

Salt Lake County Health Department

Health Regulation

#25

TANNING ESTABLISHMENT

**Adopted by the Salt Lake County Board of Health
December 4, 1986**

**Amended
November 2, 2006
April 4, 2019**

Under Authority of Utah Code Ann. Section §26A-1-114

1. PURPOSE & APPLICABILITY OF REGULATION

- 1.1. The purpose of this regulation is to set forth permitting procedures and the requirements for maintenance and operation of tanning establishment in a way that will protect and promote the public health, safety, and welfare; and prevent the spread of disease.
- 1.2. This regulation applies to individuals operating or using tanning equipment in a tanning facility. This regulation shall not apply to a physician or chiropractor licensed by the State of Utah who uses tanning equipment in the practice of medicine or chiropractic. This regulation shall not apply to an individual who owns tanning equipment exclusively for personal non-commercial use.

2. DEFINITIONS

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

- 2.1. “Barrier” shall mean a non-porous, smooth, easily cleanable surface capable of being disinfected.
- 2.2. “Board” shall mean the Salt Lake County Board of Health.
- 2.3. “Body Contact Surface” shall mean a chair or table used for tanning, dispensing pumps, and impermeable barriers.
- 2.4. “Certified Tanning Operator” shall mean any owner or employee of a tanning establishment that has obtained a Certified Tanning Operator certificate from the Department. Hereinafter referred to as “Operator”.
- 2.5. “Clean” shall mean the removal of all visible dirt and debris.
- 2.6. “Department” shall mean the Salt Lake County Health Department.
- 2.7. “Director” shall mean the Director of the Salt Lake County Health Department or his or her designated representative.
- 2.8. “Disinfect” shall mean the process of eliminating many or all pathogenic microorganisms on inanimate objects.
- 2.9. “Dwelling” shall mean a building or structure that is intended or designed to be used, rented, leased, let or hired out for human habitation.
- 2.10. “Equipment” shall mean all eye protection or devices used in tanning procedures.
- 2.11. “Health Care Provider” shall mean an individual licensed in a medical profession by the State of Utah Division of Professional and Occupational Licensing.

- 2.12. “Legal Guardian” shall mean someone who has, or is legally appointed to the care and management of another.
- 2.13. “Minor” shall mean an individual under the age of 18 years.
- 2.14. “Owner” shall mean any person who alone, jointly, or severally with others:
- 2.14.1. has legal title to any tanning establishment, with or without accompanying actual possession thereof; or
 - 2.14.2. has charge, care, or control of any tanning establishment, as legal or equitable owner, agent of the owner, lessee, or is an executor, executrix administrator, administratrix, trustee, or guardian of the estate of the owner.
- 2.15. “Patron” shall mean any person who receives UV tanning procedures in a tanning establishment.
- 2.16. “Permit” shall mean a written form of authorization issued by the Department in accordance with this regulation.
- 2.17. “Permit Holder” shall mean the entity that:
- 2.17.1. Is legally responsible for the operation of the tanning establishment such as the owner, the owner’s agent, or other person; and
 - 2.17.2. Possesses a valid permit to operate a tanning establishment.
- 2.18. “Service Animal” shall mean any animal that is individually trained to do work or perform tasks for the benefit of an individual with a disability as defined by the Americans With Disabilities Act.
- 2.19. “Tanning” shall mean the act of exposing skin to UV radiation through tanning equipment.
- 2.20. “Tanning Establishment” shall mean any is used for tanning as defined by this regulation. Tanning devices located in apartment and condominium complexes are excluded from this regulation.
- 2.21. “Tanning Equipment” shall mean any device used for tanning that emits UV radiation. Tanning equipment does not include a phototherapy device.
- 2.22. “Tanning Station” shall mean a stand up booth, tanning bed, or the enclosure where UV exposure occurs.

2.23. “Ultraviolet UV Radiation” shall mean electromagnetic radiation that has a wave length between two hundred eighty (280) and four hundred (400) nanometers in air, also known as UVA and UVB.

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 Chapter 9.04, Salt Lake County Code of Ordinances.

3.1.2. The Department is empowered to enforce this regulation in all incorporated and unincorporated areas served by the Department as authorized by Utah Code Ann. §26A-1-114(1)(a), and Chapter 9.04, Salt Lake County Code of Ordinances.

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 shall 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 shall not affect the validity of the remaining portions of this regulation.

4. TANNING PROVISIONS

4.1. Permits Requirements.

- 4.1.1. No person shall operate a tanning establishment without a valid tanning establishment permit.
- 4.1.2. No person shall work as a tanning operator without first obtaining a tanning operator's certificate.
- 4.1.3. The owner(s) or operators(s) of a tanning establishment shall notify the Department of any change in the tanning establishments name, billing address or telephone numbers.

4.2. Tanning Operator Certificate Requirements.

- 4.2.1. Tanning establishments shall have a certified tanning operator on site during all hours of operation
- 4.2.2. To obtain a tanning operators certificate a person shall:
 - (i) Apply for a tanning operator certificate on the Department approved form;
 - (ii) Remit the tanning operator certificate fee to the Department; and
 - (iii) Complete the Department tanning operator training course with a passing score.
- 4.2.3. The tanning operator certificate shall be valid three years from date of issuance.

4.3. Permit Application, Duration, and Renewal.

- 4.3.1. Application for a Permit required in section 4.1.1 of this regulation shall be made upon a Department approved application form.
- 4.3.2. Permit Duration. Permits issued under 4.1 of this regulation are valid only at the location stated in the application and shall be renewed upon change of ownership and annually after the date of issuance.
- 4.3.3. Permits shall be conspicuously posted for public viewing.

4.4. Plan Review and Construction Requirements

- 4.4.1. Tanning Establishment Plan Review. A permit applicant or permit holder shall be required to submit to the Department and obtain approval prior to beginning:
 - (i) The construction of a Tanning Establishment;
 - (ii) The conversion of an existing structure for use as a Tanning Facility Establishment; or

- (iii) The remodeling of a Tanning Establishment if the Department determines that plans and specifications are necessary to ensure compliance with this regulation.

4.4.2. Plans shall include:

- (i) A scaled floor plan with tanning station locations;
- (ii) Restroom locations;
- (iii) Light source locations and intensity;
- (iv) A finish schedule with materials to be used on floors, walls, and ceilings;
and
- (v) Patron and minor consent forms.

4.5. Physical Facilities Unless otherwise ordered or approved by the Department, each Tanning Establishment shall be constructed following these minimum requirements:

- 4.5.1. Tanning Establishments and restrooms shall have walls, floors, tables, counters, chairs, and other surfaces constructed of a non-absorbent, smooth, and easily cleanable material. Carpet may be allowed in the tanning stations.
- 4.5.2. Tanning Establishments shall have a restroom accessible to patrons and employees during all hours of operation. The restrooms shall have a toilet, toilet paper, sink with hot and cold running water, dispensable hand soap, single-use towels, and a waste receptacle.
- 4.5.3. Plumbing and plumbing fixtures shall be properly installed with hot and cold running water and maintained in compliance with Title 15A Utah State Construction and Fire Code.
- 4.5.4. Tanning Establishments shall be provided with an artificial light source equivalent to at least 20-foot candles (215 lumens) three feet off the floor to allow for proper cleaning and disinfecting.
- 4.5.5. The Tanning Establishment shall be ventilated, and the internal ambient temperature shall not exceed 85 degrees Fahrenheit.
- 4.5.6. Tanning areas that include showers, steam rooms, or bathing areas shall have an openable window or a mechanical device that vents to the outside.
- 4.5.7. Tanning Establishments shall be designed to provide each station with patron privacy.

- 4.5.8. The timer system shall follow the requirements outlined in 21 C.F.R. 1040.20(c)(2). Tanning equipment shall incorporate a timer system with multiple timer settings adequate for the recommended exposure time intervals. The maximum timer interval(s) shall not exceed the manufacturer's recommended maximum exposure time(s). Operators shall verify the timing accuracy of tanning equipment at least twice a year and the results shall be provided upon request. Timer intervals shall not have an error greater than 10 percent of the maximum timer intervals of the product. The timer shall not be able to automatically reset.
- 4.5.9. Tanning equipment timers shall be located outside the station and accessible only to operators.
- 4.5.10. Tanning establishments located in a dwelling shall be located in a room which is used exclusively for tanning.
- 4.5.11. Tanning establishments shall comply with Utah Code Ann. §26-38-1, et seq., Utah Indoor Clean Air Act (UICAA).
- 4.5.12. Animals are not allowed in the tanning establishment except for service animals. The operator shall ensure that service animals allowed in tanning areas are provided with eye protection from UV exposure.

4.6. Warning Signs

- 4.6.1. Warning signs shall contain the following statements:



UV RADIATION HEALTH RISK

- TANNING DEVICES MAY CAUSE SEVERE EYE AND SKIN DAMAGE AND MAY CAUSE CANCER
- TALK TO A DOCTOR IF YOU ARE PREGNANT OR ON ORAL CONTRACEPTIVES OR OTHER DRUGS
- WAIT AT LEAST 48 HOURS BEFORE RE-TANNING
- REQUIRED FOR ALL PERSONS UNDER 18 YEARS FOR EACH TANNING SESSION: IN PERSON WRITTEN CONSENT BY PARENT OR LEGAL GUARDIAN OR PHYSICIAN'S WRITTEN ORDER

- 4.6.2. A warning sign that is at least 11" x 17" with the same wording as in section 4.6.1. shall be posted:

- (i) In the line of sight of a patron at the reception or sales counter and no more than 10 feet from where a patron checks in or pays for the tanning session; and
 - (ii) On a vertical surface in the reception area so that the top border of the writing is between five and six feet above the patron floor level at the reception or sales counter area.
- 4.6.3. Warning signs with the same wording as in section 4.6.1 shall be conspicuously posted in each tanning room and shall be a minimum of 8 ½” x 11”, legible and clearly visible.
- 4.6.4. An additional warning sign shall be posted in each tanning room that states “Failure to use protective eyewear may result in severe burns or long term injury to the eyes” and shall be a minimum of 8 ½” x 11”.

4.7. Cleaning and Maintenance.

- 4.7.1. Walls, floors, tables, counters, equipment, chairs and other surfaces in the tanning and restroom areas shall be kept clean and in good repair.
- 4.7.2. Body contact surfaces within a tanning station shall be cleaned and disinfected between each patron.
- 4.7.3. Reusable eye protection shall be cleaned and disinfected between each patron per the steps below:
- (i) Cleaned with soap and water;
 - (ii) Immersed in disinfectant according to manufacturer’s label;
 - (iii) Rinsed with clean water; and
 - (iv) Air dried.
- 4.7.4. Equipment shall be disinfected with a United States Environmental Protection Agency registered disinfectant, such as sodium hypochlorite or quaternary ammonia and used in accordance with the manufacturer’s label.
- 4.7.5. Liquid disinfectant shall be changed immediately upon observing sediment or according to manufacturer’s label.
- 4.7.6. Disinfected reusable eye protection shall be stored to prevent contamination.
- 4.7.7. Products shall be dispensed in a manner to prevent cross contamination.

- 4.7.8. If used, tanning establishments shall have an adequate supply of clean towels which shall be changed after each patron.
- 4.7.9. Used towels shall be stored in a container separate from clean towels.
- 4.7.10. Towels shall be laundered using a detergent and thoroughly dried on the highest heat setting.
- 4.7.11. All products provided by the permit holder shall be stored and maintained in a manner to prevent cross contamination.

4.8. Equipment

- 4.8.1. Only tanning equipment manufactured in accordance with the specifications set forth in 21 C.F.R. 1040.20 entitled “SUNLAMP PRODUCTS AND ULTRAVIOLET LAMPS INTENDED FOR USE IN SUNLAMP PRODUCTS” shall be used for tanning. The exact nature of compliance shall be based upon the standard in effect at the time of manufacture shown on the tanning equipment identification label (as required by 21C.F.R.1010.3)
- 4.8.2. Tanning establishments shall use commercially available UV tanning equipment in compliance with Utah Admin. Code R392-700 and shall follow all manufacturers’ safety instructions.
- 4.8.3. The tanning device shall allow each patron to exit the tanning device without operator assistance.
- 4.8.4. Requirements for stand-up booths:
 - (i) There shall be physical barriers or other methods, such as floor markings, to indicate the proper exposure distance between UV lamps and the patron’s skin.
 - (ii) The construction of the tanning equipment shall be such that it will have the strength to withstand the stress of use and the impact of a falling patron.
 - (iii) Hand rails and non-slip floors shall be provided for entry to and exit from tanning equipment.
 - (iv) There shall be physical barriers to protect patrons from injury induced by touching or breaking tanning equipment lamps.

4.9. Hand Washing

- 4.9.1. Operators shall wash their hands immediately after:

- (i) Using the restroom;
- (ii) Smoking, eating, coughing, sneezing, using a disposable tissue or handkerchief;
- (iii) Handling soiled equipment or soiled protective eyewear; and
- (iv) Engaging in other activities that contaminate the hands.

4.9.2. Operators shall wash their hands thoroughly with liquid hand soap and warm running water for a minimum of 20 seconds. Hands shall be dried with single-use towels or other method approved by the Department.

4.10. **Patron Forms and Reports**

4.10.1. Patron Form. Before allowing any patron to use a tanning device the operator shall, upon a patron's initial visit to the tanning establishment, and annually thereafter, require the patron to complete and sign a form that contains the following information and warnings in regard to tanning:

- (i) A representative list of potential photosensitizing drugs and agents (i.e. birth control pills, antibiotics) and the importance of consulting a health care provider before tanning if taking any medication;
- (ii) Potential negative health effects including:
 - a. Increased risk of skin problems due to sensitivity to sunlight;
 - b. Increased risk of skin cancer for patrons who sunburn easily or have a family history of melanoma;
 - c. Increased risk of cold sores; and
 - d. Increased risk of skin thinning, wrinkling, and premature aging.
- (iii) The possible adverse effect on some viral conditions or medical conditions, such as lupus;
- (iv) Skin sensitivity to a specific tanning device as determined by the operator;
- (v) Information on how long it takes before different skin types burn;
- (vi) Information on the risk of tanning within 48 hours of a previous session and overexposure within a session;

- (vii) Required use of protective eyewear including the possibility of eye damage if the eyewear is not used; and that closing the eyes is not sufficient to prevent possible eye damage;
- (viii) Information that tanning may be inadvisable during pregnancy; and
- (ix) Salt Lake County Health Department's contact information.

4.10.2. Each completed patron form shall be read and signed by the patron and legal guardian if the patron is a minor, and reviewed by the operator.

4.10.3. The patron shall be provided with a copy of the form.

4.10.4. Operators shall retain signed patron forms for a period of at least two years and shall make the patron forms available to the Department upon request.

4.10.5. Minor Consent Form

- (i) Operators shall not allow a minor to use a tanning device unless:
 - a. The minor is accompanied at the beginning of each tanning session by a parent or legal guardian who provides valid government issued photo identification;
 - b. The parent or legal guardian has read and understands the warnings required under section 4.10.1; or
 - c. The minor has a written order from a health care provider for a medical treatment that includes the frequency and duration of tanning sessions and is accompanied by a parent or legal guardian on the initial visit. The operator shall not allow a minor to exceed a health care provider's order for tanning in either frequency or duration.
- (ii) The consent form for use of a tanning device by a minor shall conform with Utah Admin. Code R392-700 Utah Department of Health Tanning Consent Form.
- (iii) After providing the required information and giving the parent or legal guardian the opportunity to ask questions, the operator shall require that the parent or legal guardian sign and date the form in their presence that authorizes the minor to use the tanning device.
- (iv) The parent or legal guardian shall be provided with a copy of the form.
- (v) Any new Federal Regulation restricting the tanning of minors shall supersede this regulation.

4.11. **Operators and Patrons.**

4.11.1 Operators shall ensure patrons have undamaged protective eyewear that is designed to cover the entire eye socket and is in compliance with 21 CFR 1040.20. The operator shall instruct the patron on proper use and the importance of eyewear.

4.11.2 Operators shall wear clean outer clothing.

4.12. **Prohibited Acts**

4.12.1. No person shall operate a tanning establishment without a valid permit.

4.12.2. No person shall operate tanning equipment without a valid Tanning Operator Certificate.

4.12.3. No owner shall allow a person to work at a tanning establishment without a valid tanning operators certificate.

4.12.4. Operators shall not engage in eating, cooking, or sleeping in the tanning stations, or while handling reusable protective eyewear.

4.12.5. No operator shall allow tanning on a person under the age of 18 unless the parent or legal guardian is present and has given written consent as required in Utah Code Ann. §26-15-13.

4.12.6. Persons or tanning establishments shall not advertise or promote the use of any tanning equipment using wording such as “safe tanning”, “no harmful rays”, “no adverse effect”, “free from risk”, or similar wording or concepts.

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 shall notify the Department in writing within 20 calendar days.

5.2. **Tanning Facility Establishment Permit Fees.** An applicant applying for a Tanning Establishment Permit as required in part-section 4.1.1 of this regulation shall be required to remit to the Department a Tanning Establishment Permit Fee of an amount as provided for or approved by the Director in the Department’s Fee Schedule upon application and at the time of renewal. The Tanning Establishment Permit Fee includes the plan review required in section 4.4.

- 5.3. **Tanning Operator Certificate Fees.** An applicant applying for a Tanning Operator Certificate required in section 4.1.2 of this regulation shall be required to remit to the Department an Tanning Operator Certificate Fee of an amount as provided for or approved by the Director in the Department's Fee Schedule upon application and at the time of renewal.
- 5.4. **Tanning Establishment Follow-Up Inspection Fee.** The Department will charge a follow-up fee to a Tanning the owner, permit holder or other person that has a Tanning Establishment Permit when conditions found during an inspection may cause or create a nuisance or hazard, to the public health, safety or welfare require a follow-up inspection to ensure compliance. The fee for a Tanning Establishment follow-up inspection shall be remitted to the Department in an amount as provided for or approved by the Director in the Department's Fee Standard.
- 5.5. **Late Fees.**
- 5.5.1. The Department may impose upon any party subject to this regulation penalties and charges for failure to timely pay service and license or permit fees as set out in this regulation. Attorney's fees and collection fees may also be applied.
- 5.5.2. Fees unpaid to the Health Department after 30 calendar days of the due date will be assessed a penalty of 10% of the outstanding balance. Failure to pay the fees and additional charges after 60 days of the due date will be assessed an additional penalty of 15% of the outstanding balance including previous penalties. Failure to pay the fees and additional charges after 100 days of the due date will result in suspension of the permit and the right to operate. A \$40.00 charge will be assessed for each returned check.
- 5.6. Unless otherwise provided for in this regulation or approved by the Director in the Department's Fee Standard, all fees collected by the Department are non-refundable. All licenses and permits issued by the Department are non-transferable.
- 5.7. **Denial, Suspension, or Revocation of License or Permit.** Any permit applied for or issued pursuant to this regulation may be denied, suspended, or revoked by the Director for any of the following reasons:
- 5.7.1. Failure of the application, plans, or specifications to show that the tanning facility establishment will be operated or maintained in accordance with the requirements and standards of this regulation;
- 5.7.2. Submission of incorrect or false information in the application, plans, or specifications;
- 5.7.3. Failure to operate or maintain the tanning establishment in accordance with the application, plans, and specifications approved by the Director;

- 5.7.4. Failure of the owner or operator of a tanning establishment to permit or allow the Department to conduct inspections as necessary to determine compliance with this Regulation;
- 5.7.5. Operation of the tanning establishment in a way that causes or creates a nuisance or hazard to the public health, safety, or welfare;
- 5.7.6. Violation of this regulation, or any other restrictions, or requirements adopted by the Board of Health;
- 5.7.7. Violation of any condition upon which the permit was issued;
- 5.7.8. Failure to pay the permit fee or any late fees within 100 days of the permit fee's due date;
- 5.7.9. Failure of any tanning equipment operator to have valid tanning operator certificate as required in section 4.2;
- 5.7.10. Failure to supply updated information as required in ~~sub~~ section 5.1 above.

5.8. Progressive Enforcement, Permit Suspension and Revocation Tanning Establishments.

- 5.8.1. Receipt of the first immediate compliance order shall result in suspension of the tanning establishment operations until the Department has verified that the identified violations of this regulation have been corrected.
- 5.8.2. Receipt of a second immediate compliance order shall result in suspension of the tanning establishment operations for a minimum of seven days.
- 5.8.3. Receipt of a third immediate compliance order may result in the tanning establishment permit being revoked. The owner of the said tanning establishment may be restricted from operating a tanning establishment for a minimum of 60 days, at which time the owner may be required to make application and submit a plan review etc., as if the establishment was a new establishment. Additional requirements may be required by the Department for approval of the tanning establishment to operate.

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 Department of Occupational and Professional Licensing.

6.2.2. **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, Utah Code Ann. §§ 63-2-101, et seq.

7. ENFORCEMENT MECHANISMS. If the Department has investigated or inspected any property or establishment 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 – Notice of Violation (NOV)**
- 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.

7.3.4. **Challenging an NOV.** As detailed in the Salt Lake County Health Department's Adjudicative Hearing Procedures, a party aggrieved by an NOV may request appropriate relief in writing within ten (10) days of the date of the NOV.

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. **Variiances.** Any variances allowed by the Department to the requirements of this regulation shall be only by written approval of the Board of Health.

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 order shall be effective immediately. Any person to whom the order is directed shall 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 shall 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, he or she may without notice or hearing issue an order declaring the existence of an emergency and requiring that action be taken as he deems necessary to meet the emergency. The order shall be effective immediately. Any person to whom the order is directed shall comply and abate the nuisance 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 shall 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 Section 26A-1-123, Utah Code Annotated, 1953, as amended.
- 8.1.2. Each day such violation is committed or permitted to continue shall constitute 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 Director 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 _____ day of _____, 2019.

SALT LAKE COUNTY BOARD OF HEALTH

By: _____
Dr. William Cosgrove, Chair

ATTEST:

GARY L. EDWARDS, M.S.
Executive Director
Salt Lake County Health Department