

## **LYON COUNTY TANNING FACILITIES ORDINANCE**

Ordinance Number: 2022-01

### **Section I: Purpose**

This ordinance provides for the regulation of tanning facilities and devices used for the purpose of tanning human skin through the application of ultraviolet radiation. This includes, but is not limited to, public and private businesses, hotels, motels, apartments, condominiums, health and country clubs. All references to CFRs in this chapter are those in effect as of April 30, 2007. These rules stipulate minimum safety requirements relating to the operation of tanning devices; procedures for obtaining a permit; qualifications for tanning facility operators; and procedures for health departments to provide for the inspection of tanning facilities and enforcement of these rules. Tanning facilities which are in compliance with these rules are not relieved from the requirements of any other federal and state regulations or local ordinances.

### **Section II: Definitions**

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

Board of Health – means the Lyon County Board of Health

Cleansing - means to remove soil, dirt, oils or other residues from the surface of the tanning unit which may come into contact with the skin

Cleansing agent - means a substance capable of producing the effect of "cleansing." These agents shall not adversely affect the equipment or the health of the consumer and shall be acceptable to the department or board of health.

Consumer - means any member of the public who is provided access to a tanning facility in exchange for a fee or other compensation, or any individual who, in exchange for a fee or other compensation, is afforded use of a tanning facility as a condition or benefit of membership or access.

Department – means the Iowa Department of Public Health (IDPH).

Exposure position - means any position, distance, orientation, or location relative to the radiation surfaces of a tanning device at which the user is intended to be exposed to ultraviolet radiation from the product, as recommended by the manufacturer.

Formal training - means a course of instruction approved by the department for operators of tanning facilities.

Health care professional - means an individual, licensed by the state of Iowa, who has received formal medical training in the use of phototherapy.

Inspection - means an official examination or observation including but not limited to tests, surveys, and monitoring to determine compliance with rules, orders, requirements, and conditions of these rules.

Manufacturer's recommendations - means written guidelines established by a manufacturer and approved by the U.S. Food and Drug Administration for the installation and operation of the manufacturer's equipment.

Operator - means an individual designated to control operation of the tanning facility and to instruct and assist the consumer in the proper operation of the tanning devices.

Permit or Permit to operate - means a document issued by the department which authorizes a person to operate a tanning facility in Iowa.

Person - means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, but shall not include federal government agencies.

Phototherapy device - means a piece of equipment that emits ultraviolet radiation and is used by a health care professional in the treatment of disease.

Tanning device - means any equipment that emits electromagnetic radiation with wavelengths in air between 200 and 400 nanometers and that is used for tanning of human skin, such as sunlamps, tanning booths, or tanning beds. The terms also include any accompanying equipment such as protective eyewear, timers, and handrails.

Tanning facility - means a place that provides access to tanning devices for compensation.

Ultraviolet radiation - means electromagnetic radiation with wavelengths in air between 200 and 400 nanometers.

### **Section III: Exemptions**

Iowa Department of Public Health and or The Board of Health may upon application or upon its own initiative, grant exemptions from the requirements of these rules as long as it will not result in undue hazard to public health and safety. The following categories of devices are exempt from the provisions of this ordinance:

- A. Other Purposes. Devices intended for purposes other than the deliberate exposure of human skin to ultraviolet radiation which produce or emit ultraviolet radiation incidental to their proper operation.
- B. Personal Use. Tanning devices which are limited exclusively to personal use by an individual and this individual's immediate family. Multiple ownership of the device by persons for personal use only does not qualify it for the "personal use only" exemption.
- C. Phototherapy Devices. Phototherapy devices used by a properly trained health care professional in the treatment of disease.

### **Section IV: Permits and Fees**

- A. No tanning facility shall be operated in Lyon County without having a permit to operate issued by the Iowa Department of Public Health.
- B. Inspections.
  1. Inspections shall be conducted annually.
  2. Inspection fees.
    - a. An inspection fee will be set by the Board of Health.
    - b. Inspection fees shall be due upon receipt of payment due notice. The fees billed will be paid to the Board of Health or its designee.
    - c. Inspection fees not received with forty-five days of the date of billing will be assessed a \$25 late fee penalty for each month or fraction thereon that the bill is delinquent.
    - d. A penalty fee of \$25 per facility may be assessed for the following: Failure to respond to a notice of violation within thirty days of the date of inspection. Failure to correct violations cited during the inspection.
  3. Inspections shall include the following areas: proper operation and maintenance of devices, review of required records and training documentation, operator understanding and competency, and the requirements of these rules.

## **Section V: Construction and Operation of Tanning Facilities**

Unless otherwise ordered or approved by the department and the Board of Health, each tanning facility shall be constructed, operated, and maintained to meet the following minimum requirements:

- A. A tanning facility shall provide and post the following warning signs and statements that describe the hazards associated with the use of tanning devices:
  1. A warning sign in a conspicuous location readily visible to persons entering the establishment. This warning sign shall use 0.5-inch (12.7-millimeter) letters for "DANGER, ULTRAVIOLET RADIATION" and 0.25-inch (6.4-millimeter) letters for all other lettering. The sign shall use red lettering against a white background, be at least 9.0 inches by 12.0 inches (22.9 centimeters × 30.5 centimeters) and have the following wording:

**DANGER**  
**ULTRAVIOLET RADIATION**  
—Overexposure can cause

    - Eye and skin injury
    - Allergic reaction

— Repeated exposure may cause

    - Premature aging of the skin
    - Skin cancer

— Failure to wear protective eyewear may result in

    - Severe burns to eyes
    - Long-term injury to eyes

— Medication or cosmetics may increase your sensitivity
- B. A warning sign with the identical wording set forth in subsection (1)(A) of this section posted within one meter of the tanning device in a conspicuous location readily visible to a person preparing to use the device. This warning sign shall use 0.5-inch (12.7

millimeter) lettering for "Danger, Ultraviolet Radiation" and 0.25-inch (6.4 millimeter) lettering. This sign shall use lettering against a white background and be at least six inches by nine inches (15.2 centimeters by 22.9 centimeters) in size.

C. A tanning facility shall provide each customer with a written warning statement prior to the customer's initial exposure which includes at least the following information:

1. A representative list of potential photosensitizing drugs and agents; this list should at least include drugs or agents in the product classes of acne treatment, antibacterial, antibiotics, anticonvulsants, antidepressants, antidiabetics, antihypertensive, dye, estrogen and progesterone's, melanogenic, perfumes and toilet articles, tranquilizers, antihistamines, and antimicrobials/anti-infectious agents. A partial list of drugs and agents in these product classes is found in Appendixes 1, 2, and 3 of Chapter 46 of the Iowa Administrative Code and is adopted by reference.
2. Basic information on how different skin types respond to tanning (See Appendix No. 2 of Chapter 46 of the Iowa Administrative Code);
3. An explanation of the need to use eyewear;
4. The operator shall then request the consumer sign a statement that the information has been read and understood.

D. Federal Certification

1. Only tanning devices manufactured and certified under the provisions of 21 CFR Part 1040.20, "Sunlamp products and ultraviolet lamps intended for use in sunlamp products," shall be used in tanning facilities. Compliance shall be based on the standard in effect at the time of manufacture as shown on the device identification label required by 21 CFR Parts 1010.2 and 1010.3.
2. Labeling shall meet the following requirements, be visible on each unit and be permanently affixed. Labeling shall include:
  - i. A warning statement with the words: "DANGER-Ultraviolet radiation. Follow instructions. Avoid overexposure. As with natural sunlight, overexposure can cause eye and skin injury and allergic reactions. Repeated exposure may cause premature aging of the skin and skin cancer. WEAR PROTECTIVE EYEWEAR; FAILURE TO MAY RESULT IN SEVERE BURNS OR LONG-TERM INJURY TO THE EYES. Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult a physician before using a sunlamp if you are using medications or have a history of skin problems or believe yourself especially sensitive to sunlight. If you do not tan in the sun, you are unlikely to tan from the use of this product."
  - ii. Recommended exposure position(s). Any exposure position may be expressed either in terms of a distance specified both in meters and in feet (or in inches) or through the use of markings or other means to indicate clearly the recommended exposure position.
  - iii. Directions for achieving the recommended exposure position(s) and a warning that the use of other positions may result in overexposure.
  - iv. A recommended exposure schedule including duration and spacing of sequential exposures and maximum exposure time(s) in minutes.

- v. A statement of the time it may take before the expected results appear.
- vi. Designation of the ultraviolet lamp type to be used in the product.
- vii. Attention: This sunlamp product should not be used on persons under the age of 18 years unless written consent from a parent or guardian is obtained. –The text shall be placed in a black box with text at least 10mm in height. It shall appear on a part or panel displayed prominently under normal conditions of use so that it is readily accessible to view whether the tanning bed canopy (for tanning booth door) is open or closed when the persons who will be exposed approaches the equipment.

E. Tanning Device Timers.

1. Each tanning device shall have a timer which complies with the requirements of 21 CFR Part 1040.20. The maximum timer interval shall not exceed the manufacturer's maximum recommended exposure time by a factor greater than  $\pm 10$  percent of the indicated setting.
2. Each tanning device must have a method of remote timing located so that consumers may not control their own exposure time.
3. Tokens for token timers shall not be issued to any consumer in quantities greater than the device manufacturer's maximum recommended exposure time for the consumer.
4. Each tanning device shall incorporate a control on the product to enable the consumer to manually terminate the radiation emission from the product at any time without disconnecting the electrical source or removing the ultraviolet lamp.
5. The operator shall ensure that the facility's interior temperature does not exceed 100 degrees F or 38 degrees C.
6. Condition of tanning devices.
  - i. There shall be physical barriers to protect consumers from injury induced by falling against or breaking the lamps.
  - ii. The tanning devices shall be maintained in good repair and comply with all state and local electrical code requirements.
7. Additional requirements for stand-up booths.
  - i. There shall be physical barriers (e.g., handrails) or other means (floor markings) to indicate the proper exposure distance between ultraviolet lamps and the consumer's skin.
  - ii. The construction of the booth shall be such that it will withstand the stress of use and the impact of a falling person.
  - iii. Access to the booth shall be of rigid construction; doors shall open outwardly. Handrails and nonslip floors shall be provided.
8. Protective Eyewear.
  - i. Eyewear shall not be reused by another consumer.
  - ii. Protective eyewear shall meet the requirements of 21 CFR Part 1040.20(c)(4).
  - iii. Protective eyewear shall not be altered in any manner that would change its use as intended by the manufacturer (e.g., removal of straps).



- iv. A tanning facility operator shall not allow a consumer to use a tanning device if that consumer does not use the protective eyewear required by this subrule. To verify that a consumer has the proper eyewear, the operator must:
  - 1. Ask to see the eyewear before the consumer enters the tanning room; or
  - 2. Provide disposable eyewear in the tanning room at all times and post a sign stating that the disposable eyewear is available and that eyewear must be worn.
- v. A tanning facility operator shall instruct the consumer in the proper utilization of the protective eyewear required by this subrule.

F. Operation.

- 1. A trained operator must be present when a tanning device is operated. The operator must be within hearing distance to allow the consumer to easily summon help if necessary. If the operator is not in the immediate vicinity during use, the following conditions must be met:
  - i. The consumer can summon help through use of an audible device such as an intercom or buzzer; and
  - ii. The operator or emergency personnel can reach the consumer within a reasonable amount of time after being summoned.
- 2. The facility permit to operate shall be displayed in an open public area of the tanning facility.
- 3. A record shall be kept by the facility operator of each consumer's total number of tanning visits and tanning times, exposure lengths in minutes, times and dates of the exposure, and any injuries or illness resulting from the use of a tanning device.
- 4. Any tanning injury not requiring a physician's care and any resulting changes in tanning sessions shall be noted in the consumer's file. A written report of any tanning injury requiring a physician's care shall be forwarded by the permit holder to the department within five working days of its occurrence or knowledge thereof. The report shall include:
  - i. The name of the affected individual;
  - ii. The name and location of the tanning facility involved;
  - iii. The nature of the injury;
  - iv. The name and address of the health care provider treating the affected individual, if any; and
  - v. Any other information considered relevant to the situation.
- 5. Defective or burned-out lamps or filters shall be replaced with a type intended for use in that device as specified on the product label on the tanning device or with lamps or filters that are "equivalent" under 21 CFR Part 1040, Section 1040.20, and policies applicable at the time of lamp manufacture.
- 6. The permit holder shall replace ultraviolet lamps and bulbs, which are not otherwise defective or damaged, at such frequency or after such duration of use as may be recommended by the manufacturer of such lamps or bulbs.
- 7. Contact surfaces of tanning devices shall be:
  - i. Cleansed by the operator with a cleansing agent between each use;

- ii. Covered by a nonreusable protective material during each use; or
- iii. Cleansed by the consumer provided the following conditions are met:
  - 1. The operator instructs the consumer annually on how to properly cleanse the unit;
  - 2. The consumer annually signs a statement stating that the consumer agrees to cleanse the unit after each use;
  - 3. Signs are posted in each tanning room reminding the consumer to cleanse the tanning unit after each use and stating the proper way to cleanse the unit; and
  - 4. The operator cleanses the tanning unit at least once a day.
- 8. Any records or documentation required by this chapter must be maintained in the tanning facility for a minimum of two years. Records maintained on computer systems shall be regularly copied, at least monthly, and updated on storage media other than the hard drive of the computer. An electronic record must be retrievable as a printed copy.
- 9. The operator shall limit the exposure of the consumer to the maximum exposure frequency and session duration recommended by the manufacturer.
- 10. When a tanning device is being used, no other person shall be allowed to remain in the tanning device area.

#### G. Training of Operators.

- 1. No individual shall begin functioning as an operator unless the individual has satisfactorily completed a training program. Training shall include but not be limited to:
  - i. The requirements of Chapter 46 of the Iowa Administrative Code;
  - ii. Procedures for correct operation of the tanning facility and tanning devices;
  - iii. The determination of skin type of consumers and appropriate determination of duration of exposure to tanning devices;
  - iv. Recognition of reaction or overexposure;
  - v. Manufacturer's procedures for operation and maintenance of tanning devices;
- 2. Owners and managers must complete formal training approved by the Iowa Department of Public Health and the Board of Health. All owners and managers must satisfactorily pass a certification examination approved by the Iowa Department of Public Health and the Board of Health before operating a tanning facility or training employees.
- 3. Owners and managers are responsible to train operators in the above topics and to provide review as necessary. Training programs shall be approved by the Iowa Department of Public Health and the Board of Health including final testing. Operators shall be questioned during inspections as to the level of the individual's understanding and competency in operating the tanning device.
- 4. Proof of training for both owner/managers and operators must be maintained in the tanning facility and available for inspection. For operators the employee record shall be the original test which bears the signature of the employee, the date, and a statement signifying that all answers have been completed by the employee and without prior knowledge to the scoring key.

5. Operators shall be at least 16 years of age.
6. Operators shall complete the required training and testing every five years.
7. Owner/Manager shall complete the required testing every five years.
  - i. The test that will be used is approved by the Iowa Department of Public Health and the Board of Health.
  - ii. Testing is available by appointment with the Board of Health or its designee.
  - iii. Cost of testing will be set by the Board of Health.
8. Owners/managers of tanning facilities can take the exam online at the link provided below. IDPH will monitor test completions and will issue a ***"Score released: IDPH Tanning Facility Test – Owner/Manager"*** email when an owner or manager passes the exam. Scores will be released 24 to 72 hours after you complete the exam. This email will be used as proof of passing for the owner/manager exam.

Once the exam is passed, your email will be attached to your facilities' registration and your exam expiration date will be updated in your facilities registration. Please keep this email on file so you can use it for proof of testing when you renew your license in the future.

#### **Owner/Manager Test**

- <https://forms.gle/xv1emxVDkDso387k7>

Facilities may also use the online employee/operator test for their employees. Once the employee completes the test, facilities will need to retain a screenshot of the passed test page as proof of testing completion for each employee/operator. IDPH will not send confirmation emails when operators pass the operator test. Facility owner/managers will be responsible for keeping proof of testing for each employee/operator passing of the test. Proof of testing for each employee/operator will be reviewed by the inspector during the annual inspection.

#### **Employee/Operator Test**

- <https://forms.gle/WcxaSfjy9oEmTkGP7>

#### **H. Promotional Materials.**

1. A tanning facility shall not claim, or distribute promotional materials that claim, that using a tanning device is safe or free from risk or that the use of the device will result in medical or health benefits. The only claim that may be made is that the device is for cosmetic use only.
2. No person or facility shall advertise or promote tanning packages labeled as "unlimited" unless tanning frequency limits set by the manufacturer are included in advertisements.

#### **I. Requirements for electronically controlled facilities. Electronically controlled facilities are those facilities that rely on electronic means to monitor consumers.**

1. Entry into the facility is allowed by card only. Two individuals may not enter under the same card. The card is specifically activated for tanning use if the facility offers other activities.



2. Police and all emergency services will have access to the facility through a key box located outside the entrance of the facility.
3. The tanning unit will not activate if the card is not programmed for tanning. The card will not activate if two individuals are in the tanning room.
4. The consumer must sign a tanning agreement that states the number of minutes per session, that the consumer agrees to wear protective eyewear, that the consumer will cleanse the unit after tanning, and that the consumer is aware of the emergency access in each room.
5. The card will be programmed for the number of minutes the consumer is allowed to tan. The card may be reprogrammed for an increase in minutes per session only after the consumer has reviewed and re-signed the Tanning Agreement. After 30 consecutive days without the consumer's accessing the tanning facility, the card will be deactivated and the consumer must reapply to access the tanning unit.
6. The operator will demonstrate to each consumer how to properly cleanse the unit after tanning, including the top, bottom, and handles. A sign will be placed in each room explaining the cleansing process. The operator will cleanse the units at least once a day when they are in use.
7. Free disposable eyewear will be placed in each room along with a sign stating that the disposable eyewear is available and that eyewear must be worn.
8. An emergency call button or device will be placed in each tanning room conveniently located within reach of the tanning bed. This device will call the operator or emergency personnel.
9. During annual inspections, the inspector may ask any consumer about any of the above processes.

## **Section VI: Inspections, Violations and Injunctions**

1. Board of Health or its designee agent shall have access at all reasonable times to any tanning facility to inspect the facility to determine if this ordinance is being violated.
2. A person who operates or uses a tanning device or tanning facility in violation of this chapter or of any rule adopted pursuant to this ordinance is guilty of a simple misdemeanor.
3. If the Board of Health or its designee finds that a person has violated, or is violating or threatening to violate this ordinance and that the violation creates an immediate threat to the health and safety of the public, the Board of Health or its designee may petition the magistrates court for a temporary restraining order to restrain the violation or threat of violation.
4. On application for injunctive relief and a finding that a person is violating or threatening to violate this ordinance, the magistrate's court shall grant any injunctive relief warranted by the facts.
5. Enforcement
  - a. The Board of Health or its designee shall take the following steps or use any other applicable ordinances, resolutions, rules, and/or regulations when enforcement of these rules is necessary.
    - i. Cite each section not the state code or ordinance violated.

- ii. Specify the manner in which the owner or operator failed to comply.
  - iii. Specify the steps required for correcting the violations.
  - iv. Request a corrective action plan, including a time schedule for completion of the plan.
  - v. Set a reasonable time limit, not to exceed thirty (30) days from the receipt of the notice, within which the permit holder must respond.
- b. The Board of Health or its designee shall review the corrective action plan and approve it or require that it be modified.
  - c. In cases where the permit holder fails to comply with conditions of the written notice, the Board of Health or its designee shall send a regulatory letter, via certified mail, advising the permit holder that unless action is taken within five days of receipt, the case shall be turned over to the county attorney for court action.

### **Section VII: Penalty for Violation**

Violations of the provisions of the Ordinance or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 (FIVE HUNDRED) or imprisoned for not more than 30 (THIRTY) days. Nothing herein contained prevent Lyon County from taking such other lawful action as is necessary to prevent or remedy violation.

### **Section VIII: Amendments**

The regulations and standards set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Lyon County Board of Health.

## APPENDIX A



### Health Services Lyon County Tanning Inspection Fees

\$50.00 for the first tanning device

\$35.00 per additional tanning device

\$365 maximum fee billed per facility

Inspection costs are due upon receipt of invoice. The costs billed will be paid to the Board of Health.

Inspection costs not paid within 45 days of invoice will be assessed \$25.00 penalty each month.

A penalty fee of \$25.00 per facility may be charged for the following:

1. Failure to respond to notice of violation within 30 days of inspection date.
2. Failure to correct violations cited during the inspection.

Inspections include the following areas:

Proper operation and maintenance of devices

Review of required records

Review of training documentation

Review of operator understanding and competency

Ensuring all requirements of these rules are being followed per Iowa Code 641-46

The mission of Health Services of Lyon County is to promote the public health and well-being of all residents. This is accomplished through a united commitment to assess the individual and community needs and provide intervention, education and prevention services.

ADOPTED AND PASSED by the Board of Supervisors of the County of Lyon on this 8 day  
of March, 2022.



Josh Feucht  
Chairman

Attest:



Jen Smit  
County Auditor

First Reading: February 8, 2022  
Second Reading: February 22, 2022  
Third Reading: March 8, 2022  
Public Hearing Date: February 22, 2022  
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Effective upon passage and publication of Ordinance 2022-01.