

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in Section 4902 of the Department of Health Functions Clarification Act of 2001 (Act), effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 7-731(a)(8) (2008 Repl.; 2012 Supp.)) and Mayor's Order 2007-63, dated March 8, 2007, hereby gives notice of the adoption of a new Subtitle F, Title 25 of the District of Columbia Municipal Regulations (DCMR).

The Department of Health received one (1) comment to a previous notice of proposed rulemaking, which was addressed in the Fourth Notice of Proposed Rulemaking published in the *D.C. Register* on January 25, 2013 at 60 DCR 000849. No substantive changes were made to this Notice of Final Rulemaking. These rules will take effect immediately upon publication of this notice in the *D.C. Register*.

Subtitle F of Title 25 of the DCMR is added to read as follows:

SUBTITLE F TANNING FACILITY REGULATIONS

- 100 Title — Tanning Facility Regulations**
- 101 Intent — Safety**
- 102 Compliance with Federal and District Laws**
- 200 Licensees Responsibilities — Manager and Operator Certifications, and District-Issued ID Requirements, Basic Knowledge, Assignment & Posting***
- 201 Licensees Responsibilities — Safety Requirements and Tanning Procedures & Temperature***
- 300 Policy & Procedures — Age Restrictions and Prohibitions, and Parental/ Legal Guardian Authorization***
- 301 Policy & Procedures — Age Restriction Sign and Posting***
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- 303 Operating Procedures — Recordkeeping Manual, Content***
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- 401 Design & Construction — Tanning Equipment and Devices, Protective Eyewear**
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- 403 Design & Construction — Tanning Stand-up Booths, Cabinets and Vertical Tanning Devices — Additional Requirements and Temperatures***
- 404 Design & Construction — Tanning Equipment and Devices, Supplies, Installation and Use***
- 405 Design & Construction — Tanning Equipment Devices, Supplies, and Bulbs, Shielding***

- 406 Design & Construction — Tanning Equipment and Devices, and Supplies, Replacement, Ultraviolet Lamps, Bulbs or Filters, Compatibility*
- 407 Maintenance — Tanning Equipment, Timer, Good Repair and Accurate Calibration*
- 408 Cleaning & Sanitizing — Equipment and Devices, Tables and Chairs, and Test Kits
- 409 Water Source — Approved System*
- 410 Water Source – Bottled Drinking Water*
- 411 Water Quality – Standards*
- 412 Water Capacity – Quality and Availability
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- 501 Design, Construction, and Installation — Approved System and Cleanable Fixtures*
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- 507 Toilets and Urinals — Toilet Tissue, Receptacle Covered and Available
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- 600 Design & Construction — Building Materials and Workmanship
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- 602 Design & Installation – Smoke Alarms
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- 604 Construction & Installation – Floors, Walls, Ceilings, and Utility Lines
- 605 Cleanability – Floors, Walls, Ceilings, and Utility Lines
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- 608 Cleanability – Floor Covering, Mats and Duckboards
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- 610 Physical Facilities – Cleanability, Sanitization and Maintenance of Plumbing Fixtures
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Removal Frequency
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CHAPTER 1 TITLE, INTENT, SCOPE

100 TITLE — TANNING FACILITY REGULATIONS

100.1 These provisions shall be known as the Tanning Facility Regulations hereinafter referred to as “these regulations.”

101 INTENT — SAFETY

101.1 The purpose of these regulations is to protect the public health and safety by preventing and controlling the spread of communicable diseases; protecting the environment by promoting and regulating the safety and sanitary conditions of tanning facilities; and ensuring the safety and proper installation and servicing of equipment which uses ultraviolet radiation to artificially tan human skin.

101.2 These regulations:

- (a) Minimize the risks associated with tanning using ultraviolet radiation by prescribing minimum standards for the design, construction, operation, and maintenance of tanning facilities;
- (b) Set standards for maintenance and replacement of equipment;
- (c) Set standards for personnel and sanitary operations;
- (d) Establish recordkeeping and reporting requirements;
- (e) Establish prohibited conduct within tanning facilities;
- (f) Establish operational standards;
- (g) Provide for the issuance of licenses; and
- (h) Provide for enforcement through inspections, suspension and revocation of licenses, and the issuance of fines and penalties; and

(i) Establish definitions for this subtitle.

101.3 These regulations do not apply to medical facilities' phototherapy devices that are used by or under the supervision of licensed physicians or health care professionals who are trained in the use of such phototherapy devices in which patients are intentionally exposed to ultraviolet radiation for the treatment of diseases.

101.4 Certain provisions of these regulations are identified as critical. Critical provisions are those provisions where noncompliance may result in injuries, spread of communicable diseases, or environmental health hazards. A critical item is denoted with an asterisk (*).

101.5 Certain provisions of these regulations are identified as noncritical. Noncritical provisions are those provisions where noncompliance is less likely to spread communicable diseases or create environmental health hazards. A section that is denoted in these regulations without an asterisk (*) after the head note is a noncritical item. However, a critical item may have a provision within it that is designated as a noncritical item with a superscripted letter "N" following the provision.

102 COMPLIANCE WITH FEDERAL AND DISTRICT LAWS

102.1 The Department shall use these regulations to promote the safeguarding of public health and ensure tanning facilities are safe and in compliance with Federal and District laws and regulations. The most current versions of the following District and Federal regulations are hereby incorporated by reference:

(a) The District of Columbia's Construction Codes of 2008, consisting of the following International Code Council (ICC):

(1) International Building Code (2006 edition);

(2) International Mechanical Code (2006 edition);

(3) International Plumbing Code (2006 edition);

(4) International Fire Code (2006 edition);

(5) International Existing Building Code (2006 edition); and

(6) The NFPA National Electrical Code (2005 edition);

(b) Title 12 (Construction Codes) of the District of Columbia Municipal Regulations;

(c) 21 C.F.R. § 1040.20 (Sunlamp products and ultraviolet lamps intended for use in sunlamp products);

(d) 21 C.F.R. § 1010.3 (Performance Standards for Electronic Products: General, Identification); and

- (e) 29 C.F.R. § 1910.1030 – Part 1910 (Occupational Safety and Health Standard, Subpart Z – Toxic and Hazardous Substances).

102.2 In enforcing the provisions of these regulations, the Department shall assess a tanning facility's physical structure, operating systems, and design; and operation and maintenance of facilities' tanning equipment and devices, furnishings, and other fixtures in use before the effective date of these regulations based on the following considerations:

- (a) Whether the facility's physical structure; operating systems, and design; and the facility's tanning equipment and devices, furnishings, and other fixtures are safe to operate, in good repair, and capable of being maintained in a sanitary condition; and
- (b) The existence of a documented agreement with the licensee that the facility's operating systems, or tanning equipment and devices, furnishings, and other fixtures will be replaced by an agreed upon date.

CHAPTER 2 SUPERVISION AND TRAINING

200 LICENSEE RESPONSIBILITIES – MANAGER AND OPERATOR, CERTIFICATION AND DISTRICT-ISSUED ID REQUIREMENTS, BASIC KNOWLEDGE, ASSIGNMENT, AND POSTING*

- 200.1 The licensee shall ensure that tanning facility managers and operators are trained as specified in Section 200.4.
- 200.2 The licensee shall ensure that a manager or operator is on duty and present at the tanning facility during all hours of operation.
- 200.3 The licensee shall ensure that new employees hired to work as operators work under the direct supervision of a trained operator until the new employee is trained as specified in Section 200.4.
- 200.4 Training shall cover FDA and District regulations, eye protection, equipment and maintenance, and the following information:
- (a) Requirements in this section and FDA requirements stated in 21 C.F.R. § 1040.20 (Sunlamp products and ultraviolet lamps intended for use in sunlamp products);
- (b) Proper use of FDA Recommended Exposure Schedule;
- (c) Proper procedures for sanitizing protective eyewear and tanning equipment;
- (d) Proper procedures for the use of and the instruction in use of protective eyewear;
- (e) Recognition of injury or overexposure to ultraviolet radiation;

- (f) The tanning equipment manufacturer's procedures for operation and maintenance of the tanning equipment or devices;
 - (g) Emergency procedures to be followed in case of an actual or alleged ultraviolet radiation injury;
 - (h) Biological effects of ultraviolet radiation, including the potential acute and long term health effects of ultraviolet radiation;
 - (i) Knowledge of potential photosensitizing agents, to include food, cosmetics and medications, and the possibility of photosensitivity and photoallergic reactions;
 - (j) The classification and determination of skin type of consumers, using the Fitzpatrick Scale;
 - (k) The human skin and the tanning process;
 - (l) Recordkeeping requirements as specified in §§ 303, 304, 305, and 306 of this subtitle;
 - (m) Determination of lamp equivalency;
 - (n) The types and wavelengths of ultraviolet light;
 - (o) General information and features of all types of commercial tanning equipment and devices; and
 - (p) The public health reasons for avoiding overexposure and the dangers of overexposure.
- 200.5 Documentation that managers and operators are trained as required in Section 200.4 shall be conspicuously posted in the tanning facility next to the tanning facility license. This documentation shall be removed when an individual is no longer employed on-site by the facility.
- 200.6 The licensee shall ensure managers obtain a required Department of Health (DOH)-Issued Tanning Facility Manager's Identification Card (ID Card).
- 201 LICENSEE RESPONSIBILITIES – SAFETY REQUIREMENTS AND TANNING PROCEDURES AND TEMPERATURE***
- 201.1 The licensee shall ensure managers and operators are knowledgeable in the correct use of all tanning devices on the premises so that they are able to inform and assist each customer in the proper use of the tanning devices.
- 201.2 Only one (1) customer may be in a tanning room at a time, with the following exceptions:

- (a) If two (2) or more sunlamp products are used in the same room, in which case only those customers using the sunlamp products may be present in the room; and
 - (b) If a customer using a sunlamp product needs aid or assistance from another person, in which case that individual shall also be provided with, and wear, protective eyewear.
- 201.3 The licensee shall ensure the interior temperature of the tanning facility is controlled so that it does not exceed one hundred degrees Fahrenheit (100 °F) (thirty-eight degrees Celsius (38 °C)) at any time.
- 201.4 The licensee shall ensure tanning equipment and devices are maintained in good condition and are sanitized after each use.
- 201.5 The licensee shall ensure all protective eyewear is in optimal condition, properly sanitized, and provides adequate vision in accordance with its design.
- 201.6 The licensee shall ensure each customer receives instructions on how to use suitable physical aids, such as handrails and markings on the floor, to maintain proper exposure distance as recommended by the manufacturer of the tanning equipment or devices.
- 201.7 The licensee shall ensure timers on ultraviolet tanning equipment or devices are accurate within plus or minus ten percent ($\pm 10\%$) of any selected time interval. The timer shall also be remotely located so that customers cannot set their own exposure time.
- 201.8 The licensee shall ensure each customer using ultraviolet tanning equipment or devices is limited to the maximum exposure time recommended by the manufacturer.
- 201.9 The licensee shall ensure during a customer's initial visit, and at least annually thereafter, that each customer is provided with a copy of the "Warning Statement" identified in Section 302.4.
- 201.10 The licensee shall ensure customers have reviewed, signed, and dated the required Acknowledgment; that they have read and understood the "Warning Statement" provided to them by the facility, as specified in Subsections 201.09, 300.1, and 302.4, before using the facility's tanning equipment or devices; and that they have agreed to use FDA compliant protective eyewear provided by the tanning facility or their own.
- 201.11 The licensee shall ensure that customers have submitted a signed and dated "Parental/Legal Guardian Authorization Form" provided to them by the facility before a minor's use of the facility's tanning equipment or devices as specified in Sections 300 and 301.
- 201.12 If the customer is illiterate, or visually impaired the licensee shall ensure that the "Warning Statement" and "Parental/Legal Guardian Authorization Form"

have been read to the customer prior to the customer's use or a customer's minor child's use of the facility's tanning equipment or devices.

CHAPTER 3 STANDARD POLICIES & OPERATING PROCEDURES AND RECORDKEEPING

300 POLICY & PROCEDURES – AGE RESTRICTIONS AND PROHIBITION, AND PARENTAL/LEGAL GUARDIAN AUTHORIZATION*

- 300.1 The licensee shall require every customer, including the parent or legal guardian of minors, who uses the facility's tanning equipment and devices to sign an acknowledgement that he or she has:
- (a) Received the required "Warning Statement" provided by the facility;
 - (b) Read and understood the required "Warning Statement" provided by the facility; and
 - (c) Agreed to use FDA compliant protective eyewear; and
 - (d) Consented to a minor's use of the facility's tanning equipment or devices by providing the facility with a properly completed "Parental/Legal Guardian Authorization Form", where applicable.
- 300.2 The general use of tanning equipment or devices shall be restricted to customers who are eighteen (18) years of age or older.
- 300.3 The licensee shall require a parent or legal guardian of a minor child to complete a "Parental/Legal Guardian Authorization Form" provided by the facility prior to the minor's use of the facility's tanning equipment or devices.
- 300.4 The licensee shall prohibit minors younger than fourteen (14) years of age from using ultraviolet tanning equipment or devices.
- 300.5 The licensee shall prohibit minors between fourteen (14) and seventeen (17) years of age from using ultraviolet tanning equipment or devices without a valid "Parental/Legal Guardian Authorization Form" on file. Proof of age shall be satisfied with a driver's license or other government issued identification containing the date of birth and a photograph of the individual, or school issued identifications.
- 300.6 For parents or legal guardians of minors who are sixteen (16) or seventeen (17) years of age, prior to the minors' use of a facility's tanning equipment or devices, the tanning facility shall:
- (a) Provide a copy of the "Warning Statement" identified in Section 302.4 to a parent or legal guardian; and
 - (b) Obtain a "Parental/Legal Guardian Authorization Form" from a parent or legal guardian that is signed and dated in the presence of the facility's

operator. The "Parental/Legal Guardian Form" shall not be given to a minor to take home for signing.

300.7 For parents or legal guardians of minors who are fourteen (14) or fifteen (15) years of age, prior to the minors' use of a facility's tanning equipment or devices, the tanning facility shall:

- (a) Provide a copy of the "Warning Statement" identified in Section 302.4 to the parent or legal guardian; and
- (b) Obtain a "Parental/Legal Guardian Authorization Form" from a parent or legal guardian that is signed and dated in the presence of the facility's operator. The "Parental/Legal Guardian Authorization Form" shall not be given to a minor to take home for signing; and
- (c) Require a parent or legal guardian to accompany the minor when using the facility's tanning equipment or devices.

300.8 The licensee shall not permit any infant or other minor in a tanning area where tanning equipment or devices are being used by a parent or legal guardian.

301 POLICY & PROCEDURES — AGE RESTRICTION SIGN AND POSTING*

301.1 A licensee shall conspicuously post an Age Restriction Sign at or near the reception area with the following text:

- (a) INDIVIDUALS AGE 14 TO 17 YEARS OF AGE ARE REQUIRED TO HAVE A PARENT OR LEGAL GUARDIAN SIGN A "WARNING STATEMENT" AND A "PARENTAL/LEGAL GUARDIAN AUTHORIZATION FORM" IN THE PRESENCE OF AN OPERATOR BEFORE USING THE FACILITY'S TANNING EQUIPMENT OR DEVICES;
- (b) INDIVIDUALS AGE 14 TO 15 YEARS OF AGE ARE ALSO REQUIRED TO HAVE A PARENT OR LEGAL GUARDIAN PRESENT DURING ALL TANNING SESSIONS; and
- (c) INDIVIDUALS AGE 13 YEARS OF AGE AND YOUNGER ARE PROHIBITED FROM USING ANY ULTRAVIOLET TANNING EQUIPMENT OR DEVICES.

302 POLICY & PROCEDURES — WARNING STATEMENT, CONTENT, AND POSTING*

302.1 During a customer's initial visit, an operator shall advise a consumer that tanning indoors and outdoors on the same day, or tanning at multiple salons or other similar occurrences is hazardous to his or her health.

- 302.2 Operators shall remind each customer to consult their physician if the customer is taking any medication, has skin problems, or is sensitive to sunlight, certain foods, or cosmetics.
- 302.3 The licensee shall conspicuously post a "Warning Sign" as specified in Section 302.4, in the reception area next to the tanning facility District-issued license as specified in Section 804.4. The sign shall be readily legible, clearly visible, and not obstructed by any item for easy viewing by customers.
- 302.4 The lettering on the warning sign shall be at least five millimeters (5 mm) high for the word "WARNING". All capital letters shall be at least five millimeters (5 mm) high and all lower case letters shall be at least three millimeters (3 mm) high. The warning sign shall read as follows:

WARNING**DANGER – ULTRAVIOLET RADIATION**

Avoid too frequent or too lengthy exposure. As with natural sunlight, overexposure can cause eye and skin injury and allergic reactions. Repeat exposure can cause chronic sun damage, such as premature aging of the skin, which is characterized by wrinkling, dryness, fragility and bruising of the skin or skin cancer.

Wear Food and Drug Administration-Approved Protective Eyewear. Failure to wear protective eyewear may result in severe burns or long-term injury to the eyes.

Do not sunbathe before or after exposure to ultraviolet radiation. Ultraviolet radiation from tanning equipment or devices will aggravate the effects of the sun. So, do not sunbathe during the twenty-four (24) hours immediately before or immediately after using tanning equipment or devices.

Tanning indoors and outdoors on the same day, or tanning at multiple salons, or other similar occurrences is hazardous to your health.

Medications and cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician before using tanning equipment or devices if: (1) you are taking **any medication**; or (2) you have a history of skin problems, or believe that you are especially sensitive to sunlight, certain foods, or cosmetics.

Women who are pregnant or using birth control pills and who use tanning equipment or devices may develop discolored skin.

If you do not tan in the sun, you are unlikely to tan when exposed to a tanning device.

If you believe that you have been injured by this tanning device, you should contact: District of Columbia Department of Health, Radiation Protection Division, 899 North Capitol Street, N.E., 2nd Floor, Washington, D.C. 20002-4210, Telephone: (202) 724-8800.

303 OPERATING PROCEDURES – RECORDKEEPING MANUAL, CONTENT*

303.1 The licensee shall maintain a procedural manual at the tanning facility which shall be available at all times to operators and the Department during inspections. Each licensee's procedural manual shall maintain:

- (a) Statements for customers who are illiterate or visually impaired and unable to sign their names in accordance with Section 201.12;
- (b) Parental/Legal Guardian Authorization Forms;
- (c) Warning Statement; and
- (d) A record of each operator's completion of training requirements.

303.2 Each tanning facility shall maintain on file each customer's:

- (a) Statements signed by the tanning facility's staff for customers who are illiterate or visually impaired and unable to sign their names in accordance with Section 201.12, if applicable;
- (b) Parental/Legal Guardian Authorization Forms, if applicable;
- (c) Written tanning profiles and consultations;
- (d) Records of suitability for using tanning equipment; and
- (e) Records showing the a adherence to the manufacturer's recommended exposure schedule, or the procedures used for determining if a consumer has exceeded the exposure schedule as provided in Subsections 200.4(b) and 200.4(k), including:
 - (1) Determining exposure times;
 - (2) Frequency of visits;
 - (3) Spacing of visits; and
 - (4) Maximum exposure time(s) in minutes.

303.3 All records of customers' files shall be maintained for a minimum of three (3) years before or three (3) years past the client's age of majority.

303.4 Each tanning facility shall maintain:

- (a) Maintenance records which identify the manufacturer, model and series number, and the date each tanning equipment or device was sold, leased, transferred, loaned, assembled, certified, recertified, upgraded, installed, serviced, or repaired, including but not limited to records of the:
 - (1) Frequency and dates of cleaning and sanitizing tanning equipment, tanning devices, and protective eyewear;
 - (2) Replacement of tanning lamps;

- (3) Quarterly testing of tanning equipment timers and emergency off switches; and
 - (4) Calibration dates of tanning equipment and devices.
 - (b) A list of emergency contact numbers appropriate for the community in which it is located. The list shall be easily accessible and shall include, but is not limited to, contact numbers for:
 - (1) The nearest hospital;
 - (2) The nearest fire department; and
 - (3) Emergency 911 service.
- 303.5 All files identified in this section that are maintained electronically shall be frequently backed up and accessible from multiple locations, if applicable.
- 304 OPERATING PROCEDURES – RECORDKEEPING, PURCHASE, MAINTENANCE, AND USERS’ INSTRUCTIONS**
- 304.1 The licensee shall maintain the users’ instructions for each model of tanning equipment used at the tanning facility as stated in 21 C.F.R. § 1040.20(e)(1) (Sunlamp products and ultraviolet lamps intended for use in sunlamp products, instructions to be provided to users).
- 304.2 Users’ instructions shall be kept on file at the facility and shall be readily available for review by the tanning facility staff, as needed, and the Department upon request.
- 304.3 The licensee shall keep records showing the receipt, transfer, repair, and disposal of all equipment and devices on the premises.
- 304.4 Records which are maintained by the licensee on computer systems shall be copied at least monthly and updated on storage media other than the hard drive of the computer to ensure compliance with these regulations.
- 304.5 An electronic record shall be retrievable as a printed copy.
- 305 OPERATING PROCEDURES – RECORDKEEPING, RETENTION**
- 305.1 The licensee shall maintain all records at the facility for at least three (3) years or longer if required by any other applicable District law or regulation. The records shall be readily available for review by the Department upon request.
- 306 OPERATING PROCEDURES – RECORDKEEPING, REPORTS OF INJURIES**
- 306.1 The licensee shall maintain an “Incident Log” of customers’ actual or alleged ultraviolet radiation injuries or other types of injuries.

- 306.2 The licensee shall submit to the Department a written report of actual or alleged injury from using the licensee's tanning equipment or devices no later than five (5) business days after notification of actual or alleged injury.
- 306.3 The report shall include the following information:
- (a) Name, address, and telephone number of the affected individual;
 - (b) Tanning facility's name, location, telephone number, license number, and name of the operator on duty;
 - (c) Identification of the specific tanning equipment or devices involved;
 - (d) Nature of the actual or alleged injury, including the date and duration of exposure, and any other information relevant to the actual or alleged injury;
 - (e) If applicable, the medical attention sought, treatment, and the name of attending physician;
 - (f) Copies of the individual's medical, skin, and exposure history;
 - (g) Steps taken to prevent recurrence of future injuries; and
 - (h) All information requested on the Department's "Report of Injury Form."
- 306.4 The licensee shall maintain all records or reports pertaining to actual or alleged injury at the facility for review until the Department authorizes their disposal.

CHAPTER 4 CONSTRUCTION, SANITATION & MAINTENANCE, PREVENTION OF CONTAMINATION, AND WATER SOURCE, QUALITY AND CAPACITY

400 DESIGN & CONSTRUCTION – TANNING EQUIPMENT AND DEVICES*

- 400.1 The licensee shall use only tanning equipment and devices that comply with these regulations.
- 400.2 Tanning equipment and devices shall meet the National Fire Protection Association National Electrical Code and shall be provided with ground fault protection on the electrical circuit, or other methods for preventing shock.
- 400.3 Every tanning device used by a tanning facility shall comply with all applicable District and Federal laws and regulations, including those promulgated by the Federal Trade Commission and the United States Food and Drug Administration.
- 400.4 Each assembly of tanning equipment or devices shall be provided with an emergency shut-off mechanism on the tanning equipment or device to allow the consumer to manually terminate radiation emission from the equipment or

device at any time without disconnecting the electrical plug or removing any ultraviolet lamp.

400.5 Each assembly of tanning equipment or devices shall be designed for use by only one (1) consumer at a time.

400.6 All tanning equipment or devices shall include physical barriers to protect consumers from injury induced by touching or breaking the lamps.

400.7 There shall be physical barriers around each tanning equipment or device which is in use to protect persons who are not using the device from line-of-sight accidental ultraviolet radiation exposure.

401 DESIGN & CONSTRUCTION – TANNING EQUIPMENT AND DEVICES, PROTECTIVE EYEWEAR

401.1 If a consumer does not provide compliant protective eyewear, the licensee shall have compliant protective eyewear available for the consumer to use during any use of tanning equipment.

401.2 The licensee shall not allow a consumer to use any tanning equipment if a consumer:

- (a) Refuses to accept compliant protective eyewear offered by the licensee if he or she does not have his or her own; or
- (b) Vocalizes a refusal to use compliant protective eyewear offered by the licensee or his or her own compliant protective eyewear.

401.3 The protective eyewear shall meet FDA requirements stated in 21 C.F.R. § 1040.20(c)(4) (Sunlamp products and ultraviolet lamps intended for use in sunlamp products, Protective eyewear).

402 DESIGN & CONSTRUCTION – TANNING EQUIPMENT AND DEVICES, TIMER

402.1 Each assembly of tanning equipment and devices shall be equipped with a timer which complies with the requirements of 21 C.F.R. § 1040.20(c)(2) (Sunlamp products and ultraviolet lamps intended for use in sunlamp products, Timer system. The maximum timer interval shall not exceed the manufacturer's maximum recommended exposure time).

402.2 The timer intervals shall be indicated in such a manner that it is consistent with the exposure times on the manufacturer's recommended exposure schedule.

402.3 No timer interval shall have an error exceeding plus or minus ten percent ($\pm 10\%$) of the maximum timer interval for the product.

402.4 The timer may not automatically reset and cause radiation emission to resume for a period greater than the unused portion of the timer cycle when emission from the tanning device has been terminated.

- 402.5 All tanning equipment shall be provided with an override timer control installed outside of the room in which a tanning device is located.
- 402.6 The remote timer shall only be operated by a trained operator or other trained facility employee and shall be located so that the consumer cannot set or reset the consumer's own exposure time.
- 402.7 The remote timer(s) shall comply with the requirements for timers as provided in this section.
- 402.8 New facilities shall install remote timers during the installation of tanning equipment or devices. Applications for change in ownership shall not be approved without proof of installation of remote timers.
- 402.9 Existing tanning equipment or devices not equipped with a remote timer control system shall have the remote timer(s) installed within one (1) year of the effective date of these regulations.

403 DESIGN & CONSTRUCTION – TANNING STAND-UP BOOTHS, CABINETS AND VERTICAL TANNING DEVICES – ADDITIONAL REQUIREMENTS AND TEMPERATURE*

- 403.1 Tanning stand-up booths or cabinets or vertical tanning devices shall have physical barriers or other means compliant with 21 C.F.R. § 1040.20 (Sunlamp products and ultraviolet lamps intended for use in sunlamp products, such as floor markings, to indicate the manufacturer's recommended exposure distance between the ultraviolet lamps and the consumer's skin).
- 403.2 The temperatures inside of enclosed tanning booths or cabinets or vertical tanning devices shall be maintained below one hundred degrees Fahrenheit (100 °F) (thirty-eight degrees Celsius (38 °C)).
- 403.3 Tanning stand-up booths or cabinets or vertical tanning devices shall be constructed with sufficient strength and rigidity to withstand the stress of use and the impact of a falling person.
- 403.4 Access to tanning stand-up booths or cabinets or vertical tanning devices shall be of rigid construction with doors which are non-locking and open outwardly.
- 403.5 Tanning stand-up booths or cabinets or vertical tanning devices shall be constructed with non-slip floors to reduce the potential for injuries from falls.
- 403.6 The floor inside each tanning stand-up booth or cabinet or vertical tanning devices shall be constructed of easily cleanable surfaces and of such material, finish and so fabricated that residue may be effectively removed by normal cleaning methods.
- 403.7 The floor inside each tanning stand-up booth or cabinet or vertical tanning devices shall be cleaned and sanitized as specified in Section 408, and maintained in a non-slip manner as specified in Section 403.5.

- 403.8 Tanning stand-up booths or cabinets or vertical tanning devices shall be maintained in good condition as specified in Section 407.
- 403.9 Tanning stand-up booths or cabinets or vertical tanning devices shall comply with all applicable provisions of these regulations.
- 404 DESIGN & CONSTRUCTION – TANNING EQUIPMENT AND DEVICES, SUPPLIES, INSTALLATION, AND USE***
- 404.1 No person shall make, sell, lease, transfer, lend, repair, assemble, recertify, upgrade, or install tanning equipment, devices, or lamps or provide supplies used in connection with such equipment, devices or lamps unless such equipment, devices, lamps or supplies when properly installed and used meet the requirements specified in Sections 405, 406, 407, 408, and 409.
- 405 DESIGN & CONSTRUCTION – TANNING EQUIPMENT AND DEVICES, AND SUPPLIES, BULBS, SHIELDING***
- 405.1 Each ultraviolet lamp contained within the sunlamp product shall be shielded by two (2) one-piece covers (top and bottom) without cracks or breaks in the acrylic surfaces to prevent contact with the user.
- 406 DESIGN & CONSTRUCTION – TANNING EQUIPMENT AND DEVICES, AND SUPPLIES, REPLACEMENT, ULTRAVIOLET LAMPS, BULBS OR FILTERS, COMPATIBILITY***
- 406.1 The licensee shall only use lamps which have been certified by the FDA as “equivalent” lamps under the FDA regulations and policies applicable at the time of the replacement of the lamps. The format for the equivalency document shall be in compliance with 21 C.F.R. § 1040.20 (Sunlamp products and ultraviolet lamps intended for use in sunlamp products, and shall be in the form of user instructions).
- 406.2 The licensee shall maintain manufacturer’s literature demonstrating the equivalency of any replacement lamps that are not identified as original equipment. Manufacturer documentation shall be kept for all lamps in use at the facility and shall be readily available for Department review.
- 406.3 Defective lamps or filters shall be replaced before further use of the tanning equipment or devices.
- 406.4 Lamps and bulbs designated for medical use only shall not be used.
- 406.5 The licensee shall replace ultraviolet lamps, bulbs or filters as recommended by the manufacturer or as soon as they become defective or damaged.
- 406.6 Only lamps, bulbs, or filters that meet the requirements of the FDA for a particular tanning bed may be used in tanning facilities.

- 407 MAINTENANCE — TANNING EQUIPMENT, TIMER, GOOD REPAIR AND ACCURATE CALIBRATION***
- 407.1 Tanning equipment and devices shall be maintained in good repair in order to prevent any mechanical safety hazards.
- 407.2 The licensee shall ensure that tests are performed quarterly on each assembly of tanning equipment or device and documented in writing to ensure that:
- (a) The timer is accurately calibrated to within ten percent (10%) of the maximum timer interval for the product as specified in Section 402.3; and
 - (b) The consumer is able to terminate radiation emissions manually as specified in Section 400.4.
- 407.3 Maintenance tests shall include the date of the test, and the timer test shall include the indicated time versus the measured time.
- 407.4 The timer shall be tested at the tanning equipment manufacturer's recommended maximum exposure time.
- 408 CLEANING & SANITIZING — EQUIPMENT AND DEVICES, TABLES AND CHAIRS, AND TEST KITS**
- 408.1 All tanning equipment and devices shall be constructed with a smooth, cleanable, nonabsorbent surface, and shall be cleaned and sanitized after each tanning session.
- 408.2 All tanning equipment and devices shall, between consumers, be wiped with a clean paper or cloth towel using a cleaning solution on all surfaces and then sanitized as specified in Sections 408.3 and 408.4 on any portion of the surface which may come in contact with a person's body, after each tanning session.
- 408.3 All tanning equipment and devices, including required eyewear, shall be sanitized with a U.S. Environmental Protection Agency (EPA)-registered sanitizer in accordance with the EPA approved label that is specifically manufactured for sanitizing ultraviolet light emitting equipment, protective eyewear, and that does not damage the unit's acrylic plastic surface.
- 408.4 A test kit or other device that accurately measures the concentration of the sanitizing solution in parts per million (ppm) shall be used to measure the strength of the sanitizing solution at least twice per day of tanning facility operation to ensure sufficient strength of the sanitizing solution.
- 408.5 Tanning facilities shall maintain adequate supplies for cleaning and sanitizing of all tanning equipment and devices.

409 WATER SOURCE – APPROVED SYSTEM*

409.1 The only approved system for drinking water is the District of Columbia public water system.

409.2 A tanning facility shall not obtain water for its operations from a water system that is not the District of Columbia public water system.

410 WATER SOURCE – BOTTLED DRINKING WATER*

410.1 Bottled drinking water used in a tanning facility shall be obtained from approved sources in accordance with 21 C.F.R. § 129.1 (Current good manufacturing practice).

411 WATER QUALITY – STANDARDS*

411.1 Water from a public water system or potable water shall meet the requirements of the applicable provisions of 40 C.F.R. Part 141 (National Primary Drinking Water Regulations), and District of Columbia drinking water quality standards.

411.2 Potable water shall be used for drinking and sanitizing of tanning equipment and devices.

412 WATER CAPACITY – QUANTITY AND AVAILABILITY

412.1 The water source and system shall be of sufficient capacity to meet the water demands of the tanning facility.

412.2 Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the tanning facility.

CHAPTER 5 PLUMBING SYSTEM**500 MATERIALS – APPROVED MATERIALS, USE***

500.1 Each tanning facility's plumbing system and hoses conveying water shall be constructed and repaired with approved materials according to the International Plumbing Code (2006 edition), Subtitle F (Plumbing Code Supplement) of Title 12 of the District of Columbia Municipal Regulations.

500.2 Each tanning facility's water filter shall be made of safe materials.

501 DESIGN, CONSTRUCTION, AND INSTALLATION – APPROVED SYSTEM AND CLEANABLE FIXTURES*

501.1 Each tanning facility's plumbing system shall be designed, constructed, and installed according to the International Plumbing Code (2006 edition), Subtitle F (Plumbing Code Supplement) of Title 12 of the District of Columbia Municipal Regulations.

- 501.2 Each tanning facility's plumbing system shall be designed, constructed, installed, and maintained according to the International Plumbing Code (2006 edition), Subtitle F (Plumbing Code Supplement) of Title 12 of the District of Columbia Municipal Regulations and shall be of sufficient size to:
- (a) Properly convey sewage and liquid disposable waste from the premises;
 - (b) Avoid creating any unsanitary condition or constituting a source of contamination to potable water, tanning equipment, and devices; and
 - (c) Provide sufficient floor drainage to prevent excessive pooling of water or other disposable waste in all areas where floors are subject to flooding-type cleaning or where normal operations release or discharge water or other liquid waste on the floor.

501.3 Each plumbing fixture such as a handwashing facility, toilet, or urinal shall be easily cleanable.^N

501.4 Each tanning facility shall be equipped with effective plumbing and sewage facilities and adequate accommodations.

502 DESIGN, CONSTRUCTION, AND INSTALLATION — HANDWASHING SINKS, WATER TEMPERATURE, AND FLOW

502.1 All handwashing sinks, including those in toilet rooms, shall be equipped to provide water at a temperature of at least one hundred degrees Fahrenheit (100 °F) (thirty-eight degrees Celsius (38 °C)) through a mixing valve, a combination faucet, or tempered water and a single faucet.

502.2 A steam mixing valve shall not be used at a handwashing sink.

502.3 A self-closing, slow-closing, or metering faucet shall provide a flow of water for at least fifteen (15) seconds without the need to reactivate the faucet.

502.4 Any automatic handwashing facility shall be installed in accordance with the manufacturer's instructions.

503 HANDWASHING SINKS — HANDWASHING CLEANSER, AVAILABILITY, HAND DRYING PROVISION, AND HANDWASHING SIGNAGE

503.1 An automatic handwashing facility may be substituted for a handwashing sink in a tanning facility that has at least one (1) handwashing sink.

503.2 An automatic handwashing facility shall be used in accordance with the manufacturer's instructions.

503.3 Each handwashing sink or group of two (2) adjacent sinks shall be provided with hand cleaning liquid or powder.

- 503.4 Each handwashing sink or group of adjacent sinks shall be provided with:
- (a) Individual, disposable towels; or
 - (b) A heated-air, hand-drying device.
- 503.5 A sign or poster that notifies employees to wash their hands shall be provided at all handwashing sinks.

504 HANDWASHING SINKS – DISPOSABLE TOWELS, WASTE RECEPTACLE

- 504.1 A handwashing sink or group of adjacent sinks that is supplied with disposable towels or suitable drying devices shall be provided with a waste receptacle as specified in Subsections 507.2 and 507.3.

505 DESIGN, CONSTRUCTION AND INSTALLATION – TOILETS AND URINALS, ENCLOSED

- 505.1 Toilet facilities shall be provided in accordance with Section 506 and the International Plumbing Code (2006 edition), Subtitle F (Plumbing Code Supplement) of Title 12 of the District of Columbia Municipal Regulations.
- 505.2 A toilet room located on the premises shall be completely enclosed and provided with a tight-fitting and self-closing door, except that this requirement does not apply to a toilet room that is located outside a tanning facility.
- 505.3 Toilet room doors shall be kept closed except during cleaning and maintenance operations.

506 TOILETS AND URINALS – NUMBER, CAPACITY, CONVENIENCE AND ACCESSIBILITY, PROHIBITION*

- 506.1 Each tanning facility shall maintain toilet facilities for employees, which shall consist of a toilet room or toilet rooms with proper and sufficient water closets and lavatories. Toilet facilities shall be conveniently located and readily accessible to all personnel and customers.
- 506.2 Toilets and urinals provided for employees' use shall be in accordance with the International Plumbing Code (2006 edition), Subtitle F (Plumbing Code Supplement) of Title 12 of the District of Columbia Municipal Regulations. Urinals may be substituted for toilets if the substitution is approved by the Department of Consumer and Regulatory Affairs and the Department.
- 506.3 The licensee shall, at a minimum:
- (a) Maintain the toilet facilities in a sanitary condition that is clean and free of trash and litter;
 - (b) Keep the facilities in good repair at all times; and

- (c) Provide self-closing doors.
- 506.4 All single-stall toilet rooms shall display gender-neutral signs on the door that read "Restroom," or have a universally recognized pictorial indicating that persons of any gender may use each restroom, in accordance with the D.C. Human Rights Act of 1977, as amended, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1403.01(c) (2007 Repl)).
- 506.5 Tanning facilities employing:
- (a) Five (5) or fewer employees may provide only a single toilet facility with a gender-neutral sign on the door in accordance with the D.C. Human Rights Act of 1977, as amended, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1403.01(c) (2007 Repl); or
- (b) More than five (5) employees shall have multiple toilet facilities that are either:
- (1) Single-stall toilet rooms with a gender-neutral sign on each door as specified in Section 3101.2 in accordance with the D.C. Human Rights Act of 1977, as amended, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1403.01(c) (2007 Repl.); or
- (2) Multiple-stall toilet rooms with gender-specific signs on the doors that read "Men" and "Women" or contain gender-specific, universally recognized pictorials of "Men" and "Women".
- 506.6 When locker rooms are provided, there shall be both a male and female locker room available, unless the facility is specifically designated for one (1) gender or the other.
- 506.7 If the tanning facility serves only one (1) gender, a restroom shall be made available for employees of the opposite gender.
- 506.8 Toilet facilities shall be deemed conveniently located and accessible to employees during all hours of operation if they are:
- (a) Located within the same building as the business they serve; and
- (b) Accessible during working hours without going outside the building.
- 506.9 At no time shall consumers or employees of one (1) gender enter the bathroom, restroom, or locker room of the other gender, except for routine clean-up after all of the consumers are gone or there is a maintenance emergency that cannot be handled by an employee of the same gender as belongs to the restroom, bathroom, or locker room.

507 TOILETS AND URINALS – TOILET TISSUE, RECEPTACLE COVERED AND AVAILABLE

507.1 The licensee shall provide a supply of toilet tissue at each toilet.

507.2 The licensee shall provide a waste receptacle in each toilet room.

507.3 The licensee shall provide a covered receptacle for feminine hygiene products in any toilet room used by females.

508 OPERATION AND MAINTENANCE – SYSTEM MAINTAINED IN GOOD REPAIR*

508.1 Each tanning facility's plumbing system shall be:

(a) Repaired according to the International Plumbing Code (2006 edition), Subtitle F (Plumbing Code Supplement) of Title 12 of the District of Columbia Municipal Regulations; and

(b) Maintained in good repair.

CHAPTER 6 PHYSICAL FACILITIES DESIGN AND CONSTRUCTION, CLEANABILITY, SANITATION, AND MAINTENANCE

600 DESIGN & CONSTRUCTION – BUILDING MATERIALS AND WORKMANSHIP

600.1 The licensee of a newly constructed, remodeled or renovated tanning facility shall ensure that the design, construction, building materials, and workmanship complies with the District's Construction Codes of 2008, as specified in Section 102.1(a) of this chapter.

600.2 The licensee of an existing tanning facility shall maintain in good condition the physical integrity of its tanning facility by repairing or replacing structural or design defects, operating systems, or fixtures in use before the effective date of these regulations in accordance with the District's Construction Codes of 2008, as specified in Section 102.1.

600.3 At least thirty (30) days before beginning construction or remodeling of a tanning facility, the licensee shall submit construction plans with all schedules, including but not limited to floor plans, elevations, and electrical schematics, to the Department for review and approval, as specified in Section 806.

601 DESIGN & INSTALLATION – LIGHTING AND ELECTRONIC DEVICES*

601.1 All rooms of a tanning facility shall have at least one (1) electrical source of light. Lighting luminaries and fixtures may be of incandescent, fluorescent, high density discharge, or light emitting diode (LED) types.

- 601.2 At least fifty (50) foot-candles of light shall be provided in each area and the laundry area.
- 601.3 At least twenty (20) foot-candles of light shall be provided in each restroom, locker room, toilet room, or other areas when fully illuminated for cleaning.
- 601.4 An average illumination value of ten (10) foot-candles of light, but never less than seven and a half (7.5) foot-candles of light, shall be provided in other areas within a tanning facility, including tanning rooms, offices, lobbies, retail shops, and waiting areas.
- 601.5 The above illumination levels shall be attainable at all times while the tanning facility is occupied, except as specified in Section 601.6.
- 601.6 Lighting may be dimmed during a tanning session so long as there is enough light to safely see or to leave the room in case of an emergency.
- 601.7 No tanning facility shall be equipped with tinted windows or two-way mirrors in any room therein.
- 601.8 No tanning facility shall be equipped with any electronic, mechanical, or artificial device used or capable of being used for recording either audio or video activities, conversations, or other sounds in tanning rooms or any other room used by customers.

602 DESIGN & INSTALLATION – SMOKE ALARMS

- 602.1 Each distinct area of a tanning facility separated by a doorway, whether or not a door is currently present, shall be equipped with at least one (1) working smoke alarm which is installed, maintained, and tested according to the International Fire Code (2008 edition), (D.C. Fire Code Supplement) of Title 12 of the District of Columbia Municipal Regulations.
- 602.2 The smoke alarm shall be free of foreign matter such as tape or paint which could impair its proper function.

603 DESIGN & INSTALLATION – HEATING AND VENTILATION SYSTEMS AND POSTING*

- 603.1 All restrooms, locker rooms, and toilet rooms shall be adequately ventilated so that excessive moisture is removed from the room. Acceptable ventilation includes mechanical exhaust ventilation, a recirculating vent, or screened windows.
- 603.2 Each system for heating, cooling, or ventilation shall be properly maintained and operational at all times when the rooms are occupied.
- 603.3 Every tanning room within the facility shall have a thermometer mounted at five feet (5 ft.) above the floor. Adjacent to the thermometer shall be a sign that states:

Patrons shall not tan if room temperature is at one hundred degrees Fahrenheit (100 °F) or (thirty-eight degrees Celsius (38 °C)) or higher. Please report excessive heat to the operator immediately.

603.4 All restrooms, locker rooms, and toilet rooms shall be capable of being maintained at a temperature between sixty-eight degrees Fahrenheit (68 °F) (twenty degrees Celsius (20 °C)) and eighty degrees Fahrenheit (80 °F) (twenty-seven degrees Celsius (27 °C)) while being used by customers.

603.5 The use of portable space heaters is prohibited.

604 CONSTRUCTION & INSTALLATION – FLOORS, WALLS, CEILINGS, AND UTILITY LINES

604.1 All floors, floor coverings, walls, wall coverings, and ceilings shall be designed, constructed, and installed so they are smooth and easily cleanable, except that antislip floor coverings or applications may be used for safety reasons.

604.2 The floors in bathrooms, restrooms, locker rooms, and toilet rooms that are next to showers or toilets, or any other wet areas, shall be constructed of smooth, durable, nonabsorbent, and easily cleanable material.

604.3 Every concrete, tile, ceramic, or vinyl floor installed in bathrooms, restrooms, locker rooms, and toilet rooms, which are next to showers or toilets, shall be covered at the junctures between the floor and the walls.

604.4 All material used to cover the junctures shall be fitted snugly to the floor and the walls so that they are water tight and there are not openings large enough to permit the entrance of vermin.

604.5 The material used in constructing the walls and ceilings must be joined along their edges so as to leave no open spaces or cracks.

604.6 Tanning rooms shall be constructed and maintained to provide client privacy.

605 CLEANABILITY – FLOORS, WALLS, CEILINGS, AND UTILITY LINES

605.1 Utility service lines and pipes shall not be unnecessarily exposed.

605.2 Exposed utility service lines and pipes shall be installed so they do not obstruct or prevent cleaning of the floors, walls, or ceilings.

605.3 Exposed horizontal utility service lines and pipes shall not be installed on the floor.

606 CLEANABILITY – FLOOR AND WALL JUNCTURES, COVERED, AND ENCLOSED OR SEALED

606.1 Floor and wall junctures shall be covered and closed to no larger than one millimeter (1 mm.) or one thirty-second of an inch (1/32 in.).

606.2 Covering of floor and wall junctures shall be sealed.

607 CLEANABILITY – FLOOR CARPETING, RESTRICTIONS AND INSTALLATION

607.1 A floor covering such as carpeting or similar material shall not be installed as a floor covering in toilet room areas where handwashing sinks, toilets, or urinals are located; refuse storage rooms; or other areas where the floor is subject to moisture.

607.2 If carpeting is installed as a floor covering in areas other than those specified in Section 607.1, it shall be:

- (a) Securely attached to the floor with a durable mastic, by using a stretch and tack method, or by another similar method; and
- (b) Installed tightly against the wall under the coving or installed away from the wall with a space between the carpet and the wall and with the edges of the carpet secured by metal stripping or some other means.

608 CLEANABILITY – FLOOR COVERING, MATS AND DUCKBOARDS

608.1 The licensee or manager shall inspect the premises prior to each consumer's use to ensure that the floors are dry.

608.2 Mats and duckboards shall be designed to be removable and easily cleanable.

609 PHYSICAL FACILITIES – MAINTENANCE, FLOORS, PUBLIC AREAS

609.1 The physical facilities shall be maintained in good repair and cleaned as often as necessary to keep them clean.

609.2 Every floor and floor covering, shall be kept clean and in good repair, sanitized, or replaced so that it does not become a hazard to health or safety.

609.3 All public areas of a tanning facility, such as the lobbies and merchandising and retail areas shall be maintained in a clean and sanitary manner, free of litter, rubbish, and nuisances.

610 PHYSICAL FACILITIES – CLEANABILITY, SANITIZATION AND MAINTENANCE OF PLUMBING FIXTURES

610.1 Plumbing fixtures such as handwashing sinks, toilets, and urinals shall be cleaned as often as necessary to keep them clean and well-maintained.

610.2 All tanning facilities shall be equipped with toilet facilities, which include a water closet and handwashing sinks, including hot and cold running water, hand cleaning liquid or powder, and a paper towel dispenser or equivalent hand drying equipment.

610.3 All restrooms shall be kept in sanitary condition and good repair.

611 PHYSICAL FACILITIES – MAINTAINING PREMISES, UNNECESSARY ITEMS AND LITTER

611.1 The grounds surrounding a tanning facility under the control of the licensee shall be kept in a clean and litter-free condition.

611.2 The methods for adequate maintenance of grounds include, but are not limited to, the following:

- (a) Properly storing or removing unnecessary equipment that is nonfunctional or no longer used, removing litter and waste, and cutting weeds or grass within the immediate vicinity of the physical facility that may constitute an attractant, breeding place, or harborage for pests;
- (b) Maintaining roads and parking lots so that they do not constitute an attractant, breeding place, or harborage for pests; and
- (c) Adequately draining areas that may provide an attractant, breeding place, or harborage for pests.

611.3 If the tanning facility's grounds are bordered by grounds not under the operator's control and not maintained in the manner described in Sections 611.1 and 611.2, care shall be exercised by the licensee through inspection, extermination, or other means to exclude pests, dirt, and filth that may become an attractant, breeding place, or harborage for pests.

611.4 Methods for maintaining a sanitary operation include providing sufficient space for placement and storage of equipment and linens.

612 PHYSICAL FACILITIES – CONTROLLING PESTS*

612.1 The presence of insects, rodents, and other pests shall be controlled to eliminate their presence on the premises by:

- (a) Routinely inspecting the premises for evidence of pests;^N
- (b) Using methods, if pests are found, such as trapping devices or other means of pest control as specified in Sections 612 and 613; and
- (c) Eliminating harborage conditions.^N

612.2 The licensee shall maintain a copy of the establishment's professional service contract and service schedule, which documents the following information:

- (a) Name and address of its D.C. licensed pest exterminator/contractor;
- (b) Frequency of pest extermination services provided under the contract; and

- (c) The date on which pest extermination services were last provided to the establishment.

613 PHYSICAL FACILITIES – REMOVING DEAD OR TRAPPED BIRDS, INSECTS, RODENTS, AND OTHER PESTS

- 613.1 Dead or trapped birds, insects, rodents, and other pests shall be removed from a trap or the traps shall be discarded from the premises at a frequency that prevents accumulation, decomposition, or the attraction of other pests.

614 PHYSICAL FACILITIES – PROHIBITING ANIMALS*

- 614.1 Patrol dogs accompanying police or security officers and sentry dogs running loose in outside fenced areas or dogs providing assistance to individuals with physical handicaps may be allowed in a tanning facility if the presence of the animals does not result in contamination of tanning equipment, devices, or supplies.

CHAPTER 7 REFUSE, RECEPTACLES, STORAGE AND REMOVAL

700 REFUSE FACILITIES ON PREMISES – RECEPTACLES, STORAGE AREAS, GOOD REPAIR, AND OUTSIDE STORAGE AREAS & REMOVAL FREQUENCY

- 700.1 An inside storage room or area, outside storage area or enclosure, and receptacles shall be of sufficient capacity to hold the refuse that accumulate.
- 700.2 Plastic bags and wet strength paper bags may be used to line receptacles for storage inside the tanning facility or within closed containers in outside receptacles.
- 700.3 Receptacles and waste handling units shall be designed and constructed with tight-fitting lids, doors, or covers.
- 700.4 Receptacles and waste handling units shall be durable, cleanable, insect- and rodent-resistant, leakproof, nonabsorbent, and maintained in good repair.
- 700.5 If used, an outdoor enclosure for refuse shall be constructed of durable and cleanable materials and shall be located so that a public health hazard or nuisance is not created.
- 700.6 An outdoor storage surface for refuse shall be constructed of nonabsorbent material such as concrete or asphalt and shall be smooth, durable, and sloped to drain.
- 700.7 Storage areas, enclosures, and receptacles for refuse shall be maintained in good repair.
- 700.8 Storage areas and enclosures for refuse shall be kept clean and maintained free of unnecessary items, as specified in Section 611.

701 REMOVAL FREQUENCY

- 701.1 The licensee shall maintain a copy of the facility’s professional service contract which documents the following information:
 - (a) Name and address of its District-licensed trash or solid waste contractor;
 - (b) Duration of the contract; and
 - (c) Frequency of trash or solid waste collection services provided under the contract.
- 701.2 Trash or solid waste collection shall comply with Title 21, Chapter 7 of the DCMR.

CHAPTER 8 COMPLIANCE, ENFORCEMENT AND DEFINITIONS

800 LICENSE REQUIREMENTS – PREREQUISITES FOR OPERATING, VENDING, OR MANAGING, OR TRAINING*

- 800.1 No person shall own, open, or operate a tanning facility in the District without a tanning facility license issued by the Mayor.
- 800.2 No person shall own, open, or operate a tanning facility in the District with an expired or suspended license.
- 800.3 No person shall open, or operate a tanning facility in the District without a valid Certificate of Occupancy;
- 800.4 Except for routine maintenance such as required cleaning and sanitizing of tanning equipment and replacement of bulbs as specified in Sections 406 and 408 by a facility’s manager, operator or trained employee, no person shall sell, lease, transfer, loan, assemble, certify, recertify, upgrade, install, service, or repair tanning equipment or devices in the District without a valid tanning service provider registration issued by the Mayor.
- 800.5 No person shall furnish or offer to furnish tanning equipment, devices, or associated components, such as bulbs and filters, in the District without a valid tanning service provider registration issued by the Mayor.
- 800.6 No licensee shall use a tanning service provider company unless such company possesses a valid tanning service provider registration issued by the Mayor as specified in Section 800.4.
- 800.7 No person shall manage a tanning facility in the District without obtaining a valid District-issued Tanning Facility Manager Identification Card issued by the Department as specified in Section 200.6.

801 APPLICATION PROCEDURE – PERIOD AND FORM OF SUBMISSION, PROCESSING

- 801.1 An applicant shall submit an application for a license at least thirty (30) calendar days before the date planned for opening a tanning facility or at least thirty (30) calendar days before the expiration date of the current license for an existing tanning facility.
- 801.2 Licenses shall be valid for a two (2) year period.
- 801.3 License fees shall be prorated for licenses issued after the beginning of the license period.
- 801.4 An applicant shall submit a written application for a license or tanning service provider registration on a form provided by the Department.
- 801.5 A new application shall be filed with the Department within thirty (30) days of any change in ownership or location. A licensee shall also notify the Department at least thirty (30) calendar days before permanently or temporarily discontinuing operations.
- 801.6 The Department shall not process applications for a change in ownership or location where administrative actions are pending against an existing facility that has not been resolved.

802 APPLICATION PROCEDURE – CONTENTS OF THE APPLICATION PACKET

- 802.1 An application for a license to operate a tanning facility shall include the full name(s), true name(s) or any other name(s) used by the applicant, and the following information:
- (a) The present address and telephone number of each applicant:
 - (1) If the applicant is an individual, the individual's home address;
 - (2) If the applicant is a corporation, the names and residence addresses of each of the officers and directors of said corporation and each stock holder owning more than ten percent (10%) of the stock of the corporation, and the address of the corporation itself if it is different from the address of the tanning facility; or
 - (3) If the applicant is a partnership, the names and residence addresses of each partner, including limited partners, and the address of the partnership itself if different from the address of the tanning facility.
 - (b) Each applicant's signature;
 - (c) Name and address of registered agent, if applicable;

- (d) The location, mailing address, and all telephone numbers where the business is to be conducted;
- (e) Proof that the applicant is at least the age of majority;
- (f) Driver's license or Government ID with the date of birth of each applicant; and
- (g) A complete set of construction plans including all schedules (for example, floor plans, elevations, and electrical schematics), if applicable.

803 DENIAL OF APPLICATION FOR LICENSE – NOTICE

803.1 If an application for a license or a renewal of a license is denied, the Department shall provide the applicant with written notice that includes:

- (a) The specific reasons and legal authority for denial of the license;
- (b) The actions, if any, that the applicant must take to qualify for a new license or to renew a license; and
- (c) Notice of the applicant's right to a hearing and the process and timeframes for appeal as prescribed in Chapter 13 of this subtitle.

804 ISSUANCE OF LICENSE – NOTICE OF OPENING, DISCONTINUANCE OF OPERATION, AND POSTING

804.1 A tanning facility shall provide notice to the Department of its intent to operate at least thirty (30) calendar days before beginning operations.

804.2 A tanning facility shall provide notice to the Department of its intent to shut down permanently or temporarily at least thirty (30) calendar days before discontinuing operations.

804.3 If a tanning facility is closed for more than a thirty (30) day period, the tanning facility's license and certificate of occupancy shall be returned to the Department and the owner shall be required to submit a new application as specified in Section 801.5 for the issuance of a new license prior to reopening.

804.4 A current inspection report, and all valid licenses, Certificate of Occupancy and "Warning Statements" required in Sections 302.3, 800.1, 800.2 and 800.3, and shall be conspicuously posted in the reception area next to the tanning facility's license.

805 ISSUANCE OF LICENSE – NEW, CONVERTED OR REMODELED, EXISTING OPERATIONS AND CHANGE OF OWNERSHIP OR LOCATION

805.1 Each applicant shall submit:

- (a) A properly completed application packet provided by the Department;
- (b) Copies of all operating and safety procedures unique to the facility's operation;
- (c) Copies of each manufacturer's recommended exposure schedule and the recommended supplies such as lamps and filters for each model of tanning equipment and devices;
- (d) Copies of the maintenance records as specified in Section 303 for license renewals;
- (e) Proof of payment of the application and license fees; and
- (f) Proof of the Department's review and approval of required plans and specifications as specified in Section 806, if applicable.

805.2 If the applicant meets the qualifications as specified in Section 802 and the Department determines through its inspection as specified in Section 807 that the operation is in compliance with these regulations, the Department shall approve:

- (a) A new tanning facility;
- (b) An existing tanning facility that has changed ownership or location; or
- (c) An existing tanning facility's license renewal.

806 ISSUANCE OF LICENSE – REQUIRED PLAN REVIEWS AND APPROVALS

806.1 A license applicant or licensee shall submit to the Department for review and approval properly prepared plans and specifications before:

- (a) The construction of a tanning facility;
- (b) The conversion of an existing structure for use as a tanning facility; or
- (c) Major renovation, remodeling, or alteration of a tanning facility if the Department determines that plans and specifications are necessary to ensure compliance with these regulations.

806.2 Plans required by this section shall include specifications showing layout, arrangement, and construction materials, and the location, size, and type of fixed equipment and facilities.

806.3 Plans, specifications, an application form, and the applicable fee shall be submitted at least thirty (30) calendar days before beginning construction, remodeling, or conversion of a facility.

806.4 The Department shall approve the completed plans and specifications if they meet the requirements of these regulations, and the Department shall report its findings to the license applicant or licensee within thirty (30) days of the date the completed plans are received.

806.5 Plans and specifications that are not approved as submitted shall be changed to comply or be deleted from the project.

**807 ISSUANCE OF LICENSE – REQUIRED INSPECTIONS,
PREOPERATIONAL, CONVERSIONS AND RENOVATIONS***

807.1 The Department shall conduct one (1) or more preoperational inspections to verify and approve that the tanning facility is constructed and equipped in accordance with plans and modifications approved by the Department as specified in Section 806; has established standard operating procedures as specified in Chapter 3; and is in compliance with these regulations.

**808 CONDITIONS OF LICENSE RETENTION – RESPONSIBILITIES OF
THE LICENSEE**

808.1 Upon receipt of a license issued by the Department, the licensee, in order to retain the license, shall comply with Subsections 808.2 through 808.6.

808.2 The licensee shall post a current license, valid Certificate of Occupancy, current inspection reports, and “Warning Statement” in a conspicuous location within the tanning facility as specified in Section 804.4.

808.3 The licensee shall comply with the provisions of these regulations and approved plans as specified in Section 806.

808.4 The licensee shall immediately discontinue operations and notify the Department if an imminent health hazard exists as specified in Section 906.

808.5 The licensee shall allow representatives of the Department access to its tanning facility as specified in Section 900.

808.6 The licensee shall replace existing operating systems, equipment, devices, fixtures, or furniture that do not comply with these regulations pursuant to a documented agreement with the Department requiring the operating systems, or equipment, devices, or fixtures, furniture to be replaced with an operating system, or equipment, devices, fixtures, linens, furniture that comply with these regulations, or the Department may direct the replacement of existing operating systems, or equipment, devices, fixtures, or furniture because the equipment, devices, fixtures, or furniture constitute a public health hazard or nuisance as specified in Section 102.2.

808.7 The licensee shall maintain required maintenance records that reflect the manufacturer, model, and serial number of, and date each piece of tanning equipment or device was sold, leased, transferred, loaned, assembled, recertified, upgraded, installed, serviced, or repaired as specified in Section 303.4(a).

809 CONDITIONS OF RETENTION – LICENSE NOT TRANSFERABLE

809.1 A tanning facility license shall not be transferred from one person to another person or from one location to another.

CHAPTER 9 INSPECTION AND CORRECTION OF VIOLATIONS**900 ACCESS & INSPECTION FREQUENCY – DEPARTMENT RIGHT OF ENTRY, DENIAL MISDEMEANOR***

900.1 The Department shall determine a tanning facility's compliance with these regulations by conducting on-site:

- (a) Preoperational inspections;
- (b) Unannounced routine annual and follow-up inspections; and
- (c) Unannounced complaint generated inspections.

900.2 After representatives of the Department present official credentials and provide notice of the purpose and intent to conduct an inspection in accordance with these regulations, the applicant or licensee shall allow the Department access to any part, portion, or area of a tanning facility.

900.3 The Department may enter and inspect all aspects of a tanning facility, including but not limited to tanning rooms, locker rooms, bathrooms, employee lounge areas, kitchens/food service facilities, or other areas of a tanning facility for the following purposes:

- (a) To determine if the tanning facility is in compliance with these regulations;
- (b) To investigate an emergency affecting the public health if the tanning facility is or may be involved in the matter causing the emergency;
- (c) To investigate, examine, and sample or swab equipment, devices, fixtures, linens, furnishings, garments, or other supplies; and
- (d) To obtain information and examine and copy all records on the premises relating to the purchase, sale, lease, transfer, loan, assemble, certification, upgrade, installation, service, or repair of tanning equipment and devices.

900.4 If a person denies the Department access to any part, portion, or area of a tanning facility, the Department shall inform the individual that:

- (a) The applicant or licensee is required to allow access to the Department, as specified in Sections 900.1, 900.2, and 900.3;

- (b) Access is a condition of the receipt and retention of a license as specified in Section 808.5;
- (c) If access is denied, an inspection order allowing access may be obtained in accordance with District law; and
- (d) The Department is making a final request for access.

900.5 If the Department presents credentials and provides notice as specified in Section 900.2, explains the authority upon which access is requested, and makes a final request for access as specified in Section 900.4(d), and the applicant or licensee continues to refuse access, the Department shall provide details of the denial of access on the inspection report.

900.6 If the Department is denied access to a tanning facility for an authorized purpose, after complying with Sections 900.2 through 900.4, the Department may:

- (a) Summarily suspend a license to operate a tanning facility in accordance with Section 1108;
- (b) Revoke or suspend a license to operate a tanning facility in accordance with Section 1113; or
- (c) Request that the Office of the Attorney General for the District of Columbia commence an appropriate civil action in the Superior Court of the District of Columbia to secure a temporary restraining order, a preliminary injunction, a permanent injunction, or other appropriate relief from the court including but not limited to administrative search warrants, to enforce these regulations in accordance with the Department of Health Functions Clarification Act of 2002, effective October 3, 2001, as amended, (D.C. Law 14-28; D.C. Official Code § 7-731(b) (2008 Repl.; 2012 Supp.)).

901 **REPORT OF FINDINGS – DOCUMENTING INFORMATION AND OBSERVATIONS**

901.1 The Department shall document on an inspection report form:

- (a) Administrative information about the tanning facility's legal identity, street and mailing addresses, inspection date, and other information such as status of the license and personnel certificates that may be required or other inspectional findings; and
- (b) Specific factual observations of violations of these regulations that require correction by the licensee including:
 - (1) Nonconformance with critical items of these regulations;
 - (2) Failure of a licensee to correct cited violations, as specified in Section 908 or 910; or

- (3) Failure of the licensee to ensure that operators are properly trained and have knowledge of their responsibility as specified in Chapter 2.

902 REPORT OF FINDINGS – SPECIFYING TIME FRAME FOR CORRECTIONS

- 902.1 The Department shall specify on the inspection report the time frame for correction of violations as specified in Sections 908 and 910.

903 REPORT OF FINDINGS – ISSUING REPORT AND OBTAINING ACKNOWLEDGMENT OF RECEIPT

- 903.1 At the conclusion of the inspection, the Department shall provide a copy of the completed inspection report and the notice to correct violations to the licensee and request a signed acknowledgment of receipt. The inspection report shall contain a listing of violations by area in the operation and inspection item with corresponding citations to applicable provisions in these regulations and shall be conspicuously posted in the reception area next to the tanning facility's license.

904 REPORT OF FINDINGS – REFUSAL TO SIGN ACKNOWLEDGMENT

- 904.1 The Department shall inform a person who declines to sign an acknowledgment of receipt of inspection findings that:
- (a) An acknowledgment of receipt is not an agreement with the finding;
 - (b) Refusal to sign an acknowledgment of receipt will not affect the licensee's obligation to correct the violations noted in the inspection report within the time frames specified; and
 - (c) A refusal to sign an acknowledgment of receipt will be noted in the inspection report for the tanning facility.

905 REPORT OF FINDINGS – PUBLIC INFORMATION, RECORDS RETENTION

- 905.1 The Department shall keep and maintain in-office an active record of each inspection report, complaint, inspector's sample reports, license suspension, and other correspondence made by any tanning facility within the District for a period of one (1) year, and as an inactive record for a period of two (2) additional years. Inactive records shall be destroyed in-house at the end of the two (2)-year inactive period.
- 905.2 In the case of an audit or investigation, the Department shall keep all records until the audit or investigation has been completed.
- 905.3 The Department shall treat the inspection report as a public document and shall make it available for disclosure to a person who requests it as provided in the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code §§ 2-501, *et seq.* (2006 Repl.; 2011 Supp.)).

**906 IMMINENT HEALTH HAZARD — CEASING OPERATIONS AND
EMERGENCY REPORTING***

906.1 The Department shall summarily suspend operations, or a licensee shall immediately discontinue operations and notify the Department, whenever a facility is operating with any of the following conditions:

- (a) Operating with extensive fire damage that affects the tanning facility's ability to comply with these regulations;
- (b) Operating with serious flood damage that affects the tanning facility's ability to comply with these regulations;
- (c) Operating with loss of electrical power to critical systems, including but not limited to lighting, heating, cooling, or ventilation controls for a period of two (2) or more hours;
- (d) Operating with incorrect hot water temperatures that cannot be corrected during the course of the inspection in violation of Section 502.1;
- (e) Operating with no hot water, or an unplanned water outage, or the water supply is cut off in its entirety for a period of one (1) or more hours in violation of Sections 412.2 and 502.1;
- (f) Operating with inadequate water pressure to any part of the tanning facility;
- (g) Operating with insufficient water capacity to any part of the tanning facility in violation of Section 412.1;
- (h) Operating with a water supply that is not approved by the Department in violation of Section 409;
- (i) Operating with a plumbing system supplying potable water that may result in contamination of the potable water;
- (j) Operating with a sewage backup or sewage that is not disposed of in an approved and sanitary manner;
- (k) Operating with a cross-connection between the potable water and non-potable water distribution systems, including but not limited to landscape irrigation, air conditioning, heating, or fire suppression system;
- (l) Operating with a back siphonage event;
- (m) Operating with toilet or handwashing facilities that are not properly installed;

- (n) Operating with the presence of toxic or noxious gases, vapors, fumes, mists or particulates in concentrations immediately dangerous to life or health, or in concentrations sufficient to cause an environmental disease or public nuisance;
- (o) Operating with the presence of any unapproved pesticide residues in the interior building areas of a tanning facility, in food storage or service areas contained within the tanning facility, or in the presence of any food in the facility; or in the presence of excessive restricted-use pesticide in any outdoor area of a tanning facility; or any evidence of the indiscriminate use of a pesticide or herbicide which may be injurious to the health of humans;
- (p) Operating with equipment that by condition, design, construction, or use poses an immediate risk of entrapment, fall, puncture, pinch, crush, trip, or other injuries;
- (q) Operating with environmental surfaces, including but not limited to tanning beds, stand-up tanning booths, cabinets, or vertical tanning devices, supplies, pillows, linens, garments, other items within a tanning facility that are stained with blood or bodily fluids, or soiled; or infested with vermin; or are in an otherwise unsanitary condition;
- (r) Operating with gross insanitary occurrence or condition that may endanger public health including but not limited to an infestation of vermin; or
- (s) Failing to eliminate the presence of insects, rodents, or other pests on the premises in violation of Sections 612 or 613.

906.2

In addition to the imminent health hazards identified in Section 906.1, the Department shall summarily suspend operations if it determines through an inspection, or examination of records or other means as specified in Section 903, the existence of any other condition which endangers the public health, safety, or welfare, including but not limited to:

- (a) Operating a tanning facility without a license in violation of Section 800.1;
- (b) Operating a tanning facility with an expired license in violation of Section 800.2;
- (c) Operating a tanning facility with a suspended license in violation of Section 800.2;
- (d) Operating a tanning facility without a valid Certificate of Occupancy in violation of Section 800.3;
- (e) Operating a tanning facility without required warning statements in violation of Sections 804.4;

- (f) Operating a tanning facility without a valid District-Issued Tanning Facility Manager's Identification Card in violation of Subsections 200.6 and 800.7;
- (g) Operating a tanning facility without a manager or operator who is on duty and on the premises during all hours of operation in violation of Section 200.2;
- (h) Selling, leasing, transferring, loaning, assembling, certifying, recertifying, upgrading, installing, servicing, or repairing tanning equipment or devices without a valid tanning service provider registration in violation of Section 800.4;
- (i) Using a tanning service provider company that is not registered in the District in violation of Section 800.5;
- (j) Failing to allow access to DOH representatives during the facility's hours of operation and other reasonable times as determined by the Department in violation of Section 900.2;
- (k) Hindering, obstructing, or in any way interfering with any inspector or authorized Department personnel in the performance of his or her duty; or
- (l) Operating in violation of any provision specified in Chapter 12.

907 IMMEDIATE HEALTH HAZARD – RESUMPTION OF OPERATIONS

- 907.1 If operations are discontinued as specified in Section 906 or otherwise according to applicable D.C. laws and regulations, the licensee shall obtain approval from the Department before resuming operations.
- 907.2 The Department shall determine whether a licensee needs to discontinue operations that are unaffected by the imminent health hazard in a tanning facility as determined by the Department or other District agency.

908 CRITICAL VIOLATIONS – TIME FRAME FOR CORRECTION*

- 908.1 A licensee shall, at the time of inspection, correct a critical violation of these regulations and implement corrective action as specified in Section 908.2.
- 908.2 The Department may consider the nature of the potential hazard involved and the complexity of the corrective action needed and agree to specify a longer timeframe, not to exceed five (5) business days after the inspection, for the licensee to correct a critical violation of these regulations.
- 908.3 Failure to correct violations in accordance with this section may subject a licensee to a condemnation order pursuant to Section 1102, summary suspension of a license pursuant to Section 1108, revocation or suspension of a license pursuant to Section 1113, civil penalties pursuant to Section 1114, or judicial remedies pursuant to Section 1116.

909 CRITICAL VIOLATION – VERIFICATION AND DOCUMENTATION OF CORRECTION

909.1 The licensee shall correct critical violations no later than five (5) business days after an inspection. The Department shall enter the violation and information about the corrective action on the inspection report.

909.2 After receiving notification that the licensee has corrected a critical violation, the Department shall verify correction of the violation, document the information on an inspection report, and enter the report in the Department's records.

910 NONCRITICAL VIOLATIONS – TIME FRAME FOR CORRECTION

910.1 The licensee shall correct noncritical violations no later than fourteen (14) business days after the inspection, except as specified in Section 910.2.

910.2 The Department may approve a compliance schedule that extends beyond the time limits specified in Section 910.1 if the licensee submits a written schedule of compliance and no health hazard exists or will result from allowing an extended schedule for compliance.

910.3 Failure to correct violations in accordance with this section may result in the revocation or suspension of a license pursuant to Section 1113, issuance of civil penalties pursuant to Section 1114, or the imposition of judicial remedies pursuant to Section 1116.

911 REQUEST FOR REINSPECTION

911.1 If a license is summarily suspended pursuant to Section 1108 or suspended or revoked pursuant to Section 1113 because of violations of these regulations, the licensee shall submit a written request for reinspection and pay the required reinspection fee.

911.2 Upon receipt of a request for reinspection, the Department shall conduct the reinspection of a tanning facility within three (3) business days of receipt of the request.

911.3 A tanning facility shall not resume operations or remove from public view any warning or current inspection result as specified in Sections 301, 302.3, or 804.4, or any enforcement order as specified in Section 907.1 until the Department has reinspected the tanning facility and certified that it is in compliance with these regulations.

CHAPTER 10 NOTICES**1000 SERVICE OF NOTICE – PROPER METHODS**

1000.1 A notice issued in accordance with Section 3102 of Title 16 of the District of Columbia Municipal Regulations and these regulations shall be deemed properly served if it is served by one (1) of the following methods:

- (a) The notice is personally served by the Department, a law enforcement officer, or a person authorized to serve civil process and service is made to the licensee or person operating a tanning facility without a license;
- (b) The notice is sent by the Department to the last known address of the licensee or person operating a tanning facility without a license, or by other public means so that a written acknowledgment of receipt may be acquired; or
- (c) For civil infraction penalties, the notice is provided by the Department in accordance with the procedures stated in Section 3102 of Title 16 of the District of Columbia Municipal Regulations.

1001 SERVICE OF NOTICE – RESTRICTION OR EXCLUSION, CONDEMNATION, OR SUMMARY SUSPENSION ORDERS

1001.1 An employee restriction or exclusion order, condemnation order, or summary suspension order shall be:

- (a) Served as specified in Section 1000.1(a); or
- (b) Clearly posted by the Department at a public entrance to the tanning facility and a copy of the notice sent by first class mail to the licensee or manager of a tanning facility, as appropriate.

1002 SERVICE OF NOTICE – WHEN NOTICE IS EFFECTIVE

1002.1 Service is effective at the time of the notice's receipt as specified in Section 1001.1(a), or if service is made as specified in Section 1001.1(b) at the time of the notice's posting.

1003 SERVICE OF NOTICE – PROOF OF PROPER SERVICE

1003.1 Proof of proper service may be made by certificate of service signed by the person making service or by admission of a return receipt, certificate of mailing, or a written acknowledgment signed by the licensee or person operating a tanning facility without a license or an authorized agent.

CHAPTER 11 REMEDIES

1100 CRITERIA FOR SEEKING REMEDIES – CONDITIONS WARRANTING REMEDY

1100.1 The Department may seek an administrative or judicial remedy to achieve compliance with the provisions of these regulations if a licensee, person operating a tanning facility, or employee:

- (a) Fails to have a valid license as specified in Subsections 800.1 and 800.2;
- (b) Fails to pay the required fee as specified in Section 805.1(f);

- (c) Violates any term or condition of a license as specified in Section 808;
- (d) Fails to allow the Department access to a tanning facility as specified in Section 900;
- (e) Fails to comply with directives of the Department including time frames for corrective actions specified in inspection reports, orders, or warnings issued by the Department as specified in Sections 1008 and 1010;
- (f) Fails to comply with a condemnation order as specified in this chapter;
- (g) Fails to comply with a summary suspension order by the Department as specified in this chapter;
- (h) Fails to comply with an order issued as a result of an administrative hearing;
- (i) Makes any material false statement in the application for licensure;
- (j) Falsifies or alters records required to be kept by these regulations; or
- (k) Seeks to operate with conditions revealed by the application or any report, records, inspection, or other means which would warrant the Department refusal to grant a new license.

1100.2 The Department may simultaneously use one or more of the remedies listed in this chapter to address a violation of these regulations.

1101 ADMINISTRATIVE – EXAMINING, SAMPLING, AND TESTING OF EQUIPMENT, FURNITURE, DEVICES, FIXTURES, AND FURNISHINGS

1101.1 The Department may examine, collect samples without cost and test as necessary to determine compliance with these regulations.

1102 ADMINISTRATIVE – CONDEMNATION ORDER, JUSTIFYING CONDITIONS AND REMOVAL OF EQUIPMENT OR DEVICES

1102.1 A duly authorized agent of the Department may condemn and forbid the sale of, or cause to be removed and destroyed, any equipment, device, fixture, or supplies found in a tanning facility the use of which does not comply with these regulations, or that is being used in violation of these regulations, or that because of dirt, filth, extraneous matter, corrosion, open seams, or chipped or cracked surfaces is unfit for use.

1103 ADMINISTRATIVE – CONDEMNATION ORDER, CONTENTS

1103.1 The condemnation order shall:

- (a) State that the equipment, devices, fixtures, or other supplies subject to the order may not be used, sold, moved from the tanning facility, or destroyed without a written release of the order from the Department;
- (b) State the specific reasons for placing the equipment, devices, fixtures, or other supplies under the condemnation order with reference to the applicable provisions of these regulations and the hazard or adverse effect created by the observed condition;
- (c) Completely identify the equipment, devices, fixtures, or other supplies subject to the condemnation order by the common name, the label or manufacturer's information, description of the item, the quantity, the Department's tag or identification information, and location;
- (d) State that the licensee has the right to a hearing and may request a hearing by submitting a timely request in accordance with Chapter 13, which request does not stay the Department's imposition of the condemnation order;
- (e) State that the Department may order the destruction, replacement or removal of equipment, devices, fixtures, or other supplies if a timely request for a hearing is not received; and
- (f) Provide the name and address of the Department representative to whom a request for a hearing may be made.

1104 ADMINISTRATIVE – CONDEMNATION ORDER, OFFICIAL TAGGING OR MARKING OF EQUIPMENT OR DEVICES

1104.1 The Department shall place a tag, label, or other appropriate marking to indicate the condemnation of equipment, devices, fixtures, or other supplies that do not meet the requirements of these regulations.

1104.2 The tag or other method used to identify the equipment, devices, fixtures, or other supplies that are the subject of a condemnation order shall include a summary of the provisions specified in Section 1103 and shall be signed and dated by the Department.

1105 ADMINISTRATIVE – CONDEMNATION ORDER, EQUIPMENT, DEVICES AND FURNISHING RESTRICTIONS

1105.1 Equipment, devices, fixtures, or other supplies that are subject to a condemnation order may not be used, sold, moved, or otherwise destroyed by any person, except as specified in Section 1106.2.

1106 ADMINISTRATIVE – CONDEMNATION ORDER, REMOVING THE OFFICIAL TAG OR MARKING

1106.1 No person shall remove the tag, label, or other appropriate marking except under the direction of the Department as specified in Section 1106.2.

1106.2 The Department shall issue a notice of release from a condemnation order and shall remove condemnation tags, labels, or other appropriate markings from tanning equipment, devices, fixtures, or other supplies if:

- (a) The condemnation order is vacated; or
- (b) The licensee obtains authorization from the Department to discard the tanning equipment, devices, fixtures, or supplies identified in the condemnation order.

1107 ADMINISTRATIVE — CONDEMNATION ORDER, WARNING OR HEARING NOT REQUIRED

1107.1 The Department may issue a condemnation order to a licensee, or to a person who owns or controls the equipment, devices, fixtures, or other supplies as specified in Section 1102, without prior warning, notice of a hearing, or a prior hearing on the condemnation order.

1107.2 The licensee shall have the right to request a hearing within fifteen (15) business days of receiving a Department condemnation order. The Department shall hold a hearing within seventy-two (72) hours of receipt of a timely request, and shall issue a decision within seventy-two (72) hours after the hearing. The request for a hearing shall not act as a stay of the condemnation action.

1108 ADMINISTRATIVE — SUMMARY SUSPENSION OF LICENSE, CONDITIONS WARRANTING ACTION

1108.1 The Department may summarily suspend a license to operate a tanning facility if it is denied access to the tanning facility to conduct an inspection, or determines through an inspection, or examination of operators, employees, records, or other means as specified in the regulations, that an imminent health hazard exists.

1109 ADMINISTRATIVE — CONTENTS OF SUMMARY SUSPENSION NOTICE

1109.1 A summary suspension notice shall state:

- (a) That the license of a tanning facility is immediately suspended and that all operations shall immediately cease;
- (b) The reasons for summary suspension with reference to the provisions of these regulations that are in violation;
- (c) The name and address of the Department representative to whom a written request for reinspection may be made and who may certify that reasons for the suspension are eliminated; and
- (d) That the licensee may request a hearing by submitting a timely request in accordance with Section 1110, which request does not stay the Department's imposition of the summary suspension.

1110 ADMINISTRATIVE – SUMMARY SUSPENSION, WARNING OR HEARING NOT REQUIRED

1110.1 The Department may summarily suspend a license as specified in Section 1108 by providing written notice as specified in Section 1109 of the summary suspension to the licensee, without prior warning, notice of a hearing, or prior hearing.

1110.2 The licensee shall have the right to request a hearing within fifteen (15) business days after receiving the Department's summary suspension notice. The Department shall hold a hearing within seventy-two (72) hours of receipt of a timely request, and shall issue a decision within seventy-two (72) hours after the hearing. The request for a hearing shall not act as a stay of the summary suspension.

1111 ADMINISTRATIVE – SUMMARY SUSPENSION, TIME FRAME FOR REINSPECTION

1111.1 After receiving a written request from the licensee stating that the conditions cited in the summary suspension order no longer exist, the Department shall conduct a reinspection of the tanning facility for which the license was summarily suspended within three (3) business days of receiving the request.

1112 ADMINISTRATIVE – SUMMARY SUSPENSION, TERM OF SUSPENSION, REINSTATEMENT

1112.1 A summary suspension shall remain in effect until the conditions cited in the notice of suspension no longer exist and the Department has confirmed, through reinspection or other appropriate means that the conditions cited in the notice of suspension have been eliminated.

1113 ADMINISTRATIVE – REVOCATION OR SUSPENSION OF LICENSE

1113.1 Failure to comply with any of the provisions of these regulations shall be grounds for the revocation or suspension of any license issued to a tanning facility pursuant to the Department of Health Functions Clarification Act of 2002, effective October 3, 2001, as amended, (D.C. Law 14-28; D.C. Official Code § 7-731(b) (2008 Repl.; 2012 Supp.)). When there is a history of repeated violations or where a license has been previously suspended, the Department may revoke a license upon a showing of a subsequent violation.

1113.2 Before the Department revokes or suspends a license, the licensee shall be given an opportunity to answer and to be heard on the violations.

1114 ADMINISTRATIVE – CIVIL PENALTIES

1114.1 Civil fines, penalties, or related costs may be imposed against any tanning facility licensee for violation of any provision of these regulations.

1114.2 The Department may impose penalties for violations of any provision of these regulations not to exceed two thousand five hundred dollars (\$2,500) for each

violation. Each day of any failure to comply with these regulations shall constitute a separate offense and the penalties prescribed in this section shall apply to each separate offense in accordance with the Department of Health Functions Clarification Act of 2002, effective October 3, 2001, as amended, (D.C. Law 14-28; D.C. Official Code § 7-731(b) (2008 Repl.; 2012 Supp.)).

1114.3 Civil fines or penalties imposed pursuant to Section 1114.2 shall reflect the severity of the violation and the extent to which it creates an imminent threat to the public health. Maximum amounts shall be limited to egregious or flagrant violations involving gross negligence or carelessness resulting in injury which do not meet the criminal penalty standards in Section 1116.

1115 ADMINISTRATIVE – CIVIL PENALTIES, NOTICES OF VIOLATION OR INFRACTIONS

1115.1 The notice of violation shall state the nature of the violation and allow a reasonable time for performance of the necessary corrective action.

1115.2 If a person fails to comply with the time stated in the notice of violation issued pursuant to this section, the Department shall issue a proposed compliance order, or a proposed cease and desist order, which shall include a statement of the nature of the violation, afford the right to a hearing, allow a reasonable time for compliance with the order, and state any penalties to be assessed for failure to comply with the order.

1116 JUDICIAL – CRIMINAL PENALTIES, INJUNCTIVE RELIEF, OR IMPRISONMENT

1116.1 Any person who knowingly violates any provision of these regulations shall, upon conviction, be punished by a fine not to exceed two thousand five hundred dollars (\$2,500), imprisonment not to exceed one (1) year, or both, for each violation. Each day of any failure to comply with these regulations shall constitute a separate offense and the penalties prescribed in this section shall apply to each separate offense in accordance with the Department of Health Functions Clarification Act of 2002, effective October 3, 2001, as amended, (D.C. Law 14-28; D.C. Official Code § 7-731(b) (2008 Repl.; 2012 Supp.)).

CHAPTER 12 PROHIBITED CONDUCT AND ACTIVITIES

1200 PROHIBITED CONDUCT – ADVERTISEMENT, POSTING

1200.1 No person shall state or imply that any activity conducted by such person or such person's facility has been approved by the Department.

1200.2 Except for advertisements that are used on the premises, no person or facility shall advertise or promote tanning services without the tanning facility's name, address, telephone number, and license number on the advertisement.

1200.3 No person shall indicate in any advertisement or posting that such person's tanning equipment is safe or free of hazards from ultraviolet radiation, including

but not limited to statements such as “no burning,” “no harmful rays,” “no adverse effects,” “safe tanning,” “healthy,” or similar wording of concepts.

- 1200.4 No person shall claim in any advertisement or posting any medical or health benefits from such person’s tanning equipment or devices, nor imply use of tanning services as a medical treatment.
- 1200.5 No person or facility shall advertise or promote “unlimited” tanning exposure packages in excess of a tanning equipment manufacturer’s recommended exposure schedule as defined in Section 9901.1.
- 1200.6 No person shall promote in any advertisement or posting tanning exposure times, number of visits per week, or spacing of visits in excess of those in accordance with the manufacturer’s recommended exposure schedule.
- 1200.7 No person or facility shall advertise or promote tanning services that are misleading in any way.

1201 PROHIBITED ACTIVITIES*

- 1201.1 No tanning facility shall employ, in any capacity, any person who is under eighteen (18) years of age.
- 1201.2 No alcoholic beverages shall be served in a tanning facility.
- 1201.3 No person shall enter or remain in any part of a tanning facility while in possession of, consuming, or using any alcoholic beverage or drugs except pursuant to a prescription for such drugs. The licensee shall not permit any such person to enter or remain upon the premises.

CHAPTER 13 HEARING ADMINISTRATION

1300 ADMINISTRATIVE — NOTICE, REQUEST FOR HEARING, BASIS, AND TIME FRAME

- 1300.1 A person who receives a notice of hearing for an administrative remedy as specified in this chapter and elects to respond to the notice shall file a response to the notice within seven (7) calendar days after service.
- 1300.2 In response to an adverse administrative action, a licensee may submit a written request for a hearing to the Department within fifteen (15) calendar days of the receipt of notice of adverse action.
- 1300.3 A hearing request shall not stay a condemnation order as specified in Section 1102, or the imposition of a summary suspension as specified in Section 1108.

1301 ADMINISTRATIVE — HEARINGS ADMINISTRATION – CONTENTS OF RESPONSE TO HEARING NOTICE, OR HEARING REQUEST

- 1301.1 A response to a hearing notice shall be in writing and contain the following:

- (a) An admission or denial of each allegation of fact;
- (b) A statement as to whether the respondent waives the right to a hearing;
- (c) A statement of defense, mitigation, or explanation concerning any allegation of fact, if any;
- (d) A request to the Department for a settlement of the proceeding by consent agreement (if the Department provides this opportunity); and
- (e) The name and address of the respondent's legal counsel, if any.

1301.2 A request for a hearing shall be in writing and contain the following:

- (a) An admission or denial of each allegation of fact;
- (b) A statement of defense, mitigation, denial, or explanation concerning each allegation of fact; and
- (c) The name and address of the requester's legal counsel, if any.

1302 ADMINISTRATIVE – HEARINGS ADMINISTRATION, TIMELINESS

1302.1 The Department shall afford a hearing within seventy-two (72) hours after receiving a written request for a hearing from:

- (a) A licensee or person who is subject to a condemnation order as specified in Section 1102; or
- (b) A person whose license is summarily suspended as specified in Section 1108.

1302.2 A licensee or person who submits a request for a hearing as specified in Section 1302.1 may waive the expedited hearing in a written request to the Department.

CHAPTER 14 JUDICIAL REVIEW

1400 JUDICIAL REVIEW – APPEALS

1400.1 Any person aggrieved by a final order or decision of the Department may seek judicial review in accordance with the Department of Health Functions Clarification Act of 2002, effective October 3, 2001, as amended (D.C. Law 14-28; D.C. Official Code § 7-731(b) (2008 Repl.; 2012 Supp.)).

CHAPTER 99 DEFINITIONS

9900 GENERAL PROVISIONS

9900.1 The terms and phrases used in this title shall have the meanings set forth in this chapter, unless the text or context of the particular chapter, section, subsection, or paragraph provides otherwise.

9901 DEFINITIONS

9901.1 As used in this chapter, the following terms and phrases shall have the meanings ascribed:

Condemnation order – a written administrative notice: (1) to prohibit the use of a specific tanning equipment or device, or (2) to remove a tanning equipment or device from service because the tanning equipment or device does not meet the requirements of these regulations, or the tanning equipment or device is not being operated in accordance with the requirements of these regulations.

Consent – signature on a form acknowledging warnings given by the tanning facility for a minor's use of ultraviolet tanning equipment or devices and agreeing to the use of required protective eyewear.

Consumer – any member of the public who is provided access to a tanning device 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 device as a condition or benefit of membership or access.

Critical item – a provision of these regulations that if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or an environmental health hazard. Critical items are denoted in these regulations with an asterisk (*).

Critical violation – a condition or practice that violates this Code and results in the production of a product that is adulterated, decomposed, misbranded, or unwholesome; or presents a threat to the health or safety of the consumer.

Department – The District of Columbia Department of Health.

EPA – the United States Environmental Protection Agency.

FDA – the United States Food and Drug Administration.

Guardian – an individual who, by legal appointment or by the effect of a written law, has been given custody of a minor or adult.

Imminent health hazard – a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operations to prevent injury based on the number of potential injuries, and the nature, severity, and duration of the anticipated injury.

Individual – any human being.

Injury – bodily harm resulting from the use of a tanning device which requires medical attention.

Inspection – an official examination or observation, including but not limited to tests, surveys, and monitoring, to determine compliance with rules, regulations, Department orders, requirements, and conditions.

Licensee – the holder of a license to operate a tanning facility.

Minor – any individual less than eighteen (18) years of age.

Nuisance – anything which is injurious to health or offensive to the senses, so as to interfere with the comfort or endanger the health or safety of the public.

Operator – any individual designated by the licensee to operate or to assist and instruct the consumer in the operation and use of the tanning facility or tanning equipment.

Other compensation – the payment or exchange of goods, services, or anything of value for use of the tanning device or devices.

Override timer control – a separate electrical timer, switch, or similar device which may be used by the operator to start or stop the timer system for a tanning device. The term does not include electric panels which control the entire electrical system for a building or a portion of a building.

Outbreak – the occurrence of cases of a communicable disease in a community, geographic region, or particular population at a rate in excess of that which is normally expected in that community, geographic region, or particular population.

Pathogenic – the ability to produce disease.

Person – an association, a corporation, individual, partnership, trustee, government or governmental subdivision, or other legal entity.

Protective eyewear – suitable eyewear that protects the eye from ultraviolet radiation and allows adequate vision.

Phototherapy device – equipment that emits ultraviolet radiation and is used by health care professionals in the treatment of disease.

Personal hygiene items – articles such as bars of soap, bath gel, bubble bath, shampoo, conditioner, lotion, mouthwash, toothbrushes, toothpaste, cotton swabs, cotton balls, razors, shaving cream, emery boards, combs, brushes, tweezers, feminine hygiene products, powder, etc. which are used for personal cleanliness or grooming.

Public area – any area open to public view, whether indoors or outdoors to which the public has approved access, excluding individual tanning rooms, locker rooms, bathrooms, or restrooms at a tanning facility.

Safe level – not more than fifty (50) colonies of microorganisms per four square inches (4 sq. in.) of equipment surface.

Sanitization – the effective bactericidal treatment of surfaces of equipment and devices by an EPA or FDA registered product which provides a sufficient concentration of chemicals, allowing enough time to reduce the bacterial count, including pathogens, to a safe level. Chemical germicides that are registered with the EPA as hospital disinfectants, when used at recommended dilutions and directions, may be approved for sanitizing tanning devices.

Sunlamp product – any equipment used for the tanning of the skin that emits electromagnetic radiation with wavelengths in the air between two hundred nanometers (200 nm) and four hundred nanometers (400 nm), including but not limited to a sunlamp, ultraviolet lamp, tanning booth, facial unit, UVA wand, or tanning bed.

Tanning equipment or device – any equipment used during the process of skin tanning with a sunlamp product, such as any sunlamp product intended to induce skin tanning through the irradiation of any part of the living human body with ultraviolet radiation and any accompanying equipment, including but not limited to ballasts, starters, lamps, reflectors, acrylic shields, timers, and airflow cooling systems, comfort pillows and handrails.

Tanning facility – any location, place, area, structure, or business that either as a sole service or as part of a salon, health spa or any other facility provides access to sunlamps, ultraviolet lamps, or other equipment intended to induce skin tanning through the irradiation of any part of the human body for cosmetic or non-medical purposes. The term “tanning facility” does not include private residences if access to tanning devices is provided without charge.

Tanning Service Provider – any person or persons with a valid registration issued by the Mayor providing tanning equipment installation, servicing, or services, including but not limited to:

Any person or persons who:

- (a) Makes, sells, leases, transfers, lends, assembles, repairs, or installs tanning equipment or the components used in connection with such equipment;
- (b) Performs health physics consulting, such as calibration of equipment used to perform surveys of ultraviolet radiation and timer accuracy measurements, performs ultraviolet radiation output and timer accuracy measurements, or designs ultraviolet radiation safety programs or procedures;
- (c) Performs preventive maintenance or cleaning services, such as the cleaning of fans, acrylic, lamps, reflectors, and other components; or
- (d) Conducts training seminars for tanning facility personnel.

Timer – tanning device provided to terminate the exposure at a preset time interval.

Ultraviolet radiation – electromagnetic radiation with wavelengths in air between two hundred nanometers (200 nm) and four hundred nanometers (400 nm).

Unlimited – any number of visits implied or allowed in excess of the number of visits per week allowed by the tanning equipment manufacturer’s recommended exposure schedule.