

DAVIS COUNTY BOARD OF HEALTH

TANNING FACILITIES REGULATION



**Davis**

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## **1.0 PURPOSE**

The purpose of this regulation is to preserve, promote, and protect the public health, safety, and general welfare of residents and visitors in Davis County by establishing minimum standards for tanning facilities.

## **2.0 SCOPE**

This regulation is applicable within all incorporated and unincorporated areas of Davis County.

### **2.1 Exemptions**

This regulation does not apply to:

- 2.1.1 phototherapy devices used by or under the supervision of a medical provider licensed in the State of Utah;
- 2.1.2 privately owned Tanning Devices used exclusively for personal use where no fee or other compensation is involved.

## **3.0 AUTHORITY AND APPLICABLE LAWS**

This regulation is adopted under the authority of the Davis County Board of Health in accordance with Utah Code Annotated (UCA) Section 26A-1-121.

The provisions of Utah Administrative Code (UAC) R392-700 Indoor Tanning Bed Sanitation are hereby adopted by reference and incorporated subject to the additions, clarifications, exceptions, and modifications set forth in this regulation.

## **4.0 DEFINITIONS**

- 4.1 DEPARTMENT: The Davis County Health Department.
- 4.2 OPERATOR: A Tanning Facility Owner, an agent of a Tanning Facility Owner, or a Person who operates a Tanning Facility.
- 4.3 OWNER: Any Person who, alone, jointly, or severally with others:
  - 4.3.1 has legal title to any Tanning Facility, with or without accompanying actual possession thereof;
  - 4.3.2 has care, charge, or control of any Tanning Facility, as Owner, agent of the Owner, or other Person;
  - 4.3.3 is executor, administrator, trustee, or guardian of the estate of the Owner;
  - 4.3.4 is a mortgagee in possession; or,
  - 4.3.5 is the senior officer or trustee of the association of unit Owners of a condominium.
- 4.4 PERSON: Any individual, firm, corporation and its officers, association, partnership, cooperative, trustee, executor of an estate, governmental agency or any other legal entity recognized by law, in the singular or plural.

- 4.5 **TANNING DEVICE:** A device that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers used to tan human skin, including a sunlamp, tanning booth, or tanning bed.
- 4.6 **TANNING FACILITY:** A permitted facility that provides access to or use of Tanning Devices at one premise.

## **5.0 REGULATION**

### **5.1 Right of Entry**

A representative of the Department shall be allowed access to the regulated premises after providing proper identification.

### **5.2 Operating Permit Required**

A Person may not operate a Tanning Facility without a current and valid operating permit issued by the Department. Operating permits shall only be issued to an Owner.

#### **5.2.1 Minimum Requirements to Obtain a Permit.**

To obtain a permit, a Tanning Facility Operator must:

- 5.2.1.1 apply to the Department prior to beginning operations by completing an application form provided by the Department and paying the required fee;
- 5.2.1.2 demonstrate to the local health department that the facility meets the tanning physical facility requirements, warning sign requirements, and the Tanning Device requirements set forth in UAC Chapter R392-700 Indoor Tanning Bed Sanitation (R392-700);
  - 5.2.1.2.1 The Tanning Facility Operator must also demonstrate that the facility has the systems in place to meet the written consent requirements, information notification requirements, eye wear requirements, and operational requirements set forth in R392-700.
- 5.2.1.3 be able to demonstrate to the local health department initially and upon subsequent inspections sufficient knowledge of safe operation of their Tanning Devices in accordance with manufacturers' recommendations.

#### **5.2.2 Conditions to Maintain a Permit.**

In order to maintain an operating permit, the Operator shall:

- 5.2.2.1 display the permit in an open public area of the Tanning Facility;
- 5.2.2.2 notify the Department in writing within ten (10) days of any change, including a change of name, that would render the information contained in the permit application inaccurate.

**5.2.3 Change of Ownership.**

At any time that a Tanning Facility changes ownership, the new Owner shall obtain an operating permit.

**5.2.4 Renewal.**

An operating permit shall be renewed within 30 days of expiration.

5.2.4.1 The new permit shall begin one calendar day after the old permit expires.

5.2.4.2 A late fee may be assessed every 30 days.

**5.2.5 Validity.**

An operating permit shall be valid for one year.

**5.3 Warning Sign Placement and Requirements**

The Tanning Facility shall post warning signs and provide consent forms that comply with the requirements set forth in UCA § 26-15-13(3) and (5) and R392-700. The warning signs and consent forms shall indicate that there are health risks associated with the use of a Tanning Device and shall comply with the provisions and conditions set forth in UCA 26-15-13(3) and (5) and R392-700.

5.3.1 The warning sign posted by the Tanning Facility shall be posted in a conspicuous location that is readily visible to a person about to use a Tanning Device.

**5.4 Written Health Risk Warning and Signed Consent for Minors**

The Tanning Facility shall implement procedures to ensure that minors and the minors' parents or legal guardians comply with the provisions set forth in UCA §§ 26-15-13(4) through (5) that regulate use of a Tanning Facility by a minor.

5.4.1 The procedures shall include use of a statewide uniform consent form that meets the requirements set forth in UCA § 26-15-13 Regulation of Tanning Facilities and R392-700.

**5.5 Chemical Labeling**

5.5.1 All chemicals shall be properly labeled.

5.5.1.1 Product labeling shall be reproduced as needed to provide instruction to Operators.

5.5.1.2 Labeling shall conform to criteria established by the Division.

**5.6 Enforcement**

It is unlawful for any Person not to comply with this regulation or to interfere with the Department in the performance of its duties.

5.6.1 Notice of Violation.

A notice of violation may be issued for any violation of this regulation.

5.6.1.1 A follow up inspection may be required for any notice issued.

**5.6.2 Suspension or Revocation of a Permit.**

A Tanning Facility's operating permit may be suspended or revoked if the facility:

- 5.6.2.1 has violated any of the provisions of this regulation;
- 5.6.2.2 is using equipment that has not been properly and adequately maintained.

**5.6.3 Closed to Operations.**

**5.6.3.1 Closing Facilities.**

A Tanning Facility may be closed if the facility is operating:

- 5.6.3.1.1 in violation of the terms of this regulation;
- 5.6.3.1.2 without a permit;
- 5.6.3.1.3 on a suspended or revoked permit.

**5.6.3.2 Reopening Facilities.**

Any Tanning Facility closed (to operations) will not be reopened until the Department; (a) determines that it is in compliance with this regulation, (b) issues its approval and (c) removes all placards.

## **6.0 PENALTY**

### **6.1 Criminal Penalties Pursuant to UCA Section 26A-1-123**

Pursuant to UCA Section 26A-1-123:

- 6.1.1 any Person who is found guilty by a court of: violating any of the provisions of this regulation; or violating, disobeying, or disregarding any Notice or Order issued under this regulation is guilty of a class B misdemeanor;
- 6.1.2 any Person who is found guilty of a subsequent similar violation within two years of the initial violation is guilty of a class A misdemeanor;
- 6.1.3 each day such violation is committed or permitted to continue shall constitute a separate violation;
- 6.1.4 conviction under this section does not relieve the Person convicted from civil liability.

### **6.2 Civil and Administrative Penalties**

The exercise of civil and administrative penalties shall be subject to the Board of Health's Adjudicative Hearing Procedures Regulation.

- 6.2.1 Any Person who violates any of the provisions of this regulation or violates, disobeys, or disregards any Notice or Order issued under this regulation shall be subject to:

6.2.1.1 the payment of costs incurred in the enforcement of any violation or notice issued, including costs attributable to any involved local agencies;

6.2.1.2 a penalty pursuant to the provisions of UCA Subsection 26-23-6(2).

## 7.0 SEVERABILITY

If any provision, clause, sentence, or paragraph of this regulation or the application or circumstances shall be held invalid, such invalidity shall not affect the other provisions or applications of this regulation. The valid part of any clause, sentence, or paragraph of this regulation shall be given independence from the invalid provisions or application, and to this end, the provisions of this regulation are declared to be severable.

## 8.0 FEES

8.1 Tanning Facility Annual Permit \$100.00

IN WITNESS WHEREOF, the Davis County Board of Health has passed, approved and adopted this regulation this 14<sup>th</sup> day of February, 2006.

**Effective date:** **February 14, 2006.**

**Revised and Amended:** **March 13, 2007**

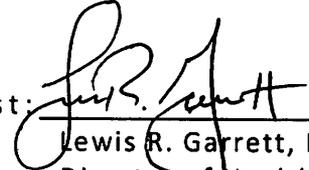
**Revised and Amended:** **November 8, 2011**

**Revised and Amended:** **August 14, 2012**

**Revised and Amended:** **May 12, 2015**

Davis County Board of Health

Signed:   
\_\_\_\_\_  
Scott Zigich  
Board Chairman

Attest:   
\_\_\_\_\_  
Lewis R. Garrett, M.P.H.  
Director of Health