criteria:

(1) The inspection company, or the organization of which it forms a part, shall be legally identifiable.

(2) An inspection body that is part of an organization involved in functions other than inspection shall be identifiable within that organization.

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(h) The Director of DPHSS shall contract with an independent environmental health inspection company only as a last resort, after attempting to hire environmental health personnel pursuant to the merit system, and only if unable to fill the positions after utilizing all local potential sources of recruitment, including GCC, UOG and other entities.

§ 26A103. Sanitary and Workers' Dormitory Permit for Temporary Workforce Housing, Required:

(a) The operator of a temporary workforce housing must possess a valid sanitary and workers' dormitory permit issued by DPHSS, and be made available for inspection by DPHSS or its agent(s).

(b) The operator shall be responsible for applying for a sanitary and workers' dormitory permit with DPHSS and maintaining such valid sanitary and workers' dormitory permit as a condition for operating a temporary workforce housing.

(c) The operator shall apply for renewal of its workers' dormitory permit from DPHSS prior to the June 30 expiration date and the payment thereof shall be deposited into the Environmental Health Fund.

(d) The operator shall apply for the renewal of a sanitary permit from DPHSS in accordance with § 26A104 and the payment thereof shall be deposited into the Environmental Health Fund.

§ 26A104. Sanitary Inspections, Phases:

For the purposes of sanitary regulation, permitting of temporary workforce housing shall be required during each of the following phases:

(a) Primary Inspection Phase:

(1) During the Primary Inspection Phase, sanitary inspections shall be conducted quarterly following the issuance of the initial sanitary permit.

(2) The Primary Inspection Phase shall apply to all temporary workforce housing, new or currently existing, and shall endure until four (4) consecutive quarters of satisfactory inspections have been achieved.

(3) Inspection during the Primary Inspection Phase shall be performed no sooner than forty-five (45) days of the previous

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inspection conducted. If an inspection occurs sooner than forty-five (45) days of the previous inspection conducted, the inspection shall not qualify as one of the quarterly inspections required.

(b) Secondary Inspection Phase:

(1) Secondary Inspection Phase shall be applied following successful completion of the Primary Inspection Phase, as defined in § 26A104(a).

(2) During the Secondary Inspection Phase, inspections shall be conducted on a semiannual basis.

(3) Inspection during the Secondary Inspection Phase shall be performed no sooner than ninety (90) days from the previous inspection conducted. If an inspection occurs sooner than ninety (90) days of the previous inspection conducted, the inspection shall not qualify as one of the semiannual inspections required.

(4) Successful completion of the Secondary Inspection Phase shall consist of two (2) consecutive semiannual inspections that were rated satisfactory.

(5) Following a failed inspection or Change of Temporary Workforce Housing Status, the temporary workforce housing in question shall return to the Primary Inspection Phase.

(c) Tertiary Inspection Phase:

(1) During the Tertiary Inspection Phase, inspections will be conducted on an annual basis.

(2) Inspection during the Tertiary Phase shall be performed no sooner than one hundred eighty (180) days from the previous inspection conducted. If an inspection occurs sooner than one hundred eighty (180) days of the previous inspection conducted, the inspection will not qualify as one of the annual inspections required.

(3) Following a failed inspection or Change of Temporary Workforce Housing Status, the temporary workforce housing in question shall return to the Primary Inspection Phase.

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§ 26A105. Fees.

(a) When any re-inspection is required pursuant to § 26A104 of this Chapter, the operator shall pay a fee, established by rules and regulations promulgated by DPHSS, for each re-inspection.

(b) All fees due must be paid before a valid sanitary and workers' dormitory permit will be issued or renewed.

(c) Permit is not transferable.

(d) There will be no charges for the following types of inspections, provided a current permit has been issued:

(1) Validation inspections; and

(2) Complaint verification inspections.

(e) All sanitary and workers' dormitory permit fees collected under this Chapter shall be deposited in the Environmental Health Fund created in 10 GCA Chapter 22, § 22107.

2012 NOTE: Subsections (d)(1) through (d)(2) numbered by Compiler to harmoniously fit this section.

§ 26A106. DPHSS Sanitary Inspection Revolving Fund.

(a) There is hereby created the DPHSS Sanitary Inspection Revolving Fund, which shall be accounted for separately from the General Fund and shall not lapse at the end of a fiscal year but shall roll-over until used by the DPHSS for the overall cost of conducting sanitary inspections of temporary workforce housing and other required inspections that it deems necessary, including, but not limited to, hiring employees authorized to be hired under this Act, the purchase of vehicles, conducting or attending training, or the purchase of related equipment.

(b) Payment to contracted independent environmental health inspection company(s) for services rendered shall be paid from the DPHSS Sanitary Inspection Revolving Fund.

(c) Notwithstanding the Central Accounting Act, fees collected and deposited into a special fund known as the DPHSS Sanitary Inspection Revolving Fund shall be kept in a bank licensed to do business on Guam and funds shall be paid out only upon a request for payment or requisition submitted by the Director of DPHSS. All monies in this Fund shall be

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subject to legislative appropriation, and are hereby specifically appropriated only for the use of the Division of Environmental Health in the pursuit of its authority.

§ 26A107. Receiving and Giving Bribes.

The sanitary inspection agent from DEH, or the independent environmental health inspection company(s), *shall* be guilty of a felony if he or she solicits, accepts or agrees to accept any benefit from another person as consideration for his or her performance of an official function. A person is guilty of a felony if he or she offers, or agrees to offer, any benefit to the sanitary inspection agent as consideration for such sanitary inspection agent's performance of an official function.

§ 26A108. Effective Date.

(a) Upon passage of this Act, the DPHSS shall develop rules and regulations and shall submit same to I Liheslatura no later than ninety (90) days following the passage of this Act.

(b) The rules and regulations shall become effective upon adoption by I Liheslaturan Guåhan.
