

**Salt Lake Valley Health Department**

**Health Regulation**

**#18**

**MASSAGE FACILITIES  
REGULATION**

**Adopted by the Salt Lake Valley Board of Health  
June 3, 1982**

**Revised:  
April 2, 1992,  
November 2, 2006**

**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 set forth permitting procedures and requirements for the maintenance and operation of massage facilities and temporary massage facilities that will protect and promote the public health, safety, and welfare; and prevent the spread of disease.
- 1.2. This regulation applies to individuals performing massage therapy and to persons who own or operate a massage facility or temporary massage facility. This regulation shall not apply to a physician, chiropractor or physical therapist licensed by the state of Utah who uses massage techniques in the practice of medicine, chiropractic, or physical therapy. This regulation shall not apply to an individual who performs massage 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. “Board of Health” shall mean the Salt Lake Valley Health Department Board of Health.
- 2.2. “Department” shall mean the Salt Lake Valley Health Department (SLVHD).
- 2.3. “Director” shall mean the Director of the Salt Lake Valley Health Department or his or her designated representative.
- 2.4. “Dwelling” shall mean a building or structure that is intended or designed to be used, rented, leased, let or hired out for human habitation.
- 2.5. “Massage” shall mean the practice of applying systematic manual or mechanical manipulation of the soft tissues of the body, including muscles, connective tissues, tendons, ligaments, and joints.
- 2.6. “Massage Equipment” shall mean any device used in massage therapy that may come into contact with the patron’s skin.
- 2.7. “Massage Facility” shall mean any location, place, area, structure, or business where either as a sole service or in conjunction with other services, massage therapy is performed. A massage facility does not include those locations, places, areas, structures, or businesses where massage is performed pursuant to a temporary massage facility permit as provided in this regulation.
- 2.8. “Massage Therapist” shall mean an individual licensed by the State of Utah Division of Professional and Occupational Licensing to perform massage therapy.

- 2.9. “Nuisance” shall mean an act or condition created by a person who unlawfully commits or omits to perform any duty, which either:
- 2.9.1. seriously injures or endangers the health, or safety of any person; or
  - 2.9.2. seriously renders a person insecure in life; or
  - 2.9.3. endangers the environment.
- 2.10. “Operator” shall mean a person who leases or manages a massage facility or temporary massage facility.
- 2.11. “Owner” shall mean any person who alone, jointly, or severally with others:
- 2.11.1. has legal title to any massage facility or temporary massage facility, with or without accompanying actual possession thereof; or
  - 2.11.2. has charge, care, or control of any massage facility or temporary massage facility as legal or equitable owner, agent of the owner, or is an executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the owner.
- 2.12. “Patron” shall mean any person who receives a massage by a massage therapist.
- 2.13. “Permit” shall mean a written form of authorization in accordance with this regulation.
- 2.14. “Personal service station” shall mean a booth, table, or chair in which a personal service is provided. Examples include but are not limited to tanning booths, massage tables, and hair stylist chairs.
- 2.15. “Temporary Massage Facility” shall mean a location, place, area, structure, or business where either as a sole service or in conjunction with other services, massage therapy is performed for seven days or less.

### **3. GENERAL PROVISIONS**

#### **3.1. Jurisdiction of the Department.**

- 3.1.1. This regulation is promulgated by the Salt Lake Valley Board of Health as authorized by Section 26A-1-121(1), Utah Code Ann., 1953 as amended 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 Section 26A-1-114(1)(a), Utah Code Ann., 1953 as amended 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 Valley 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. MASSAGE PROVISIONS**

##### **4.1. Permits and Plan Review.**

###### **4.1.1. Department Approval and Permits Required.**

- (i) No person shall operate a Massage Facility without written approval and a corresponding valid Massage Facility Permit from the Department.
- (ii) No person shall operate a Temporary Massage Facility without obtaining written approval and a corresponding valid Temporary Massage Facility Permit from the Department.

###### **4.1.2. Permit Application, Duration, and Renewal.**

- (i) Application for a permit required in part 4.1.1 shall be made upon a form provided by the Director.
- (ii) Application for a permit required in part 4.1.1 shall be made prior to commencement of operation of the establishment.

- (iii) **Permit Duration and Renewal.** The Massage Facility Permit shall be issued annually and shall one year from date of issuance expire. It is the responsibility of the owner or operator of the Massage Facility to pursue permit renewal through appropriate channels. The Permit shall be renewable within 60 calendar days prior to the expiration date. The Temporary Massage Facility Permit shall be valid for seven consecutive days beginning with the date written on the permit.

4.1.3. **Massage Facility Plan Review.** A Massage Facility Permit applicant or Permit holder may be required to submit to the Department prior to the start of construction or remodeling properly prepared plans and specifications for review and approval before:

- (i) The construction of a Massage Facility;
- (ii) The conversion of an existing structure for use as a Massage Facility; or
- (iii) The remodeling of a Massage Facility if the Department determines that plans and specifications are necessary to ensure compliance with this regulation.

4.2. **Construction and Operation Requirements for Massage Facilities.** Unless otherwise ordered or approved by the Department, each facility shall be constructed, operated, and maintained to meet the following minimum requirements:

4.2.1. **Physical Facilities.**

- (i) Each massage facility and temporary massage facility shall have a toilet and a hand-washing sink with hot and cold water accessible to patrons provided with soap and single-use towels. The toilet and hand-washing facilities shall be thoroughly cleaned each day the establishment is in operation and kept in compliance with applicable state and local regulations.
- (ii) A massage facility and temporary massage facility located in a dwelling shall have one dedicated restroom facility as described in subpart 4.2.1 (i) for the use of patrons and operators during business hours. Access to the restroom shall not be through the massage therapist's bedroom.
- (iii) The floors and walls in the toilet and hand-washing areas must be constructed of smooth, non absorbent material.
- (iv) A massage facility or temporary massage facility located in a dwelling shall not be in the massage therapist's bedroom. Access to the massage facility or a temporary massage facility shall not be through the massage therapist's bedroom.

- (v) All rooms of a massage facility or temporary massage facility shall be capable of being illuminated to allow for proper cleaning and sanitizing.
- (vi) No room used for performing massage shall be used for eating, cooking, or sleeping by the massage therapist.

**4.2.2. Cleaning and Maintenance.**

- (i) All tables, counters, equipment, chairs, carpeting, and other surfaces in the massage facility and temporary massage facility shall be kept clean and in good repair.
- (ii) Sanitization shall be carried out using U.S. Environmental Protection Agency (U.S. E.P.A.) registered sanitizer and in accordance with the U.S. E.P.A. approved label.
- (iii) At the request of the patron, sanitizer and instructions on the proper use of such shall be provided by the operator.
- (iv) Each massage facility and temporary massage facility shall have an adequate supply of clean towels and linens which shall be changed after each patron. All clean towels and linens shall be stored in a closed container.
- (v) Soiled towels and linens shall be placed in closed containers .
- (vi) Oils, creams, lotions, or other preparations shall be sanitary and stored in clean, closed containers.
- (vii) Only single use applicators or spouts that preclude contamination of the contents shall be used for the dispensing of oils, creams, lotions, or other preparations.

**4.2.3. Owners, Operators, Massage Therapists, and Patrons.**

- (i) Owners and operators of a business which employs individuals to perform massage, either as employees or private contractors shall ensure that such individuals are licensed to perform massage by the Utah Division of Occupational and Professional Licensing.
- (ii) All massage therapists shall conform to good hygienic practices while on duty in a massage facility.
- (iii) Massage therapists shall wash their hands thoroughly before and after performing each massage.

- (iv) No massage therapist shall administer a massage or give treatment if they know or should know that they have any disease capable of being transmitted to another individual.
- (v) If the Director has reasonable suspicion that a disease has been transmitted by a massage therapist in the course of performing massage, the Director shall make investigation or examination as appropriate and take action as needed to protect and preserve the public health. In addition to other legal remedies, such action may include, but is not limited to:
  - a. Exclusion of the employee or patron from the massage facility; or
  - b. The immediate closure of the facility.
- (vi) The Director may require medical testing or examinations if a contagious disease is suspected of being transmitted by a massage therapist.
- (vii) Massage therapists with an open wound, cut, sore, burn, or other skin injury capable of coming into contact with a client's skin shall not practice massage without covering the wound, cut, sore, burn or skin injury with a suitable physical barrier such as a finger cot or a latex glove.
- (viii) Massage therapists may deny service to patrons with skin diseases or other conditions posing public health concerns.

## **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. **Massage Facility Permit Fees.** The fees for a Massage Facility Permit required in part 4.1.1 of this regulation shall be paid to the Department at the time of application. It shall be based upon the reasonable expenses incurred by the Department to review plans and specifications, conduct inspection(s), and act upon the permit application. The annual fee for a Massage Facility Permit shall be \$100.00 plus \$5.00 for each personal service station.
- 5.3. **Temporary Massage Facility Permit Fees.** The fees for a Temporary Massage Facility Permit required in part 4.1.1 (ii) of this regulation shall be paid to the Department at the time of application. It shall be based upon the reasonable expenses incurred by the Department to conduct inspection(s), and act upon the permit application. The fee for a Temporary Massage Facility Permit shall be \$50.00.

**5.4. Massage Facility Follow-Up Inspection Fee.** The Department will charge a follow-up fee to a Massage Facility Permit holder when conditions found during an inspection require a follow-up inspection to ensure compliance. The fee for a massage facility follow-up inspection is \$100.

**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 or license 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 permit application, plans, or specifications to show that the massage facility 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 permit application, plans, or specifications;

5.7.3. Failure to construct, operate or maintain the massage facility in accordance with the permit application, plans, and specifications approved by the Director;

5.7.4. Failure of the owner or operator of a massage facility to permit or allow the Department to conduct inspections as necessary to determine compliance with this Regulation;

5.7.5. Operation of the massage facility 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 required by the Director;

- 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; or
- 5.7.9. Failure to supply updated information as required in subsection 5.1.

## 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 Board of Health, the Departments of Health & Environmental Quality, county or municipal governing bodies, or the division of Occupational and Professional Licensing.

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

6.2.3. **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, §§ 63-2-101 to 63-2-1001 Utah Code Ann., 1953 as amended.

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 division 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 division 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 violations either alone or in conjunction with civil enforcement. Criminal prosecutions for 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;
  - 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.**

- 7.2.1. 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.

**7.3.4. Challenging an NOV.** As detailed in the SLVHD's Adjudicative Hearing Procedures, a party aggrieved by an NOV may request a departmental conference, departmental hearing, or departmental appeal in writing within ten (10) days of the date of the NOV.

**7.3.5. Departmental Conference, Settlement Agreements, and Stipulations & Orders.**

- (i) After issuance of the NOV, the alleged violator has the option to request and attend a Departmental Conference to discuss the NOV and settlement with the Department and its legal counsel. No hearing officer will be present. The process of requesting a Departmental Conference are more fully described in the SLVHD's Adjudicative Hearing Procedures.
- (ii) If the parties agree to a settlement, the Department will prepare, in conjunction with the District Attorney's Office, a binding Settlement Agreement or Stipulation & Consent Order which may require the payment of penalties and the costs of investigation. Parties may also agree to a settlement at any time subsequent to the Departmental Conference. After signing a Settlement Agreement or Stipulation & Consent Decree, the parties waive all rights to further department and court hearings or appeals. Settlement Agreements or Stipulation & Consent orders may be enforced in state courts.

- 7.3.6. **Hearings & Appeals.** Parties Aggrieved by an NOV may also request a Departmental Hearing or a Departmental Appeal. A hearing officer is present at these proceedings and makes a written determination. The methods of challenging an NOV are more fully described in the SLVHD's Adjudicative Hearing Procedures. Departmental Hearing Orders and Departmental Appeal Orders may be appealed to the entities and within the time limits set out in the SLVHD's Adjudicatory Hearing Procedures.
- 7.3.7. **Failing to respond to an NOV.** If a party fails to respond to an NOV within the required time, the NOV becomes a final order unappealable to any administrative entity or court. The Department may then enforce the order in state 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. **Variances.** Any variance 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 Valley 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 or she 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 Valley 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 Valley Board of Health.

**APPROVED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

**SALT LAKE VALLEY BOARD OF HEALTH**

By: \_\_\_\_\_  
William S. Kidder, D.D.S.

**ATTEST:**

By: \_\_\_\_\_  
GARY L. EDWARDS, M.S.  
Executive Director  
Salt Lake Valley Health Department