

Salt Lake Valley Health Department

Health Regulation

#20

**COSMETOLOGY FACILITIES
REGULATION**

**Adopted by the Salt Lake Valley Board of Health
September 2, 1982**

**Revised
February 2, 1995,
October 5, 1995,
November 2, 2006**

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

1. PURPOSE & APPLICABILITY

- 1.1. The purpose of this regulation is to regulate cosmetology facilities and temporary cosmetology facilities 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 cosmetologists in Salt Lake County and persons who own or operate a cosmetology facility or temporary cosmetology facility in Salt Lake County, unless specifically exempted. This Regulation shall not apply to physicians, surgeons, nurses, other medical persons, or morticians, if duly licensed to practice their respective professions in the State of Utah, and if engaged in the personal performance of the duties of their respective profession in Salt Lake County.

2. DEFINITIONS

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

- 2.1. “Cosmetologist” shall mean an individual licensed by the State of Utah Division of Occupational and Professional Licensing to perform cosmetology; or any person engaged in the practice of cosmetology for the public generally, with or without compensation, whether as owner, operator, instructor, demonstrator, or manicurist.
- 2.2. “Cosmetology” shall mean any one or a combination of the following practices when performed upon a person for cosmetic purposes only:
 - 2.2.1. Cleansing, beautifying, or applying oils, creams, antiseptics, clays, lotions, or other preparations, either by hand or by mechanical or electrical appliances to the face, neck, and/or the head;
 - 2.2.2. Styling, arranging, dressing, curling, waving, permanent waving, cleansing, singeing, bleaching, dyeing, tinting, coloring, or similarly treating the hair of the head of a person;
 - 2.2.3. Cutting, clipping, barbering, or trimming the hair of a person by the use of scissors, shears, clippers, or other appliances;
 - 2.2.4. Arching eyebrows or tinting eyebrows or eyelashes;
 - 2.2.5. Removing superfluous hair from the face, neck, shoulders;
 - 2.2.6. Manicuring;
 - 2.2.7. Electrolysis; or

2.2.8. Esthetics.

- 2.3. “Cosmetology facility” shall mean any barber shop, beauty salon location, structure, dwelling, or business where cosmetology is performed. A cosmetology facility does not include those locations, places, areas, structures, or businesses where cosmetology is performed pursuant to a temporary cosmetology facility permit as provided in this regulation.
- 2.4. “Department” shall mean the Salt Lake Valley Health Department (SLVHD).
- 2.5. “Director” shall mean the Director of the Salt Lake Valley Health Department or his or her designated representative.
- 2.6. “Dwelling” shall mean a building or structure that is intended or designed to be used, rented, leased, let or hired out for human habitation.
- 2.7. “Electrolysis” shall mean the practice of removing superfluous hair from a person by use of electrical current.
- 2.8. “Hot water” shall mean water heated to a temperature of not less than 110° Fahrenheit at the outlet.
- 2.9. “Manicuring” shall mean the practice of cutting, trimming, lacquering, polishing, coloring, cleansing the nails, massaging, cleaning, treating, applying or removing artificial finger and/or toe nails, beautifying the hands, fingers, feet, and toes of any person.
- 2.10. “Operator” shall mean any person who leases or manages a cosmetology facility.
- 2.11. “Owner” shall mean any person who alone or jointly or severally with others:
- 2.11.1. Has legal title to any cosmetology facility or temporary cosmetology facility with or without accompanying actual possession thereof; or
 - 2.11.2. Has charge, care, or control of any cosmetology facility or temporary cosmetology facility has 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.
- 2.12. “Person” shall mean 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.

- 2.13. “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.
- 2.14. “Temporary Cosmetology Facility” shall mean a location, place, area, structure, or business where either as a sole service or in conjunction with other services, cosmetology 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 as authorized by Section 26A-1-114(1)(a), in all incorporated and unincorporated areas served by the Department, 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. COSMETOLOGY PROVISIONS

4.1. Permit Requirements.

4.1.1. Department Approval and Permits Required.

- (i) No person shall own or operate a cosmetology facility without written approval and a corresponding valid Cosmetology Facility Permit from the Department.
- (ii) No person shall operate a Temporary Cosmetology Facility without written approval and a corresponding valid Temporary Cosmetology Facility Permit from the Department.

4.1.2. Permit Application, Duration, and Renewal.

- (i) Application for a permit required under part 4.1.1. shall be made upon a form provided by the Director.
- (ii) **Permit Duration and Renewal.** The Cosmetology Facility permit shall be issued bi-annually and shall expire two years from date of issuance. It is the responsibility of the owner or operator of the Cosmetology Facility to pursue permit renewal through appropriate channels. The permit shall be renewable within 60 calendar days prior to the expiration date. The Temporary Cosmetology Facility Permit shall be valid for seven consecutive days beginning with the date written on the permit.

4.1.3. A Cosmetology Facility Permit shall be conspicuously posted at a cosmetology facility. Cosmetologists operating under a temporary cosmetology facility permit shall have their permit available for patrons and Department inspectors upon request.

4.2. Construction and Operation Requirements for Cosmetology Facilities and Temporary Cosmetology Facilities.

- 4.2.1. Access to the toilet and hand washing sink required in part 4.2.5 of this regulation shall not be through a cosmetologist's bedroom.
- 4.2.2. Cosmetologists shall not practice cosmetology in rooms which they regularly use for eating, cooking, or sleeping.
- 4.2.3. The surfaces on the walls and floors of a cosmetology facility shall be impervious, easily cleanable, maintained, clean, and in good repair.
- 4.2.4. Each cosmetology facility and temporary cosmetology facility shall be equipped with hot and cold running water, and plumbing fixtures shall be properly installed

and maintained in compliance with the applicable plumbing code.

- 4.2.5. Each cosmetology facility and temporary cosmetology facility shall have a toilet and a hand-washing sink with hot and cold water accessible to patrons and provided with hand soap and single use towels. The toilet and hand washing facilities shall be thoroughly cleaned each day the facility is in operation and kept in compliance with applicable state and local regulations. A hand-washing facility shall be easily accessible to all personal service stations.
- 4.2.6. Shampoo basins and pedicure foot baths shall be designed to protect the water supply from contamination due to back siphonage, and used in a manner which does not create a cross connection.
- 4.2.7. A cosmetology facility located in a residence shall have one dedicated restroom facility for the exclusive use of patrons and cosmetologists during business hours. The restroom facility shall have a hand washing sink with hot and cold running water, liquid hand soap, and single use towels. The surfaces in the restroom shall be impervious, easily cleanable, in good repair, and maintained at least daily as described in subpart 4.2.1 (v) of this regulation. Access to the restroom shall not be through the cosmetologist's bedroom.
- 4.2.8. Each cosmetology facility and temporary cosmetology facility shall be equipped with a closed cabinet or container for clean instruments, towels, and linens. The cabinet or container shall be constructed of impervious material.
- 4.2.9. Soiled towels and linens shall be placed in closed containers after use on each patron.
- 4.2.10. Adequate waste containers shall be provided for the storage of solid waste. The storage, transport, and disposal of solid waste shall comply with applicable laws.
- 4.2.11. Puncture proof containers shall be provided and used for storage and discarding of all sharps. The container shall be properly marked as BIO-HAZARD or INFECTIOUS WASTE.
- 4.2.12. Reusable instruments shall be completely immersed in liquid disinfectant before use on a new patron.
- 4.2.13. All areas of the cosmetology facility and temporary cosmetology facility shall be provided with adequate ventilation. Areas where personal service stations are located shall be ventilated with at least 6 changes of air per hour.
- 4.2.14. Areas where personal service stations are located shall be illuminated to provide at least 30 foot-candles of illumination. Other rooms of the cosmetology facility shall be capable of being illuminated sufficiently to allow proper cleaning and sanitizing.

4.2.15. A sufficient supply of clean brushes, combs, neck strips, and disinfectant shall be available to the cosmetologist at all times. Reuse of lather mugs and brushes, powder puffs, and sponges are prohibited.

4.3. Cleaning and Maintenance Requirements for Cosmetology Facilities and Temporary Cosmetology Facilities.

4.3.1. All tables, counters, equipment, chairs, and other surfaces in the cosmetology facility shall be constructed of smooth, easily cleanable materials and shall be kept clean and in good repair.

4.3.2. Equipment, tools, instruments, and appliances used for cosmetology shall be cleaned and disinfected prior to use on each patron according to one of the following approved methods:

- (i) Dry heat and temperature of 338° Fahrenheit (170° Celsius) for at least one hour;
- (ii) Sodium Hypochlorite solution of 200 parts per million of chlorine for at least two minutes;
- (iii) Formalin in 10% solution for at least 20 minutes;
- (iv) Quaternary ammonium solutions of 1,000 parts per million for 10 minutes;
- (v) 70 percent solution of alcohol for 20 minutes;
- (vi) Boiling water at 212° Fahrenheit (100° Celsius) for 15 minutes;
- (vii) Steam sterilization at 15 pounds (one atmosphere) pressure at 248° Fahrenheit (120° Celsius) for 30 minutes;
- (viii) Germicidal oils or sprays for clipper heads; or
- (ix) Any method approved by the Director.

4.3.3. Disinfection solutions shall be maintained free from excessive amounts of sediment, and changed according to manufacturer's specification.

4.3.4. Containers, drawers, and cabinets used for the storage of supplies, clean linens, and disinfected equipment shall be kept clean and sanitary at all times.

4.3.5. Each cosmetology facility and temporary cosmetology facility shall have an adequate supply of clean towels and linens which shall be laundered after each patron. All clean towels and linen shall be stored in a closed container. Towels,

linens, or equipment contaminated with blood shall be discarded, or washed and sanitized before re-use.

- 4.3.6. If capes are not washed between patron use, single use neck strips or clean towels shall be placed around the patron's neck while cutting, clipping, or shaving their hair. Hair cloths and capes shall be clean and in good repair at all times.
- 4.3.7. All single use items including, but not limited to, emery boards, makeup applicators, and permanent wave end papers shall be discarded immediately after use on a patron.
- 4.3.8. Hair clippings shall be removed and properly disposed of after each haircut.
- 4.3.9. Hairpieces shall be sanitized and handled in the following way:
 - (i) A patron's head shall be covered with a protective cap prior to placement of any hairpiece. Single-use protective caps shall be discarded after each use. Reusable protective caps shall be cleaned and sanitized prior to re-use.
 - (ii) All hairpieces or wigs on display or available for sale, demonstration, loan, or rent, shall be maintained clean and sanitary.
 - (iii) Storage containers shall be provided for soiled hairpieces or wigs.

4.4. Cosmetologists and Patrons.

- 4.4.1. Owners and operators of a business which employs persons to perform cosmetology, either as employees or private contractors shall ensure that such persons are licensed to perform cosmetology by the Utah Division of Occupational and Professional Licensing.
- 4.4.2. All cosmetologists shall wear clean outer garments while performing cosmetology. All cosmetologists shall maintain a high degree of personal cleanliness, and conform to good hygienic practices while on duty in a cosmetology facility.

Cosmetologists shall wash their hands immediately after using the restroom, smoking, or eating and before engaging in cosmetology on a patron.
- 4.4.3. Combs and other instruments used for cosmetology shall not be placed or carried in the pockets of the cosmetologist.
- 4.4.4. Cosmetologists may deny service to patrons afflicted with impetigo, barber's itch, pediculosis (lice and nits), or tinea fungi (ringworm) or any other suspected

contagious condition.

- 4.4.5. Cosmetologists shall not remove or attempt to remove a wart or mole or treat any disease of a patron.
- 4.4.6. Cosmetologists shall not perform cosmetology if they have a contagious disease.
- 4.4.7. A predisposition test shall be given to a patron before the application of an aniline derivative tint.
- 4.4.8. The owner or operator shall report to the Director any case of disease, dermatitis, or serious injury that [occurs as a result of a cosmetology service provided in their facility.
- 4.4.9. Styptic pencil or lump alum shall not be used to stop the flow of blood. Liquid or powdered astringent may be used to stop the flow of blood and shall be applied with a clean spatula, single-use gauze, or cotton.
- 4.4.10. Talc and cosmetic powders shall be dispensed in a manner that does not create cross contamination.
- 4.4.11. If used, creams and ointments shall be dispensed from containers with clean reusable, or single use instruments. Creams and ointments shall be stored in closed containers.
- 4.4.12. The owner or operator of a cosmetology facility shall not allow any dog or cat in the facility except for service animals.

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. **Cosmetology Facility Permit Fee.** The fee for a Cosmetology 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 on the reasonable expenses incurred by the Department to review plans and specifications, conduct inspection, and act upon the permit application. The biennial fee for a Cosmetology Facility Permit shall be \$100.00 plus \$5.00 for each additional personal service station.
- 5.3. **Temporary Cosmetology Facility Permit Fee.** The fee for a Temporary Cosmetology 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 Cosmetology Facility Permit shall be \$50.00.

5.4. Cosmetology Facility Follow-Up Inspection Fee. The Department will charge a follow-up fee to a Cosmetology Facility Permit holder when conditions found during an inspection require a follow-up inspection to ensure compliance. The fee for a Cosmetology 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. Suspension or Revocation of License or Permit. The Department may also suspend or revoke licenses and permits and require closure for any of the following reasons:

5.7.1. Failure of reports, plans, or specifications to show that the cosmetology facility will be constructed, operated, or maintained in accordance with the requirements and standards of these regulations adopted by the Department;

5.7.2. Submission of incorrect or false information in the application, reports, plans, or specifications;

5.7.3. Failure to construct, operate, or maintain the cosmetology facility or temporary cosmetology facility in accordance with the application, reports, plans, and specifications approved by the Department;

5.7.4. Operation of the cosmetology facility or temporary cosmetology facility in a way that causes or creates a health hazard or threatens the public health, safety, or welfare;

- 5.7.5. Violation of any regulation, restriction, or requirement adopted by the Department;
- 5.7.6. Violation of any condition upon which the approval was issued;
- 5.7.7. Failure to timely pay fees for license and permits 100 days beyond the due date; or
- 5.7.8. Failure of the owner or operator of a cosmetology facility or temporary cosmetology facility to permit or allow the Department to conduct inspections to determine compliance with this regulation.

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 & Division of 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, §§ 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 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.

- 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. 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. Any variances allowed by the Department to the requirements of this regulation shall 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 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 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 be 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