

Salt Lake County Health Department

Health Regulation

#12

SUBDIVISIONS

Adopted by the Salt Lake County Board of Health

**Adopted:
December 3, 1981**

**Amended:
August 3, 2006
May 7, 2020**

**Under Authority of Section 26A-1-114
Utah Code Annotated, 1953, as amended**

1. PURPOSE & APPLICABILITY OF REGULATION

- 1.1. The purpose of this Regulation is to regulate water and sewage systems within subdivisions of Salt Lake County in a manner that will protect and promote the public health, safety, and welfare; prevent the spread of disease; prevent the creation of nuisances; and prevent air and water pollution.
- 1.2. This Regulation applies to all persons involved in subdivision development.

2. DEFINITIONS

For the purposes of this Regulation, the following terms, phrases, and words shall have the meanings herein expressed:

- 2.1. “Department” means the Salt Lake County Health Department.
- 2.2. “Determinant Distance” means the distance, in feet, that will dictate if a proposed subdivision shall connect to the public sewer system. The distance is calculated by multiplying the proposed number of lots in the subdivision by 300 feet.
- 2.3. “Director” means the Director of the Salt Lake County Health Department or his or her designated representative.
- 2.4. “Drinking water supply” means water free from impurities that would be present in amounts sufficient to cause disease or harmful physiological effects. Its bacteriological and chemical quality should conform to the requirements of the State Department of Environmental Quality, Division of Drinking Water and the Department.
- 2.5. “Owner” means any person who alone, jointly, or severally with others:
 - 2.5.1. has legal title to any premises, dwelling, or dwelling unit, with or without accompanying actual possession thereof; or
 - 2.5.2. has charge, care, or control of any premises, dwelling, or dwelling unit, as legal or equitable owner, or agent of the owner, or is an executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the owner.
- 2.6. “Person” means any individual, public or private corporation and its officers, partnership, association, firm, trustee, executor of an estate, the State or its departments, institution, bureau, agency, municipal corporation, county, city, political subdivision, or any legal entity recognized by law.
- 2.7. “Public Sewer System” means a system of common sewers directly controlled by public authority.

- 2.8. “Roadway Dedication” means an area of land set aside for use as a roadway.
- 2.9. “Sewage” means a combination of liquid or water-carried wastes from residences, businesses, institutions, and other establishments with installed plumbing facilities, together with those from industrial establishments, and with such groundwater, surface water, and storm water as may be present.
- 2.10. “Sewer” means pipes, channels, or other facilities used for the collection, transmission, treatment, and/or disposal of sewage by a publicly owned treatment works.
- 2.11. “Subdivision” means a lot, tract, or parcel of land that has been divided into lots, tracts, parcels, or other divisions of land for sale or development.
- 2.12. “Utility Subdivision” means a lot, tract, or parcel of land that has been divided into lots, tracts, parcels, or other divisions of land for development of utility services.

3. GENERAL PROVISIONS

3.1. Jurisdiction of the Department.

- 3.1.1. This Regulation is promulgated by the Salt Lake County Board of Health as authorized by Utah Code Ann. § 26A-1-121(1), and Salt Lake County Code of Ordinances Chapter 9.04.
- 3.1.2. The Department is empowered to enforce this Regulation in all incorporated and unincorporated areas served by the Department authorized by Utah Code Ann. §26A-1-114(1)(a), and Salt Lake County Code of Ordinances Chapter 9.04.
- 3.2. It shall be unlawful for any person not to comply with any regulation promulgated by the Department unless granted an express variance by the Salt Lake County Board of Health.
- 3.3. Compliance with this Regulation does not constitute a defense if charged with any environmental crime or violation of any local, state, or federal law.
- 3.4. Legal action taken by the Department under this Regulation does not preclude prosecution for any environmental crime that may have been committed or violation of any other local, state, or federal law.
- 3.5. Nothing in this-Regulation affects or modifies in any way the obligations or liability of any person under any other regulation or provision thereof issued by the Department, any ordinance issued by Salt Lake County or any municipality located within Salt Lake County, or any state or federally issued law, including common law. However, Departmental regulations supersede other existing local and county standards, regulations and ordinances pertaining to similar subject matter that are inconsistent.

- 3.6. Verbal or contractual obligations do not diminish or remove the owner's or other responsible person's obligation to comply with this Regulation.
- 3.7. **Severance.** If any section, subsection, sentence, clause, or phrase of this Regulation is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision does not affect the validity of the remaining portions of this Regulation.

4. SUBSTANTIVE PROVISIONS

- 4.1. **Health Department Approval Required.** It is a violation of this Regulation to construct or to cause to be recorded any subdivision within Salt Lake County before obtaining written Subdivision Approval from the Department. Written Department approval of subdivisions must be demonstrated by a Department representative's signature on an approved plat.
- 4.2. **Requirements for Health Department Subdivision Approval.** To obtain Subdivision Approval from the Department, the person in charge of the subdivision must:
- 4.2.1. Cause a planning agency referral to be submitted to the Department;
- 4.2.2. Submit proof of adequate drinking water. Proof of adequate drinking water may be demonstrated in one of two ways:
- (i) If an existing community or non-community public drinking water system approved by the Utah State Department of Environmental Quality, Division of Drinking Water, is to furnish water for the proposed development, the person in charge of the system must furnish to the Department a letter from the relevant water district stating that the system can adequately serve the development. The Department may prescribe the form and contents of the letter as a precondition of approval; or
 - (ii) If an individual drinking water system is to be used for the proposed development, the person in charge of the subdivision must submit documents to the Department demonstrating that the proposed system meets the requirements of Salt Lake County Health Department Regulation #11, Individual Water Systems;
- 4.2.3. Submit proof of adequate wastewater service. Proof of adequate wastewater service may be demonstrated in one of two ways:
- (i) If an existing public sewer system is to furnish sewer service for the proposed development, the person in charge of the subdivision must furnish to the Department a letter from the relevant sewer district stating that the sewer system can adequately serve the development under existing conditions and for a reasonable future time, and that the development will

not hydraulically or organically overload the waste water treatment plant;
or

- (ii) If an individual wastewater disposal system is to be used for the proposed development, the person in charge of the subdivision must submit to the Department documents demonstrating that the proposed system meets the requirements of Utah Admin Code R317-4, Onsite Wastewater Systems and in Salt Lake County Health Regulation #13, Wastewater Disposal; and

4.2.4. Submit the Subdivision Plan Review fee stated in section 5.0 of this Regulation.

4.2.5. Water and sewer availability letters must be valid for no more than 365 days or less if indicated on the availability letter.

4.3. Requirements for Health Department Utility Subdivision and Roadway Dedication Approval. To obtain Utility Subdivision Approval or Roadway Dedication from the Department, the person in charge of the subdivision must:

4.3.1. Obtain a water availability letter when water consumption will occur at the property for any purpose. Water availability letters must meet the requirements in section 4.2.2.

4.3.2. Obtain a sewer availability letter when sewer services are required. Sewer availability letters must meet the requirements in section 4.2.3.

4.3.3. Record on the plat map that water, and sewer services have not been verified, when the Department determines these services are not required for the Utility Subdivision or Roadway Dedication. When the parcel has a change in use and water and sewer services are required the appropriate water and sewer availability letters and a new plat map shall be submitted to the Department for approval.

4.3.4. Provide to the Salt Lake County Health Department a Documentation of Intent and Use of the property.

4.4. Utility Subdivision and Roadway Dedication Change in Use. When a roadway dedication or utility subdivision parcel undergoes a change in use that necessitates water and sewer service, the appropriate water and sewer availability letters must be submitted to the Department. A new plat map, water availability and sewer availability letters must be submitted and approved prior to any construction or change to the parcel. The plat map shall comply with applicable County and municipal requirements.

4.5. Mandatory Sewer Connection. A person subdividing a parcel of real property must extend the sewer to each lot when any portion of the parcel is within the calculated Determinant Distance for the subdivision and the sewer is determined to be available by the appropriate sewer district. The Determinant Distance, for a subdivision, is calculated by multiplying the total number of subdivisions lots by 300 feet.

4.6. **Subdivision Feasibility Plan Review Required.** A Subdivision Feasibility Plan Review must be completed as required in Utah Admin. Code R317-4, Onsite Wastewater Systems.

5. LICENSES, PERMITS, & REGULATORY FEES

5.1. The Department may establish and collect appropriate fees for licenses and permits as set out in this Regulation. The Department may collect appropriate fees as set out in this Regulation for the performance of services, including plan reviews. If information on a license or permit application changes, the applicant must notify the Department in writing within 20 calendar days.

5.2. **Subdivision Plan Review Fee.** The fee for Subdivision Plan Review required in section 4.2.4 of this Regulation must be paid to the Department at the time of application in the amount as provided for or as approved by the Director in the Department's fee schedule.

6. INSPECTIONS & INVESTIGATIONS

6.1. To ensure compliance, the Department has the authority to perform inspections, investigations, reviews, and other actions, as necessary.

6.2. Authority for Department to Enter Premises.

6.2.1. **Regulated Commercial Premises.** Upon presenting proper identification, authorized representatives of the Department may enter upon the premises of properties regulated by the Department to perform routine inspections to ensure compliance with rules, standards, regulations, and ordinances adopted by the Department, the Departments of Health & Environmental Quality, county or municipal governing bodies, or the division of Occupational and Professional Licensing.

6.2.2. **Unregulated Commercial Premises.** The Department may enter upon the premises of unregulated commercial properties upon the consent of the owner or otherwise responsible party or upon a warrant issued by a court.

6.2.3. **Private Dwellings.** Inspections of private dwellings are made by consent of owner or otherwise responsible party or upon a warrant issued by a court.

6.2.4. **Consent by License or Permit:** The Department may require licensees or permittees to consent to access for inspections as part of their license or permit. Failure to allow access for inspections as set out in the license or permit may result in the suspension or revocation of the license or permit.

6.3. The owner or other responsible person may request information gathered by the Department during an investigation, inspection or review as authorized by the Government Records Access and Management Act.

7. ENFORCEMENT MECHANISMS. If the Department has investigated or inspected any property or facility and believes the property owner or other responsible party is in violation of this regulation or the Department has other reasonable grounds to believe that there has been a violation of any part of this regulation or that the property owner or otherwise responsible party is not in compliance with this Regulation, the Department may take civil enforcement action as authorized by statute, rule, ordinance, and regulation and may also refer the matter for criminal prosecution. Civil enforcement may involve court or administrative actions, injunctive actions, and closures and may involve cost recovery, penalties, and other remedies. Civil and criminal actions may be brought simultaneously. A person does not need to be first adjudged liable in a civil matter before facing criminal charges.

7.1. Criminal Enforcement Actions. The Department may recommend criminal prosecution for environmental violations either alone or in conjunction with civil enforcement. Criminal prosecutions for environmental violations of state or federal law may be filed by the District Attorney, Utah Attorney General, United States Department of Justice, or other enforcement entity. Factors that the Department may consider in recommending criminal enforcement include the following factors and any other relevant factors:

- 7.1.1. The nature and seriousness of the offense including the immediacy of the threat of danger to the life or safety of another or the harm or threatened harm to human health or environment;
- 7.1.2. The degree to which the violation was designed to provide economic gain or cost avoidance, or it involved a pattern of conduct or a common attitude of illegal conduct;
- 7.1.3. The degree to which the offender is a known violator and has avoided prior actions by the department;
- 7.1.4. The degree to which prosecution might deter future violations;
- 7.1.5. The person's actual culpability in connection with the offense including the presence in connection with the offense including the presence of criminal intent;
- 7.1.6. The person's willingness to cooperate in the investigation including whether the violator has attempted to conceal evidence or prosecution of others;
- 7.1.7. The appropriateness of referring the case to other agencies having prosecutorial interest; and

7.1.8. Possibilities of civil remedies which would be more appropriate than initiating the criminal justice process.

7.2. **Civil Enforcement Actions.** The Department may request that the District Attorney bring an action to restrain or enjoin actions in violation of public health, environmental laws, and other laws or abate conditions in violation of such laws.

7.3. **Administrative Actions.**

7.3.1. The Department may, at its discretion, issue a Notice of Violation & Order of Compliance (NOV).

7.3.2. **Service of NOV.** The Department may provide notice to the owner of the property or otherwise responsible person by sending the NOV via first class mail to the last known address of the owner of the property or other responsible person. If notice is returned undeliverable, the owner of the property or other responsible person may be personally served or be given notice by other methods reasonably calculated to give actual notice to the owner or other responsible party.

7.3.3. **Contents of NOV.** The NOV shall:

- (i) Describe the property and the persons believed to be in violation;
- (ii) Describe the violation;
- (iii) Describe remedial action that will comply with the provisions of this regulation;
- (iv) Set a reasonable time for the performance of any required remedial action(s);
- (v) Describe the procedure to contest the NOV and the time limits for such a contest; and
- (vi) Notify the owner or other responsible person that if no written contest is filed within the time required, the NOV will become final and unappealable to any administrative entity or court.

7.4. **Additional Administrative Enforcement Authority.**

7.4.1. The Department may declare unsanitary conditions a nuisance and cause every nuisance affecting the public health to be abated.

7.4.2. Any variances allowed by the Department to the requirements of this Regulation must be only by written approval of the Board.

- 7.4.3. **Exercise of Physical Control.** The Department may establish, maintain, and exercise physical control over property and over individuals as the Department finds necessary for the protection of the public health including but not limited to closing theaters, schools, and other public or private places and prohibit public gatherings. The physical control will be effective immediately. Any person to whom the physical control is directed must comply immediately but may petition the Director for a hearing in accordance with the Salt Lake County Health Department's Adjudicative Hearing Procedures. After the hearing and depending upon the findings as to whether the person has complied with the provisions of this Regulation, the Director will continue the order in effect or modify or revoke it.
- 7.4.4. **Emergency Enforcement.** If the Director finds that an emergency exists that requires immediate action to protect the public health, the Director may without notice or hearing issue an order declaring the existence of an emergency and requiring that action be taken as he or she deems necessary to meet the emergency. The order will be effective immediately. Any person to whom the order is directed must comply and abate the nuisance immediately; but may petition the Director for a hearing in accordance with the Department's Adjudicative Hearing Procedures. After the hearing and depending upon the findings as to whether the person has complied with the provisions of this Regulation, the Director will continue the order in effect or modify or revoke it. If circumstances warrant because of the seriousness of the hazard, the Department may act to correct or abate the emergency without issuance of an order or directive or without waiting for the expiration of compliance time previously given in an order.

8. CRIMINAL, CIVIL & ADMINISTRATIVE PENALTIES

8.1. Criminal Penalties.

- 8.1.1. Any person who is found guilty by a court of violating any of the provisions of this Regulation, either by failing to do the acts required herein or by doing a prohibited act, is guilty of a class B misdemeanor, pursuant to Utah Code Ann. § 26A-1-123, (2010).
- 8.1.2. Each day such violation is committed or permitted to continue constitutes a separate violation.
- 8.1.3. Each similar subsequent violation occurring within two years of the initial violation may constitute a class A misdemeanor.

8.2. Civil & Administrative Penalties.

- 8.2.1. Penalties may be included in a Settlement Agreement or Stipulation & Consent Order. Penalties may be assessed according to the following factors:

- (i) The violator's history of compliance or non-compliance;
- (ii) The violator's economic benefit of non-compliance;
- (iii) The documented costs associated with environmental or health damage;
- (iv) The violator's degree of willfulness or negligence; and
- (v) The violator's good faith efforts to comply and cooperate.

8.2.2. The Department may multiply the penalty by the number of days the violation occurred

8.3. Recovery of Investigation & Abatement Costs

8.3.1. The Department may recover its inspection, investigative and abatement expenses and costs from owners or other responsible person.

8.3.2. The Department may record a judgment lien on a violator's property to recover its expenses and costs.

9. EFFECTIVE DATE.

9.1. This Regulation shall become effective upon its enactment by the Salt Lake County Board of Health.

APPROVED AND ADOPTED this 7th day of May, 2020.

SALT LAKE COUNTY BOARD OF HEALTH

By: Russell K Booth
Russell K. Booth, Chair

ATTEST:

By: Gary L. Edwards
GARY L. EDWARDS, M.S.
Executive Director
Salt Lake County Health Department