

Brackets indicate deletion; Underline indicates addition.

§ 160.16 Facilities: ancillary provisions

(a) For the purposes of this section, the following terms shall have the following meanings:

(1) appearance enhancement business means the business of providing any or all of the services licensed pursuant to article 27 of the New York General Business Law at a fixed location.

(2) nail salon means each building, or portion of a building, in which nail specialty services are offered or provided.

(3) nail specialty service means providing services for a fee or any consideration or exchange to cut, shape or to enhance the appearance of the nails of the hands or feet. Nail specialty shall include the application and removal of sculptured or artificial nails.

(4) nail station means a table or work area where any nail specialty service is performed. In the case of a table or work area where more than one nail specialty service can be performed at any one time, each portion of such table or work area where a nail specialty service can be performed shall be deemed to be a separate nail station.

(5) owner means a person who or which owns, controls or operates, whether as a partner shareholder, officer, independent contractor (including area renter) or proprietor an appearance enhancement business.

(6) registered design professional means an individual who is a registered architect (RA) in accordance with article 147 of the New York State Education Law or a licensed professional engineer (PE) in accordance with article 145 of the New York State Education Law.

(b) In addition to complying with all applicable requirements of the State Uniform Fire Prevention and Building Code, New York City Construction Code or other building code applicable to the building in which appearance enhancement activities are performed, and with all applicable requirements of the State Sanitary Code, State Industrial Code, and other laws and regulations applicable to appearance enhancement activities and/or to buildings, including environmental standards, in which such activities are performed, an owner shall provide, in each appearance enhancement business each of the following:

(1) hot and cold running water;

(2) toilet facilities and wash basins for use by clients and employees;

(3) illumination for the safe provision of licensed services;

(4) covered containers for hair, paper and other waste material;

(5) sufficient space or working area to ensure the safety and health for both the operator and client; and

(6) in the case of a nail salon, a mechanical ventilation system which complies with the "2015 International Mechanical Code" (Publication date: May 30, 2014, Third Printing), published by the International Code Council, Inc., and as amended by the NYS Building Standards and Codes 2016 Uniform Code Supplement (hereinafter referred to as the 2015 IMC) such that it:

- (i)** has the capacity to supply outdoor airflow at a rate of not less than the greater of:
 - (a)** the ventilation standards for nail salons as set forth at sections 401 and 403 of the 2015 IMC; or
 - (b)** 50 cubic feet per minute for each nail station in the nail salon;
- (ii)** includes a mechanical exhaust system that:
 - (a)** is designed and constructed to capture all chemical vapors, fumes, dust and other air contaminants at their source and to exhaust such contaminants to the outdoor atmosphere;
 - (b)** has at least one exhaust inlet for each nail station (each such exhaust inlet to be factory-installed by the manufacturer of the nail station or field-installed at a location that is not more than 12 inches horizontally and not more than 12 inches vertically from the point of chemical application or where the customer's nails are placed when a nail specialty service is being performed);
 - (c)** has the capacity to exhaust from the nail salon at a rate of not less than the greater of:
 - (1)** the ventilation standards for nail salons as set forth at sections 401 and 403 of the 2015 IMC; or
 - (2)** 50 cubic feet per minute for each nail station in the nail salon;
 - (d)** exhausts all exhaust air from the nail salon (including but not limited to all chemical vapors and fumes, dust, and other air contaminants and odors generated by or resulting from nail specialty services) to the outdoor atmosphere, with each exhaust discharge located at a point where it will not cause a nuisance to others and where the exhausted air (including but not limited to the exhausted chemical vapors and fumes, dust, and other air contaminants and odors) cannot be readily drawn in by the outdoor air intake components of the ventilation system; and
 - (e)** exhausts all exhaust air from the nail salon (including but not limited to all chemical vapors and fumes, dust, and other air contaminants and odors generated by or resulting from nail specialty services) in a manner that assures that no part of such exhaust air shall be recirculated into the nail salon or into any other space in the building, or transferred to any other space in the building;
- (iii)** is balanced in a manner to supply outdoor air at a rate equal to the rate of the exhaust; and
- (iv)** operates at or above the minimum supply outdoor airflow rate specified in subparagraph (i) of this paragraph and at or above the minimum exhaust rate specified in clause (c) of subparagraph (ii) of this paragraph at all times when the nail salon is occupied by any person or persons.

(c) No standard or requirement set forth in paragraph (6) of subdivision (b) of this section shall be construed as superseding, amending or otherwise affecting any higher or more restrictive standard or requirement applicable to appearance enhancement activities and/or to buildings. Failure to comply with any such higher or more restrictive standard or requirement may be a violation of the other applicable law or regulation, including, as the case may be, the State Uniform Fire

Prevention and Building Code, New York City Construction Code, other building code, State Sanitary Code, State Industrial Code or environmental standards.

(d) Beginning on October 3, 2016 any nail salon which obtains a new appearance enhancement business license shall attain compliance with the minimum ventilation rate specifications set forth in paragraph (6) of subdivision (b) of this section. A signed certification by the ventilation system installer, manufacturer or a registered design professional that the ventilation system meets such ventilation rate specifications shall be maintained on the business premises and be available for inspection by the department. A nail salon licensed before October 3, 2016 shall have until [April 4, 2022] October 4, 2022 to comply with the requirements of this subdivision.

(e) For the purpose of compliance with this Part the 2015 IMC is incorporated herein by reference. Copies of the 2015 IMC may be obtained from the publisher at the following address: International Code Council, Inc. 500 New Jersey Avenue, NW, 6th Floor Washington, DC 20001 The 2015 IMC is also available for public inspection and copying at: New York State Department of State One Commerce Plaza, 99 Washington Avenue Albany, NY 12231-0001