

# CLAYTON COUNTY ORDINANCE #1-2020

## TANNING FACILITIES

---

### TITLE

An Ordinance Establishing Minimum Requirements for Tanning Facilities in Clayton County, Iowa.

BE IT ENACTED BY THE BOARD OF SUPERVISORS, CLAYTON COUNTY, IOWA.

### SECTION 1. PURPOSE AND SCOPE

This ordinance provides for the permitting and 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, and health and country clubs. All references to Code of Federal Regulations (CFR) in this ordinance are those in effect as of April 30, 2007. These rules stipulate minimum safety requirements relating to the operation of tanning devices; qualifications for tanning facility operators; and procedures for the inspection and enforcement. Tanning facilities, which comply with these rules, are not relieved from the requirements of any other federal and state regulations or local ordinances.

### SECTION 2. DEFINITIONS

The following words, for the purpose of this Ordinance, shall have the following meanings:

- (a) **Board of Health.** The Clayton County, Iowa Board of Health.
- (b) **Cleansing.** To remove soil, dirt, oils or other residues from the surface of the tanning unit which may come into contact with the skin.
- (c) **Cleansing Agent.** 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.
- (d) **Consumer.** 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.
- (e) **Department.** Clayton County Environmental Health.
- (f) **Exposure Position.** 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.
- (g) **Formal Training.** A course of instruction approved by the department for operators of tanning facilities.
- (h) **Health Care Professional.** An individual, licensed by the state of Iowa, who has received formal medical training in the use of phototherapy.
- (i) **Health Officer.** An authorized representative of the Clayton County Board of Health who has been trained in tanning and tanning inspection.

- (j) **Inspection.** 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.
- (k) **Manufacturer's Recommendations.** 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.
- (l) **Operator.** 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.
- (m) **Permit or Permit To Operate.** A document issued by the Iowa Department of Public Health which authorizes a person to operate a tanning facility in Iowa.
- (n) **Person.** Any individual, corporation, organization, 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.
- (o) **Phototherapy Device.** A piece of equipment that emits ultraviolet radiation and is used by a health care professional in the treatment of disease.
- (p) **Tanning Device.** 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.
- (q) **Tanning Facility.** A place that provides access to tanning devices for compensation.
- (r) **Ultraviolet Radiation.** Electromagnetic radiation with wavelengths in air between 200 and 400 nanometers.

### SECTION 3. EXEMPTIONS

- (a) The department 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 chapter:
  - (1) 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.
  - (2) 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
  - (3) Phototherapy devices. Phototherapy devices used by a properly trained health care professional in the treatment of disease.

### SECTION 4. PERMIT AND FEES

- (a) **Permit to Operate.** No tanning facility shall be operated in Clayton County without having a permit to operate issued by the Iowa Department of Public Health.
- (b) **Inspections.** Inspections shall be at random or upon receipt of a complaint. 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.

(c) **Fees.** Fees to be collected by Clayton County for testing, inspections, evaluations, and other services necessary for carrying out the provisions of this ordinance shall be set by the Board of Health.

(1) Fees for inspection costs not received within 30 days of the date of billing will be assessed a \$30 penalty for each month or fraction thereof that the bill is delinquent.

(2) A penalty fee of \$30 per facility/defect may be assessed for the following:

(a) Failure to respond to a notice of violation within 30 days of the date of the inspection.

(b) Failure to correct violations cited during the inspection.

## SECTION 5. CONSTRUCTION AND OPERATION OF TANNING FACILITIES

Unless otherwise ordered or approved by the department, 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

---

(2) A warning sign with the identical wording set forth in "1" 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) 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 and be at least 6 inches by 9 inches (15.2 centimeters × 22.9 centimeters) in size.

(3) A tanning facility shall require each consumer to read the information in Appendices 1, 2, and 3 prior to the consumer's initial exposure and annually thereafter.

(a) The operator shall then require the consumer to sign a statement that the information has been read and understood.

(b) The information in Appendices 1, 2, and 3 shall be posted in each tanning room.

## SECTION 6. FEDERAL CERTIFICATION

(a) Only tanning devices manufactured and certified under the provisions of 21CFRPart1040.20, “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.

(b) Labeling shall meet the following requirements, be visible on each unit and be permanently affixed. Labeling shall include:

(1) 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 LONGTERM 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.”

(2) 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.

(3) Directions for achieving the recommended exposure position(s) and a warning that the use of other positions may result in overexposure.

(4) A recommended exposure schedule including duration and spacing of sequential exposures and maximum exposure time(s) in minutes.

(5) A statement of the time it may take before the expected results appear.

(6) Designation of the ultraviolet lamp type to be used in the product.

## SECTION 7. TANNING DEVICE TIMERS

(a) 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.

(b) Each tanning device must have a method of remote timing located so that consumers may not control their own exposure time.

(c) 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.

(d) 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.

(e) The operator shall ensure that the facility’s interior temperature does not exceed 100 degrees F or 38 degrees C.

## SECTION 8. CONDITION OF TANNING DEVICES .

- (a) There shall be physical barriers to protect consumers from injury induced by falling against or breaking the lamps.
- (b) The tanning devices shall be maintained in good repair and comply with all state and local electrical code requirements.
- (c) Additional requirements for stand-up booths.
  - (1) 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.
  - (2) The construction of the booth shall be such that it will withstand the stress of use and the impact of a falling person.
  - (3) Access to the booth shall be of rigid construction; doors shall open outwardly. Handrails and nonslip floors shall be provided.

## SECTION 9. PROTECTIVE EYEWEAR .

- (a) Eyewear shall not be reused by another consumer.
- (b) Protective eyewear shall meet the requirements of 21 CFR Part 1040.20(c)(4).
- (c) Protective eyewear shall not be altered in any manner that would change its use as intended by the manufacturer (e.g., removal of straps).
- (d) 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 ordinance. 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.
  - (3) A tanning facility operator shall instruct the consumer in the proper utilization of the protective eyewear required by this ordinance.

## SECTION 10. OPERATION.

- (a) 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:
  - (1) The consumer can summon help through use of an audible device such as an intercom or buzzer; and
  - (2) The operator or emergency personnel can reach the consumer within a reasonable amount of time after being summoned.
- (b) The facility permit to operate shall be displayed in an open public area of the tanning facility.
- (c) 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.
- (d) 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 Iowa Department of Public Health within five working days of its occurrence or knowledge thereof. The report shall include:
  - (1) The name of the affected individual;

- (2) The name and location of the tanning facility involved;
  - (3) The nature of the injury;
  - (4) The name and address of the health care provider treating the affected individual, if any; and
  - (5) Any other information considered relevant to the situation.
- (e) 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.
- (f) 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.
- (g) Contact surfaces of tanning devices shall be:
- (1) Cleansed by the operator with a cleansing agent between each use;
  - (2) Covered by a non-reusable protective material during each use; or
  - (3) Cleansed by the consumer provided the following conditions are met:
    - (a) The operator instructs the consumer annually on how to properly cleanse the unit;
    - (b) The consumer annually signs a statement stating that the consumer agrees to cleanse the unit after each use;
    - (c) 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
    - (d) The operator cleanses the tanning unit at least once a day.
- (h) Any records or documentation required by this ordinance 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.
- (i) The operator shall limit the exposure of the consumer to the maximum exposure frequency and session duration recommended by the manufacturer.
- (j) When a tanning device is being used, no other person shall be allowed to remain in the tanning device area.
- (k) 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.

## **SECTION 11. TRAINING OF OPERATORS .**

- (a) No individual shall begin functioning as an operator unless the individual has satisfactorily completed a training program. Training shall include but not limited to:
- (1) The requirements of this ordinance;
  - (2) Procedures for correct operation of the tanning facility and tanning devices;
  - (3) The determination of skin type of consumers and appropriate determination of duration of exposure to tanning devices;
  - (4) Recognition of reaction or overexposure;
  - (5) Manufacturer’s procedures for operation and maintenance of tanning devices;
- (b) Owners and managers must complete formal training approved by the department. All owners and managers trained must satisfactorily pass a certification examination approved by the department before operating a tanning facility or training employees.

- (c) 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 department and include final testing. Operators shall be questioned during inspections as to the level of their understanding and competency in operating the tanning device.
- (d) Proof of training for both owner/managers and employees must be maintained in the tanning facility and available for inspection. 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 of the scoring key.
- (e) Operators shall be at least 16 years of age.
- (f) A seventy percent is required to pass the exam. The client may schedule another time to retake the test on an alternate day.

## **SECTION 12. PROMOTIONAL MATERIALS.**

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.

## **SECTION 13. ELECTRONIC CONTROLLED FACILITY REQUIREMENTS.**

Electronically controlled facilities are those facilities that rely on electronic means to monitor consumers.

- (a) 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.
- (b) Police and all emergency services will have access to the facility through a key box located outside the entrance of the facility.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) 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.
- (g) 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.
- (h) 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.
- (i) During annual inspections, the inspector may ask any consumer about any of the above processes.

## **SECTION 14. INSPECTIONS, VIOLATIONS AND INJUNCTIONS**

- (a) The Health Officer shall have access at all reasonable times to any tanning facility to inspect the facility to determine if this ordinance is being violated.



- (b) A person who operates or uses a tanning device or tanning facility in violation of this ordinance or of any rule adopted pursuant to this ordinance is guilty of a simple misdemeanor.
- (c) If the agency 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 agency may petition the district court for a temporary restraining order to restrain the violation or threat of violation. If a person has violated, or is violating or threatening to violate, this ordinance, the agency may petition the district court for an injunction to prohibit the person from continuing the violation or threat of violation.
- (d) On application for injunctive relief and a finding that a person is violating or threatening to violate this ordinance, the district court shall grant any injunctive relief warranted by the facts.

## **SECTION 15. ENFORCEMENT .**

- (a) The Health Officer shall take the following steps when enforcement of these rules is necessary.
  - (1) Cite each section of the Clayton County Ordinance or rules violated.
  - (2) Specify the manner in which the owner or operator failed to comply.
  - (3) Specify the steps required for correcting the violation.
  - (4) Request a corrective action plan, including a time schedule for completion of the plan.
  - (5) Set a reasonable time limit, not to exceed 30 days from the receipt of the notice, within which the permit holder must respond.
- (b) The Health Officer 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 agency 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 16. HEARINGS.**

- (a) In the event any person is aggrieved by an order of the Health Officer, the aggrieved person may administratively appeal in writing within 20 days of the date of such order. The appeal shall state the reasons for requesting such order to be rescinded or modified. The Health Director shall review the action of the Health Officer and may order compliance with said order or may, with cause, modify or withdraw said order.
- (b) In the event any person is aggrieved by any order of the Health Officer the person may appeal to the local board in writing within 30 days of the date of such order. The appeal shall state the reasons for requesting such order to be rescinded or modified. The local board shall review the action of the Health Officer. The local board shall order compliance with said order or may, with cause, modify or withdraw said order. Any order of the local board may be appealed within ten days to the district court for the county in which the local board is located.



## **SECTION 17. SEVERABILITY CLAUSE.**

If any section, provision, or part of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

## **SECTION 18. ORDINANCE EFFECTIVE UPON PUBLICATION.**

This Ordinance, being deemed urgent and necessary for the preservation of the public health, shall be in force and effect from and after its passage and publication as provided by law.

PASSED AND ADOPTED this 17<sup>th</sup> day of December, 2019.

/s/ Ray Peterson, Chairperson, Board of Supervisors  
Attest: /s/ Jennifer Garms, Clayton County Auditor

First Reading: December 10, 2019  
Second Reading: December 17, 2019  
Third Reading: Waived  
Approved: December 17, 2019  
Published: December 24, 2019



## Appendix 1

### POTENTIAL PHOTSENSITIZING AGENTS

1. Not all individuals who use or take these agents will experience a photosensitive reaction or the same degree of photosensitive reaction. An individual who experiences a reaction on one occasion will not necessarily experience it again or every time.
2. Names of agents should be considered only as examples. They do not represent all the names under which a product may be sold. A more complete list is available from the facility operator.
3. If you are using an agent in any of these classes, you should reduce UV exposure even if your particular medication is not listed.

Acne treatment (Retinoic acid, Retin-A) Psoralens (5-Methoxypsoralen, 8-Methoxypsoralen, 4,5,8-trimethyl-psoralen)

Antibacterials (deodorant bar soaps, antiseptics, cosmetics, halogenated carbanilides, halogenated phenols, halogenated salicylanilides, bithionol, chlorhexidine, hexachlorophene)

Antibiotics, anti-infectives (Tetracyclines)

Anticonvulsants (carbamazepine, trimethadione, promethazine)

Antidepressants (amitriptyline, Desipramine, Imipramine, Nortriptyline, Protriptyline), Tranquilizers, antiemetics (Phenothiazines)

Antidiabetics (glucose-lowering agents) (sulfonylureas, oral antidiabetics, hypoglycemics)

Antihistamines (diphenhydramine, promethazine, triprolidine, chlorpheniramine)

Anti-inflammatory (Piroxicam), Non-steroidal anti-inflammatory drugs (Ibuprofen, Naproxen, Piroxicam)

Antimicrobials (griseofulvin), Sulfonamides ("Sulfa drugs," antimicrobials, anti-infectives)

Atropine-like drugs (anticholinergics, antiparkinsonism drugs, antispasmodics, synthetic muscle relaxants)

Coal tar and derivatives (Denorex, Tegrin, petroleum products used for psoriasis and chronic eczema and in shampoos)

Contraceptives, oral and estrogens (birth control pills, estrogens, progesterones)

Dyes (used in cosmetic ingredients, acridine, anthracene, eosin (lipstick), erythrosine, fluorescein, methyl violet, methylene blue, rose bengal)

Perfumes and toilet articles (muskambrette, oil of bergamot, oil of cedar, oil of citron, oil of lavender, oil of lemon, oil of lime, oil of rosemary, oil of sandalwood)

Thiazide diuretics ("water pills")

## Appendix 2

### SUN-REACTIVE SKIN TYPES USED IN CLINICAL PRACTICE

SKIN TYPE	SKIN REACTIONS TO SOLAR RADIATION (a) EXAMPLES	EXAMPLES
I	Always burns easily and severely (painful burns). Tans little or none and peels.	People most often with fair skin, blue eyes, freckles. Unexposed skin is white.
II	Usually burns easily and severely (painful burns). Tans minimally or lightly, also peels.	People most often with fair skin: red or blonde hair: blue, hazel, or even brown eyes. Unexposed skin is white.
III	Burns moderately and tans about average.	Normal average Caucasoid. Unexposed skin is white.
IV	Burns minimally, tans easily, and above average with each exposure. Exhibits IPD (immediate pigment darkening).	People with white or light brown skin, dark skin, dark brown hair, dark eyes. Unexposed skin is brown.
V	Rarely burns, tans easily and substantially. Always exhibits IPD.	Unexposed skin is brown.
VI	Never burns and tans profusely; exhibits IPD reaction.	Unexposed skin is black.

## Appendix 3

### POTENTIAL NEGATIVE HEALTH EFFECTS RELATED TO ULTRAVIOLET EXPOSURE

1. Increased risk of skin cancer later in life.
2. Increased risk of skin thickening, age spots, irregular pigmentation, and premature aging.
3. Possibility of burning or rash, especially if using any of the potential photosensitizing drugs and agents. The consumer should consult a physician before using a tanning device if using medications, if there is a history of skin problems or if the consumer is especially sensitive to sunlight.
4. Increased risk of eye damage unless proper eyewear is worn. Iowa law requires the use of proper eyewear during tanning sessions.

## Appendix 4

### TANNING SYSTEMS

1. Low-pressure tanning systems use a higher percentage of UVB rays which penetrate only the upper layer of skin and can cause burning more easily than high-pressure tanning systems. Low pressure systems require more frequent sessions to maintain a tan. High-intensity tanning systems use more lamps and shorter tanning sessions than low-intensity tanning systems. These are still classified as slow-pressure systems.
2. High-pressure tanning systems use a higher percentage of UVA rays which penetrate more deeply and can permanently damage the lower layers of skin and increase the incidences of skin cancers. High-pressure systems require fewer and less frequent sessions to maintain a tan.
3. The exposure schedule for each specific unit is shown on the labeling on the tanning unit. Iowa law requires the operator to limit the exposure of each consumer to the exposure schedule shown on the unit in which the consumer is tanning.