

Salt Lake Valley Health Department

Health Regulation

#3

HOUSING REGULATION

**Adopted by the Salt Lake Valley Board of Health
June 4, 1981**

**Amended
January 4, 2007**

**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 protect, preserve, and promote public health; to prevent and control the incidence of communicable diseases; to protect the safety of the public; to reduce environmental hazards to health; and to regulate privately and publicly owned dwellings for the purpose of maintaining adequate sanitation and public health.
- 1.2. This regulation applies uniformly to the repair, maintenance, use, and occupancy of all existing buildings, manufactured housing, structures or parts thereof, designed, intended for use, or used for human habitation, irrespective of when or under what laws such buildings, mobile homes, structures, or portions thereof were originally constructed or rehabilitated.

2. DEFINITIONS

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

- 2.1. -“Accessory building” shall mean a detached building or structure that is not used or intended to be used for living or sleeping by human occupants and is located on any premises.
- 2.2. “Approved” shall mean acceptable to the Department based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.
- 2.3. “Basement” shall mean the habitable portion of a building or structure that is wholly or partially below grade.
- 2.4. “Clean” shall mean the condition of being free from readily noticeable dirt, soil, stain, left over food particles, or other materials not intended to be a part of the object in question.
- 2.5. “Department” shall mean the Salt Lake Valley Health Department (“SLVHD”).
- 2.6. “Dilapidated” shall mean a building or structure or part thereof that by reason of inadequate maintenance, structural deterioration, or abandonment is unsafe, unsanitary, or constitutes a hazard and is no longer fit for use as originally intended.
- 2.7. “Director” shall mean the Director of the Salt Lake Valley Health Department or his or her designated representative.
- 2.8. “Dwelling” shall mean a building or structure that is intended or designed to be used, rented, leased, let or hired out for human habitation.

- 2.9. “Dwelling unit” shall mean a single habitable unit in a dwelling which provides independent living facilities. A dwelling unit includes space for living and sleeping and may provide access to shared space for personal hygiene and/or cooking and eating.
- 2.10. “Emergency housing” shall mean a building or structure that is designated by the Director to be utilized for occupancy in an emergency.
- 2.11. “Garbage” shall mean solid and semisolid, putrescible animal and vegetable wastes resulting from the handling, preparing, cooking, storing, serving, and consuming of food or material intended for use as food, and all offal (excluding useful industrial by-products) from all public and private establishments and from all residences.
- 2.12. “Habitable space” shall mean a space within a building or structure intended to be used for living, sleeping, cooking, or eating. Bathrooms, laundry rooms, toilet rooms, closets, halls, storage or utility spaces, accessory buildings, and similar areas are not considered habitable spaces.
- 2.13. “Hazardous material” shall mean any element, compound, or substance that poses an unreasonable risk to health and which, because of handling, storage, processing or packaging may have detrimental effects on emergency personnel, the public, and/or the environment.
- 2.14. “Hot water” shall mean water heated to a temperature of not less than 110° F (43.3° C) at the outlet.
- 2.15. “Infestation” shall mean the uncontrolled presence of vermin that are harmful or injurious to health.
- 2.16. “Lead based paint” shall mean paint or other surface coatings that contain lead in excess of the limits established by the United States Department of Housing and Urban Development.
- 2.17. “Manager” shall mean a person to whom the owner has delegated the authority to allow inspections, order repairs, and commit resources necessary to ensure remediation of emergencies and compliance with this regulation.
- 2.18. “Manufactured housing” shall mean a structure transported in one or more sections, which in the traveling mode, is eight feet or more in width or forty feet or more in length, or when erected on site is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating and electrical systems contained therein.
- 2.19. “Nuisance” shall mean a condition created by a person who unlawfully commits or omits to perform any duty, which either:

- 2.19.1. Seriously injures, or endangers the repose, health, or safety of any person; or
- 2.19.2. Seriously renders a person insecure in life or the use of property.
- 2.20. "Occupant" shall mean any person living, sleeping, cooking, or eating in a dwelling unit or having actual possession thereof whether as a tenant or owner-occupant.
- 2.21. "Owner" shall mean any person who alone, jointly, or severally with others:
 - 2.21.1. has legal title to any premises, dwelling, or dwelling unit, with or without accompany actual possession thereof; or
 - 2.21.2. has charge, care, or control of any premises, dwelling, or dwelling unit, 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.
- 2.22. "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, county, city, political subdivision, or any legal entity recognized by law.
- 2.23. "Pest control" shall mean the suppression or eradication of vermin infestations by eliminating their harborage; removing or making inaccessible materials that may serve as their food; or poisoning, spraying, fumigating, trapping; or any other legal pest control methods.
- 2.24. "Plumbing fixture" shall mean a receptacle or device that is either permanently or temporarily connected to the water distribution system of the premises and demands a supply of water there from; discharges wastewater, liquid-borne waste materials or sewage either directly or indirectly to the drainage system of the premises; or requires a water supply connection and a discharge to the drainage system of the premises.
- 2.25. "Premises" shall mean any lot, parcel, or plot of land, including any buildings or structures thereon.
- 2.26. "Red tag" shall mean to affix a notice to an appliance which has been found to contain an eminent safety hazard by a qualified servicing utility.
- 2.27. "Refuse" shall mean:
 - 2.27.1. Combustible trash, including but not limited to paper, newspapers, cartons, boxes, barrels, wood, excelsior, tree branches, yard trimmings, wood furniture, bedding; and

- 2.27.2. Noncombustible trash, including but not limited to metal, tin cans, metal furniture, dirt, small quantities of rock and pieces of concrete, glass crockery, other mineral wastes.
- 2.28. “Rodent” shall mean a non-domestic commensal species of rat or mouse, including but not limited to the Norway Rat and House Mouse.
- 2.29. “Rodent harborage” shall mean any conditions or place where rodents can take refuge.
- 2.30. “Rodentproofing” shall mean a form of construction or action that will prevent rodents from entering a building or structure and from gaining access to food, water, or harborage.
- 2.31. “Rooming house” shall mean any dwelling containing one or more rooming units in which space is rented, let, leased, or hired out by the owner or operator. A rooming house shall include but not be limited to dormitories, group homes, and boarding houses.
- 2.32. “Rooming unit” shall mean a single habitable dwelling unit providing complete, independent living facilities including permanent provisions for living and sleeping, which may lack or share kitchen facilities and provides either individual or shared bathroom facilities.
- 2.33. “Utility service” shall mean electrical, gas, oil, water, or sewer service.
- 2.34. “Vermin” shall mean rats, mice, cockroaches, bedbugs, mosquitoes or any other pest as determined by the Director to be harmful to the life, health, or welfare of the public.

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. HOUSING PROVISIONS

4.1. Responsibilities of Owners and Property Managers.

- 4.1.1. **Duty to Abate a Violation of this Regulation.** Any person violating any provision of this regulation shall be required to abate that violation.
- 4.1.2. **Letting of Unfit Dwelling or Dwelling Unit Unlawful.** No owner, manager, or other person shall let to another person, or permit occupancy of any dwelling or dwelling unit unless it complies with this regulation.
- 4.1.3. **Failure to Maintain Dwelling or Dwelling Unit Unlawful.** No owner or manager, of any dwelling or dwelling unit shall permit interior surfaces to become soiled from accumulations of garbage, fecal matter, bodily fluid, or other infectious materials. If the affected area cannot be cleaned and restored to a sanitary condition, the Director may require the owner to repair or replace it before further habitation.
- 4.1.4. **Flood Damage Control and Remediation.** In the event that water or sewage floods a dwelling or dwelling unit and affects any floor, wall, ceiling, or structural component, the owner or manager shall take action to remove the water or sewage and initiate the drying of all affected surfaces as soon as possible after the occurrence. If the source is potable water and is not dried within 24 hours of the occurrence, or the source is other than potable water, the surfaces shall be cleaned

and sanitized. The owner or manager shall make any corrections or repairs required to mitigate the potential recurrence of flooding into the dwelling or dwelling unit.

- 4.1.5. **Maintenance of Common Areas.** An owner or manager of a building or structure containing two or more dwelling units shall maintain the common areas of the premises in a clean and sanitary manner.
- 4.1.6. **Pest Control.** An owner or manager of a dwelling or dwelling unit shall be responsible for the control of vermin on the premises.
- 4.1.7. **Prevention of Pests.** The owner or manager, of a dwelling or dwelling unit shall not accumulate garbage, refuse, or any materials that may serve as food or harborage for vermin.
- 4.1.8. **Maintenance of Appliances.** Appliances such as refrigerators, stoves, garbage disposals, heating equipment, and water heaters supplied by the property owner or manager shall be maintained in good repair.
- 4.1.9. **Hot and Cold Water.** An owner or manager of a dwelling or dwelling unit shall provide adequate hot and cold potable running water for every kitchen sink, bathroom lavatory, bathtub, and shower.
- 4.1.10. **Drainage of Standing Water.** Stagnant pools of water are declared nuisances. Every premises shall be graded and drained of standing water and maintained clean, sanitary, and safe by the owner. Rain gutters, if installed, shall direct water away from foundations. The owner or manager shall not allow water to stand beneath or in the structure. This does not preclude the presence of properly maintained decorative ponds.
- 4.1.11. **On Site Management.** Every building or structure containing 16 or more dwelling units shall have a management office or resident manager on site. Every building or structure containing less than 16 dwelling units shall have on site management or shall provide the occupants with contact information, including the name, address, and telephone number of the owner, manager, or agent.
- 4.1.12. **Responsibilities Upon Vacating.** If any dwelling or dwelling unit is vacant, the owner or manager shall secure and maintain the structure, and remove all garbage and refuse from the premises and abate all nuisances within the time specified by the Director and prior to re-occupancy.
- 4.1.13. **Interruption of Utilities Prohibited.** No owner or manager of a dwelling or dwelling unit shall cause or permit any utility service to be removed, shut off, or discontinued for any occupied dwelling or dwelling unit let or occupied by him or her, except for temporary interruption while repairs or alterations are in process or during temporary emergencies. This shall not be interpreted as preventing a

utility from discontinuing utility service for nonpayment or other reasons allowed by law.

4.1.14. **Prohibited Occupancy.** No owner or manager shall permit occupancy of any building or structure or part thereto for living, sleeping, cooking, or eating if:

- (i) The building or structure was not intended to be used for such occupancy;
or
- (ii) The building or structure is unfit for use.

4.2. **Responsibilities of Occupants.**

4.2.1. **Maintenance of Dwelling or Dwelling Unit.** Every occupant of a dwelling or dwelling unit shall keep fixtures and furnishings clean and sanitary and shall be responsible for their reasonable care.

4.2.2. **Sanitation of Dwelling or Dwelling Unit.** Every occupant shall maintain clean and sanitary all parts of the premises they occupy. This includes the proper disposal of garbage, refuse, fecal matter, or other nuisance conditions that adversely affect public health.

4.2.3. **Occupant to Allow Access.** Every occupant shall allow the owner or manager access to the dwelling unit at reasonable times upon proper notification of the intent to make repairs or abate violations of this regulation.

4.3. **Density and Space Requirements.**

4.3.1. **Limited Occupancy Per Unit.** The occupancy of any dwelling or dwelling unit shall meet the following requirements:

- (i) For the first occupant there shall be at least one hundred fifty square feet of habitable space.
- (ii) There shall be at least one hundred square feet of habitable space for every additional occupant.

4.4. **Structural Requirements.**

4.4.1. **Building Structural Requirements.** Every foundation, chimney, floor, exterior and interior wall, ceiling and roof, of all dwellings and dwelling units shall be weather and water-tight, rodentproof, and in good repair.

4.4.2. **Bathroom Facilities.** Every dwelling unit, except rooming units, shall contain a toilet, handwash sink, and bathtub or shower in good working condition and properly connected to an approved water and sewer system. The handwash sink

shall be conveniently located to the toilet. Rooming units shall have either individual or shared bathroom facilities.

- 4.4.3. **Kitchen Facilities.** Every dwelling unit, except rooming units, shall be provided with a kitchen that contains a refrigeration unit and a cooking appliance in good working condition, and an approved kitchen sink which is properly connected to an approved water and sewer system.
- 4.4.4. **Interior Finishes.** Interior surfaces shall be clean and in good repair. Every bathroom and kitchen floor, wall, and ceiling surface shall be constructed of non-absorbent materials. Floor surfaces within two feet of the toilet shall be smooth and easily cleanable.
- 4.4.5. **Habitable Basements.** No basement space shall be used as a habitable space, dwelling, dwelling unit unless the floor and walls are impervious to leakage of underground and surface runoff water.
- 4.4.6. **Windows and Doors.** Every window, skylight, outer door, basement hatchway, and other exterior openings shall have operating locks and shall be weather-tight, rodentproof, and kept in good repair. At least one entry door to the dwelling unit shall have a lock that is operable from the exterior.
- 4.4.7. **Installation of Screens.** The owner or manager of a dwelling or dwelling unit shall be responsible for providing and maintaining screens on all openable windows.
- 4.4.8. **Rodentproofing .** Every dwelling, and dwelling unit, shall be maintained rodentproof.
- 4.4.9. **Closing of Openings.** It is unlawful to remove and fail to restore in like condition the rodentproofing from any dwelling or dwelling unit for any purpose. Further, it is unlawful for any person or agent to make any new openings that are not closed or sealed against the entrance of rodents.

4.5. Fire and Safety Requirements

- 4.5.1. **Exits.** Every dwelling and dwelling unit shall have unobstructed means of exit leading to safe and open space at ground level.
- 4.5.2. **Smoke Detectors and Fire Extinguishers.** No owner or manager shall lease, let to another person, or permit occupancy of any dwelling or dwelling unit unless smoke detectors are properly installed and maintained; and where fire extinguishers are required by the applicable fire code, they shall be properly installed and maintained.

- 4.5.3. **Carbon Monoxide Detectors.** Beginning January 1, 2008, owners of dwellings and dwelling units shall install and maintain according to the manufacturers specifications at least one U.L. approved carbon monoxide detector in each unit containing a fuel burning appliance such as a furnace, water heater, or stove.
- 4.5.4. **Proper Storage of Combustible Materials.** No combustible material shall be stored or kept beneath porches, decks, interior or exterior stairways, or within 10 feet of any source of ignition.
- 4.5.5. **Maintenance of Hazardous Materials.** All hazardous materials within a dwelling or dwelling unit shall be stored in a manner that does not create an unnecessary health hazard.
- 4.5.6. **Maintenance of Lead Based Paint.** The owner or manager of a dwelling or dwelling unit constructed prior to 1978 shall not allow interior paint to become in a state of disrepair; this includes but is not limited to cracking, peeling, flaking, or the forming of paint dust. Abatement of lead based paint deficiencies shall be conducted in accordance with local, state, and federal regulations. The Director may grant an exemption to this regulation if an accredited laboratory confirms the non-existence of lead based paint in the interior of the premises.

4.6. **Requirements For Ventilation, Heating, Electrical, Lighting and Plumbing.**

- 4.6.1. **Ventilation.** Every habitable space shall have at least one window facing directly outdoors that can be opened easily or have a mechanical device that ventilates the room to the outside.
- 4.6.2. **Heating Equipment.** Every dwelling and dwelling unit shall have heating equipment and appurtenances that are properly installed, and are maintained in a safe and good working condition. The equipment and appurtenances shall be capable of safely heating the dwelling or dwelling unit in every dwelling unit to a temperature of at least 68° F at a distance of 3 feet above floor level. If the temperature is controlled by a person other than the occupant, a temperature of at least 68° F at a distance 3 feet above floor level shall be maintained without overheating any other area of the dwelling or dwelling unit. If age or illness of occupants or other special conditions exist, the Director may require an alternate temperature.
- 4.6.3. **Heating Equipment installation and Maintenance.** No owner, manager, occupant or other person shall install, operate, or use a heating device, or hot water heating unit producing heat by combustion that is not vented to the outside of the structure in an approved way and is not supplied with sufficient air to continuously and adequately support fuel combustion, or has been deemed unsafe and/or red tagged by the servicing utility. All heating devices shall be constructed, installed, and operated in accordance with applicable building and utility codes.

- 4.6.4. **Electrical Service and Maintenance.** Every dwelling or dwelling unit and all public and common areas shall be supplied with electrical service. All outlets, wirings, circuit panels, and fixtures shall be properly installed and maintained in good and safe working condition in accordance with the applicable electrical code.
- 4.6.5. **Lighting of Common Entryways, Halls and Stairways.** Every common entryway, hall and stairway in every building or structure containing 2 or more dwelling units shall be lighted at all times to provide in all parts at least ten foot-candles of light at floor or tread level. This does not preclude the use of on-demand lighting.
- 4.6.6. **Installation and Maintenance of Plumbing Fixtures, Water Pipes, and Waste Pipes.** Every plumbing fixture, waste pipe, water pipe, and appurtenance shall be properly constructed, installed and maintained in accordance with applicable plumbing codes. No plumbing fixture, water pipe, waste pipe, or other device shall be connected or arranged in a such a way that it would be possible for nonpotable, used, unclean, polluted, or contaminated water or other substances to enter the potable water system under any condition.
- 4.6.7. **Swimming Pool Access Barrier.** It shall be unlawful for any person to own, operate, or maintain a private residential swimming pool without surrounding the entire pool with a substantial fence at least four feet in height, with openings no greater than four inches or an equally effective barrier. Every gate shall be self-locking, self-latching, and shall be locked when the pool is not in use. In lieu of an access barrier, swimming pools with a surface area less than 65 square feet may be protected with a locking cover that supports 275 lbs.
- 4.7. **Standards for Emergency and Temporary Housing.**
- 4.7.1. **Emergency Housing.** The Director may permit an exception to this regulation if an emergency exists and the public health, safety, or welfare is or may be affected. Emergency housing shall be established as approved by the Director.
- 4.7.2. **Temporary Housing.** Tents, trailers, campers, or other temporary housing located on private property with the permission of the property owner shall not create a public health nuisance but may be used as a dwelling unit for up to 10 consecutive days provided that liquid waste is contained and properly disposed. Exemptions may be granted by the Director.
- 4.8. **Closing and Vacating of Unfit Dwellings.**
- 4.8.1. **Closing Unfit Dwellings.** Any dwelling or dwelling unit which is so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin infested that it creates or may create a hazard to the health or safety of the occupants or of the public may be

deemed unfit for human habitation, closed to occupancy, and posted with a placard by the Director. Lack of electricity, potable water, heating facilities during cold weather, or sewer service may be considered prima facie evidence of a health or safety hazard sufficient to require closure.

- 4.8.2. **Vacating Required Upon Closing to Occupancy.** Any dwelling or dwelling unit which is closed to occupancy shall be vacated within a reasonable time as ordered by the Director.
- 4.8.3. **Closed-to-Occupancy Placard.** Closed-to-occupancy placards shall be conspicuously posted on entryways to the respective dwelling unit(s). The placard shall state the address of the dwelling, the date of closure, name and phone number of the Director, and may denote the hours of permitted entry of authorized persons for the express purpose of abating noted violations.
- 4.8.4. **Tampering with Placard Prohibited.** No person, other than the Director, shall deface or authorize the removal of a closed-to-occupancy placard.
- 4.8.5. **Approval Required Prior to Occupancy of Closed Dwelling.** It shall be unlawful for any person to occupy any dwelling or dwelling unit that has been closed to occupancy until approval of the Director is given and all placards are removed.
- 4.8.6. **Securing of Unoccupied Structures.** If a vacant building or any part of a building has become a nuisance or unfit for human habitation, the Director may require that the premises be properly secured to prevent entry by unauthorized persons. The owner, lessee, or occupant shall be given notice to secure, close, or make safe the building within a reasonable time. If the owner, lessee, or occupant fails to secure the building or its part as required, the Director may proceed to secure it and charge the costs against the owner, lessee, or occupant. If a building or any part thereof is vacant and not secure, or is accessible to the public, this may be considered prima facie evidence it is a nuisance, and securing may be required.
- 4.8.7. **Occupying Closed Dwelling Unlawful.** It shall be unlawful for any person to occupy, prepare food, or sleep in any structure, dwelling, or other place that is currently closed to occupancy. Authorized persons may be allowed entry by the Director during the prescribed hours for violation abatement as specified in 4.8.3.

5. RESERVED

6. INSPECTIONS & INVESTIGATIONS

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

6.2. **Authority for Department to Enter Private Dwellings.** Inspections of private dwellings are made by consent of owner or otherwise responsible party or upon a warrant issued by a court.

6.3. 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.** 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. If the Director has inspected any dwelling or dwelling unit and has found and determined that it is in violation of this regulation or has reasonable grounds to believe that there has been a violation of any part of this regulation, he shall give notice of the violations to the owner or other responsible person thereof.
 - 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 Department’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 Department 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 Department’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. **Variations.** Any variations 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 come effective upon its adoption by the Salt Lake Valley Board of Health.

APPROVED AND ADOPTED this _____ day of _____, 2007.

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