

Housing Sanitation and Occupancy

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1.0 PURPOSE & APPLICABILITY OF REGULATION

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

2.0 DEFINITIONS

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

- 2.1 "Accessory building" shall mean a detached building or structure that is not used or intended to be used for living or sleeping by human occupants and is located on any premises.
- 2.2 "Approved" shall mean acceptable to the Department based on a determination of conformity with principles, practices, and generally recognized standards consistent with this regulation.
- 2.3 "Basement" shall mean the habitable portion of a building or structure that is wholly or partially below grade.
- 2.4 "Building" shall mean a fixed construction with walls, foundation and roof, such as a house, factory, garage, etc.
- 2.5 "Clean" shall mean the condition of being free from readily noticeable dirt, soil, stain, leftover food particles, or other materials not intended to be a part of the object in question.
- 2.6 "Combustible Material" is any material that, in the form in which it is used and under the conditions anticipated, will ignite and burn or will add appreciable heat to an ambient fire.
- 2.7 "Department" shall mean the Weber-Morgan Health Department (WMHD).
- 2.8 "Dilapidated" shall mean a building, structure, or part thereof, that by reason of inadequate maintenance, structural deterioration, or abandonment is unsafe, unsanitary, or constitutes a hazard and is no longer fit for use as originally intended.
- 2.9 "Director" shall mean the Director of the Weber-Morgan Health Department or his or her designated representative.

- 2.10 "Dwelling" shall mean a building or structure that is intended or designed to be used, rented, leased, let or hired out for human habitation.
- 2.11 "Dwelling unit" shall mean a single habitable unit in a dwelling which provides independent living facilities. A dwelling unit includes space for living and sleeping and may provide access to shared space for personal hygiene and/or cooking and eating.
- 2.12 "Dormitory(ies)" shall mean a building or a group of rooms in a building used for institutional living and sleeping purposes by four or more persons.
- 2.13 "Emergency housing" shall mean a building or structure that is designated by the Director to be utilized for occupancy in an emergency.
- 2.14 "Garbage" shall mean solid, semisolid, putrescible animal, and vegetable wastes resulting from the handling, preparing, cooking, storing, serving, and consuming of food or material intended for use as food, and all offal (excluding useful industrial by-products) from all public and private establishments and from all residences.
- 2.15 "Habitable space" shall mean a space within a building or structure intended to be used for living, sleeping, cooking, or eating. Bathrooms, laundry rooms, toilet rooms, closets, halls, storage or utility spaces, accessory buildings, and similar areas are not considered habitable spaces.
- 2.16 "Hazardous material" shall mean any element, compound, or substance that poses an unreasonable risk to health and which, because of handling, storage, processing or packaging may have detrimental effects on emergency personnel, the public, and/or the environment.
- 2.17 "Hot water" shall mean water heated to a temperature of not less than 110° F (43.3° C) at the outlet.
- 2.18 "Imminent health hazard" means 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 can cause infection, disease transmission, vermin infestation, or hazardous condition that requires immediate correction or cessation of operation to prevent injury, illness, or death.
- 2.19 "Infestation" shall mean the uncontrolled presence of vermin that are harmful or injurious to health.
- 2.20 "Junk" is discarded material that has served its original purpose, old, used, worn and can no longer be used as originally intended
- 2.21 "Lead based paint" shall mean paint or other surface coatings that contain lead in excess of the limits established by the United States Department of Housing and Urban Development.

- 2.22 "Manager" shall mean a person to whom the owner has delegated the authority to allow inspections, order repairs, and commit resources necessary to ensure remediation of emergencies and compliance with this regulation.
- 2.23 "Manufactured housing" shall mean a structure transported in one or more sections, which in the traveling mode, is eight feet or more in width or 40 feet or more in length, or when erected on site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating and electrical systems contained therein.
- 2.24 "Nuisance" shall mean a condition created by a person or situation resulting a noxious, destructive, or troublesome hazard, which may be deleterious or detrimental to the health, safety, or welfare of the public, or use of property.
- 2.25 "Occupant" shall mean any person living, sleeping, cooking, or eating in a dwelling unit or having actual possession thereof whether as a tenant or owner-occupant.
- 2.26 "Owner" shall mean any person who alone, jointly, or severally with others:
- 2.26.1 has legal title to any premises, dwelling, or dwelling unit, with or without accompany actual possession thereof; or
 - 2.26.2 has charge, care, or control of any premises, dwelling, or dwelling unit, as legal or equitable owner, agent of the owner, or is an executor, executrix, administrator, administration, trustee, or guardian of the estate of the owner.
- 2.27 "Person" shall mean any individual, public or private corporation and its officers, partnership, association, firm, trustee, executor of an estate, the State or its departments, institution, bureau, agency, county, city, political subdivision, or any legal entity recognized by law.
- 2.28 "Pest control" shall mean the suppression or eradication of vermin infestations by eliminating their harborage; removing or making inaccessible materials that may serve as their food; or poisoning, spraying, fumigating, trapping; or any other legal pest control methods.
- 2.29 "Plumbing fixture" shall mean a receptacle or device that is either permanently or temporarily connected to the water distribution system of the premises and demands a supply of water there from; discharges wastewater, liquid-borne waste materials or sewage either directly or indirectly to the drainage system of the premises; or requires a water supply connection and a discharge to the drainage system of the premises.
- 2.30 "Premises" shall mean any lot, parcel, or plot of land, including any buildings or structures thereon.
- 2.31 "Refuse" shall mean all putrescible and non-putrescible solids (except body wastes), including but not limited to ashes, garbage, junk, rubbish and dead animals.

- 2.32 "Refuse container" shall mean a container of sufficient size and quantity that is constructed of metal, or other durable material impervious to vermin, easily filled, emptied, cleaned, and is capable of being serviced without creating unsanitary conditions.
- 2.33 "Rodent" shall mean a non-domestic commensal species of rat or mouse, including but not limited to the Norway Rat and House Mouse, or other disease-related species.
- 2.34 "Rodent harborage" shall mean any conditions or place where rodents can take refuge.
- 2.35 "Rodent proofing" shall mean a form of construction or action that will prevent rodents from entering a building or structure and from gaining access to food, water, or harborage.
- 2.36 "Rooming house" shall mean any dwelling containing one or more rooming units in which space is rented, let, leased, or hired out by the owner or operator. A rooming house shall include but not be limited to dormitories, group homes, and boarding houses.
- 2.37 "Rooming unit" shall mean a single habitable dwelling unit providing complete, independent living facilities including permanent provisions for living and sleeping, which may lack or share kitchen facilities and provides either individual or shared bathroom facilities.
- 2.38 "Toxic Substance" shall mean any chemical product applied on the surface of or incorporated into any structural or decorative material that constitutes a potential hazard to human health at acute or chronic exposure levels.
- 2.39 "Utility service" shall mean electrical, gas, oil, water, or sewer service.
- 2.40 "Vector" shall mean any organism, such as insects or rodents, which transmit pathogens that can adversely affect public health.
- 2.41 "Vermin" shall mean rats, mice, cockroaches, bedbugs, mosquitoes or any other pest as determined by the Director to be harmful to the life, health, or welfare of the public.

UNDEFINED TERMS. WORDS NOT SPECIFICALLY DEFINED IN THIS ORDINANCE SHALL HAVE THE COMMON DEFINITION SET FORTH IN A STANDARD DICTIONARY

3.0 GENERAL PROVISIONS

3.1 Jurisdiction of the Department.

- 3.1.1 This regulation is promulgated by the Weber-Morgan Board of Health as authorized by Section 26A-1-121(1), Utah Code Ann., 1953 as amended.

3.1.2 The Department is empowered to enforce this regulation in all incorporated and unincorporated areas served by the Department as authorized by Section 26A-1- 114(1)(a), Utah Code Ann., 1953 as amended.

- 3.2 It shall be unlawful for any person not to comply with any regulation promulgated by the Department.
- 3.3 Compliance with this regulation does not constitute a defense if charged with any environmental crime or violation of any local, state, or federal law.
- 3.4 Legal action taken by the Department under this regulation does not preclude prosecution for any environmental crime that may have been committed or violation of any other local, state, or federal law.
- 3.5 Nothing in this regulation affects or modifies in any way the obligations or liability of any person under any other regulation or provision thereof issued by the Department, any ordinance issued by Weber or Morgan Counties or any municipality located within Weber or Morgan Counties, or any state or federally issued law, including common law. However, Departmental regulations supersede other existing local and county standards, regulations and ordinances pertaining to similar subject matter that are inconsistent.
- 3.6 Verbal or contractual obligations shall not diminish or remove the owner, manager, occupant or other responsible person's obligation to comply with this regulation.
- 3.7 If any section, subsection, sentence, clause, or phrase of this regulation is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this regulation.

4.0 HOUSING PROVISIONS

4.1 Responsibilities of Owners and Property Managers.

- 4.1.1 **Duty to Abate a Violation of this Regulation.** Any person violating any provision of this regulation shall be required to abate that violation.
- 4.1.2 **Letting of Unfit Dwelling or Dwelling Unit Unlawful.** No owner, manager, or other responsible person shall let to another person, or permit occupancy of any dwelling or dwelling unit unless it complies with this regulation.
- 4.1.3 **Notice of Entry.** An owner or manager shall provide occupant at least 24 hours prior notice, except in the case of emergency, of the owner or manager's entry into the dwelling or dwelling unit.
- 4.1.4 **Failure to Maintain Dwelling or Dwelling Unit Unlawful.** No owner, manager, or occupant of any dwelling or dwelling unit shall permit interior surfaces to become soiled from accumulations of garbage, fecal matter,

bodily fluid, or other infectious materials. If the affected area cannot be cleaned and restored to a sanitary condition, the Director may require the owner to repair or replace it before further habitation.

- 4.1.5 **Flood Damage Control and Remediation.** In the event that water or sewage floods a dwelling or dwelling unit and affects any floor, wall, ceiling, or structural component, the owner or manager shall take action to remove the water or sewage and initiate the drying of all affected surfaces as soon as possible after the occurrence. If the source is potable water and is not dried within 24 hours of the incident or the source is other than potable water, the surfaces shall be cleaned and disinfected. Carpets shall be cleaned through an approved method and pads shall be disposed of at the discretion of the Director. The owner or manager shall make any corrections or repairs required to mitigate the potential recurrence of flooding into the dwelling or dwelling unit.
- 4.1.6 **Maintenance of Common Areas.** An owner or manager of a building or structure containing two or more dwelling units shall maintain the common areas of the premises in a clean and sanitary manner.
- 4.1.7 **Refuse.** An owner or manager shall provide refuse containers of sufficient size and quantity to meet the needs to the occupants of the dwelling units when there are two or more units. Openings into the container shall have covers or doors and refuse shall be removed at a frequency to prevent odors and pests.
- 4.1.8 **Pest Control.** An owner or manager of a dwelling or dwelling unit shall be responsible for the control of vermin on the premises under the following circumstances. If owner or manager control methods are unsuccessful, a professional pest control company shall be used.
- 4.1.8.1 Whenever infestation exists in two or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner or manager.
- 4.1.8.2 Every occupant of a dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested.
- 4.1.8.3 Notwithstanding, the foregoing provisions of this subsection, whenever infestation is caused by failure of the owner to maintain a dwelling in a vermin proof condition, extermination shall be the responsibility of the owner.
- 4.1.9 **Prevention of Pests.** The owner or manager of a dwelling or dwelling unit shall not accumulate garbage, refuse, or any materials that may serve as food or harborage for vermin.
- 4.1.10 **Maintenance of Appliances.** Any appliance supplied to the occupant by the owner or property manager shall be maintained in good repair by the

owner or property manager.

- 4.1.11 **Hot and Cold Water.** An owner or manager of a dwelling or dwelling unit shall provide adequate hot and cold potable running water for every kitchen sink, bathroom lavatory, bathtub, and shower.
- 4.1.12 **Drainage of Standing Water.** Stagnant pools of water are declared nuisances. Every premises shall be graded and drained of standing water and maintained clean, sanitary, and safe by the owner, manager or responsible person. Rain gutters, if installed, shall direct water away from foundations. The owner or manager shall not allow water to stand beneath or in the structure. This does not preclude the presence of properly maintained decorative ponds.
- 4.1.13 **On Site Management.** Every building or structure containing 16 or more dwelling units shall have a management office or resident manager on site. The property manager must be accessible 24/7 in the event of an emergency to all occupants, the Department and other local government agencies. Every building or structure containing less than 16 dwelling units shall have on site management or shall provide the occupants with contact information, including the name, address, and telephone number of the owner, manager, or agent.
- 4.1.14 **Responsibilities Upon Vacating.** If any dwelling or dwelling unit is vacant, the owner or manager shall secure and maintain the structure, and remove all garbage and refuse from the premises and abate all nuisances within the time specified by the Director and prior to re-occupancy.
- 4.1.15 **Interruption of Utilities Prohibited.** No owner or manager of a dwelling or dwelling unit shall cause or permit any utility service to be removed, shut off, or discontinued for any occupied dwelling or dwelling unit let or occupied by him or her, except for temporary interruption while repairs or alterations are in process or during temporary emergencies. This shall not be interpreted as preventing a Utility company from discontinuing utility service for nonpayment or other reasons allowed by law. If utilities are disrupted for an extended period of time alternative facilities may be required under the discretion of the Director.
- 4.1.16 **Prohibited Occupancy.** No owner or manager shall permit occupancy of any building or structure if:
- 4.1.16.1. The building or structure was not intended to be used for such occupancy; or
- 4.1.16.2 The building or structure is unfit for use.
- 4.1.17 **Toxic or Hazardous Substances.** Every owner of a dwelling or dwelling unit shall provide and maintain the dwelling or dwelling unit free from hazards to health due to the presence of toxic or hazardous substances.

4.2 Responsibilities of Occupants.

- 4.2.1 **Maintenance of Dwelling or Dwelling Unit.** Every occupant of a dwelling or dwelling unit shall keep fixtures and furnishings clean and sanitary and shall be responsible for their reasonable care.
- 4.2.2 **Sanitation of Dwelling or Dwelling Unit.** Every occupant shall maintain clean and sanitary all parts of the premises occupied. This includes the proper disposal of garbage, refuse, fecal matter, or other nuisance conditions that adversely affect public health.
- 4.2.3 **Refuse.** In the case of a single-family dwelling, it shall be the responsibility of the occupant to provide refuse containers. Refuse containers shall be of sufficient size and quantity to meet the needs of the dwelling. Refuse containers shall be constructed of metal, or other durable material impervious to vermin, that are capable of being serviced without creating unsanitary conditions. Openings into the container shall have covers or doors and refuse shall be removed at a frequency to prevent odors and pests.
- 4.2.4 **Occupant to Allow Access.** Every occupant shall allow the owner or manager access to the dwelling unit at reasonable times upon proper notification of the intent to make repairs or abate violations of this regulation.
- 4.2.5 **Pest Control.** An occupant of a dwelling or dwelling unit shall be responsible for the control of vermin in the areas where they occupy and control.
- 4.2.6 **Prevention of Pests.** The occupant of a dwelling or dwelling unit shall not accumulate garbage, refuse, or any materials that may serve as food or harborage for vermin.

4.3 Structural Requirements.

- 4.3.1 **Building Structural Requirements.** Every foundation, chimney, floor, exterior and interior wall, ceiling and roof, of all dwellings and dwelling units shall be weather-tight, water-tight, vermin proof, and in good repair.
- 4.3.2 **Bathroom Facilities.** Every dwelling unit, except rooming units, shall contain a non-habitable room with a door or closure which affords privacy to a person and which is equipped with a toilet. A toilet, handwash sink, and bathtub or shower shall be provided in good working condition and properly connected to an approved water and sewer system. Each bathroom shall have at least one window facing directly outdoors that can be opened easily or have a mechanical device that ventilates the room to the outside. The handwash sink shall be conveniently located to the toilet. Rooming units shall have either individual or shared bathroom facilities.

- 4.3.3 **Kitchen Facilities.** Every dwelling unit, except rooming units, shall be provided with a kitchen that contains cabinets and/or shelves for food and equipment storage, counter/table for food preparation, a refrigeration unit, a cooking appliance in good working condition, and an approved kitchen sink that is properly connected to an approved water and sewer system.
- 4.3.4 **Food Service Requirements.** All food service and dining facilities that have designated staff for food preparation shall comply with R 392-100; facilities whose occupants prepare their own food shall have access to basic kitchen requirements as specified in 4.3.3.
- 4.3.5 **Interior Finishes.** Interior surfaces shall be clean and in good repair. Every bathroom and kitchen floor, wall, and ceiling surface shall be constructed of cleanable materials.
- 4.3.6 **Windows and Doors.** Every window, skylight, outer door, basement hatchway, and other exterior openings shall have operating locks and shall be weather-tight, rodent proof, and kept in good repair. At least one entry door to the dwelling unit shall have a lock that is operable from the exterior.
- 4.3.7 **Installation of Screens.** The owner or manager of a dwelling or dwelling unit shall be responsible for providing and maintaining screens on all openable windows.
- 4.3.8 **Rodent proofing.** Every dwelling, and dwelling unit, shall be maintained rodent proof.

4.4 **Fire and Safety Requirements.**

- 4.4.1 **Exits.** Every dwelling and dwelling unit shall have unobstructed means of exit leading to safe and open space at ground level.
- 4.4.2 **Smoke Detectors and Fire Extinguishers.** No owner or manager shall lease, let to another person, or permit occupancy of any dwelling or dwelling unit unless smoke detectors are properly installed and maintained; and where fire extinguishers are required by the applicable fire code, they shall be properly installed and maintained.
- 4.4.3 **Proper Storage of Combustible Materials.** No combustible material shall be stored or kept beneath porches, decks, interior or exterior stairways, or within 10 feet of any source of ignition.
- 4.4.4 **Maintenance of Hazardous Materials.** All hazardous materials within a dwelling or dwelling unit shall be stored in a manner that does not create an unnecessary health hazard.
- 4.4.5 **Maintenance of Lead Based Paint.** The owner or manager of a dwelling or dwelling unit constructed prior to 1978 shall not allow interior and exterior paint to become in a state of disrepair; this includes but is not limited to cracking, peeling, flaking, or the forming of paint dust. Abatement of lead based paint deficiencies shall be conducted in

accordance with local, state, and federal regulations. The Director may grant an exemption to this regulation if an accredited laboratory confirms the non-existence of lead based paint on the premises. Owner or manager must provide a lead disclosure letter to the occupant prior to habitation; if owner or manager is aware that the dwelling or dwelling unit contains lead based paint.

4.5 **Requirements for Ventilation, Heating, Electrical, Lighting and Plumbing.**

4.5.1 **Ventilation.** Every habitable space, bathroom, and kitchen shall have at least one window facing directly outdoors that can be opened easily or have a mechanical device that ventilates the room.

4.5.2 **Indoor Air Quality.** Refer to all other applicable rules and regulations as stated in Utah Administrative Rules and/or Federal statutes.

4.5.3 **Heating Equipment.** Every dwelling and dwelling unit shall have heating equipment and appurtenances that are properly installed, and are maintained in a safe and good working condition. The equipment and appurtenances shall be capable of safely heating the dwelling or dwelling unit in every dwelling unit to a temperature of at least 68° F at a distance of three feet above floor level. If the temperature is controlled by a person other than the occupant, a temperature of at least 68° F at a distance three feet above floor level shall be maintained without overheating any other area of the dwelling or dwelling unit. If age or illness of occupants or other special conditions exist, the Director may require an alternate temperature.

4.5.4 **Heating Equipment Installation and Maintenance.** No owner, manager, occupant or other person shall install, operate, or use a heating device, or hot water heating unit producing heat by combustion that is not vented to the outside of the structure in an approved way. Heating devices shall be supplied with sufficient air to continuously and adequately support fuel combustion, and be deemed safe by the servicing utility. All heating devices shall be constructed, installed, and operated in accordance with applicable building and utility codes.

4.5.5 **Electrical Service and Maintenance.** Every dwelling or dwelling unit and all public and common areas shall be supplied with electrical service. All outlets, wirings, circuit panels, and fixtures shall be properly installed and maintained in good and safe working condition in accordance with the applicable electrical code.

4.5.6 **Lighting of Rooms.** Every room in a dwelling shall have adequate lighting for its designated purpose.

4.5.7 **Lighting of Common Entryways, Halls and Stairways.** Every common entryway, hall and stairway in every building or structure containing two or more dwelling units shall be lighted at all times to provide in all parts at least 10 foot-candles of light at floor or tread level. This does not preclude

the use of on-demand lighting.

4.5.8 Installation and Maintenance of Plumbing Fixtures, Water Pipes, and Waste Pipes. Every plumbing fixture, waste pipe, water pipe, and appurtenance shall be properly constructed, installed and maintained in accordance with applicable plumbing codes. No plumbing fixture, water pipe, waste pipe, or other device shall be connected or arranged in a such a way that it would be possible for non-potable, used, unclean, polluted, or contaminated water or other substances to enter the potable water system under any condition.

4.5.9 Swimming Pool Access Barrier. It shall be unlawful for any person to own, operate, or maintain a private residential swimming pool without surrounding the entire pool with a substantial fence at least six feet in height, with openings no greater than four inches or an equally effective barrier. Every gate shall be self-latching, self-locking and shall be locked when the pool is not in use. In lieu of an access barrier, swimming pools with a surface area less than 65 square feet may be protected with a locking cover that supports 275 lbs.

4.6 Standards for Emergency Housing.

4.6.1 Emergency Housing. The Director may permit an exception to this regulation if an emergency exists and the public health, safety, or welfare is or may be affected. Emergency housing shall be established as approved by the Director.

4.7 Rooming House, Rooming Units, Dormitories and Dormitory Rooms.

4.7.1 No person shall operate a rooming house or dormitory, or shall occupy or let to another for occupancy any dormitory room and/or rooming unit in any rooming house or dormitory which is not in compliance with the appropriate provisions of every section of these rules.

4.7.2 Room Requirements. Any rooming house, units, dormitory and dormitory room shall have at least one toilet, handwash, and bathtub and or shower properly connected to a water and sewer system approved by the Department and in good working condition shall be supplied for six persons, including members of the owner or manager's family wherever they share the use of the facilities.

4.7.2.1 All facilities shall be located within the dwelling as to be reasonably accessible to all occupants sharing such facilities and from a common hall or passageway and provided that such facilities are not located more than one floor above or below the rooming unit(s) served.

4.7.2.2 Every handwash, bathtub, and shower stall shall be supplied with hot and cold water under pressure at all times.

4.8 Closing and Vacating of Unfit Dwellings.

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

5.0 INSPECTIONS & INVESTIGATIONS.

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

5.2 **Authority for Department to Enter Private Dwellings.** Inspections of private dwellings are made by consent of owner, manager, responsible person, or occupant or upon a warrant issued by a court.

6.0 ENFORCEMENT MECHANISMS. If the Department has investigated or inspected any property or facility and has reasonable grounds to believe the responsible person, or occupant is in violation of this regulation, or that they are not in compliance with this regulation, the Department may take civil enforcement action as authorized by statute, rule, ordinance, and regulation. The Department may also refer the matter for criminal prosecution. Civil enforcement may involve court or administrative actions, injunctive actions, and closures and may involve cost recovery, penalties, and other remedies. Civil and criminal actions may be brought simultaneously. A person does not need to be first adjudged liable in a civil matter before facing criminal charges.

6.1 **Criminal Enforcement Actions.** The Department may recommend criminal prosecution for environmental violations either alone or in conjunction with civil enforcement. Criminal prosecutions for environmental violations of state or federal law may be filed by the County Attorney, Utah Attorney General, United States Department of Justice, or other enforcement entity.

6.2 **Civil Enforcement Actions.** The Department may request that the County Attorney bring an action to restrain or enjoin actions in violation of public health, environmental laws, and other laws or abate conditions in violation of such laws.

6.3 Administrative Actions – Notice of Violation (NOV).

6.3.1 If the Director has inspected any dwelling or dwelling unit and has found and determined that it is in violation of this regulation or has reasonable grounds to believe that there has been a violation of any part of this regulation, he or she may give notice of the violations to the owner or other responsible person thereof.

6.3.2 **Service of NOV.** The Department may provide notice to the owner of the property or otherwise responsible person by sending the NOV via first class mail to the last known address of the owner, responsible person or occupant. If notice is returned undeliverable, the owner, responsible person or occupant may be personally served or be given notice by other methods reasonably calculated to give actual notice.

6.3.3 **Contents of NOV.** The NOV shall:

6.3.3.1 Describe the property and the persons believed to be in violation;

- 6.3.3.2 Describe the violation;
- 6.3.3.3 Describe remedial action that will comply with the provisions of this regulation;
- 6.3.3.4 Set a reasonable time for the performance of any required remedial action(s);
- 6.3.3.5 Describe the procedure to contest the NOV and the time limits for such a contest

6.3.4 **Appeals.** A party aggrieved by an NOV may request an appeal. Appeals shall be conducted in accordance with the Department's Adjudicative Hearing Procedures.

6.4 **Additional Administrative Enforcement Authority.**

- 6.4.1 The Department may declare unsanitary conditions a nuisance and cause every nuisance affecting the public health to be abated.
- 6.4.2 **Exercise of Physical Control.** The Department may establish, maintain, and exercise physical control over property and over individuals as the Department finds necessary for the protection of the public health including but not limited to closing theaters, schools, and other public or private places and prohibit public gatherings. The order shall be effective immediately. Any person to whom the order is directed shall comply immediately; but may petition the Director for a hearing in accordance with the Weber-Morgan Health Department's Adjudicative Hearing Procedures. After the hearing and depending upon the findings as to whether the person has complied with the provisions of this regulation, the Director shall continue the order in effect or modify or revoke it.
- 6.4.3 **Emergency Enforcement.** If the Director finds that an emergency exists that requires immediate action to protect the public health, he or she may without notice or hearing issue an order declaring the existence of an emergency and requiring that action be taken as he or she deems necessary to meet the emergency. The order shall be effective immediately. Any person to whom the order is directed shall comply and abate the nuisance immediately; but may petition the Director for a hearing in accordance with the Weber-Morgan Health Department's Adjudicative Hearing Procedures. After the hearing and depending upon the findings as to whether the person has complied with the provisions of this regulation, the Director shall continue the order in effect, modify or revoke it. If circumstances warrant because of the seriousness of the hazard, the Department may act to correct or abate the emergency without issuance of an order or directive or without waiting for the expiration of compliance time previously given in an order.

7.0 CRIMINAL, CIVIL & ADMINISTRATIVE PENALTIES.

7.1 Criminal Penalties.

- 7.1.1 Any person who is found guilty by a court of violating any of the provisions of this regulation, either by failing to do the acts required herein or by doing a prohibited act, is guilty of a class B misdemeanor, pursuant to Section 26A-1-123, Utah Code Annotated, 1953, as amended.
- 7.1.2 Each day such violation is committed or permitted to continue shall constitute a separate violation.
- 7.1.3 Each similar subsequent violation occurring within two years of the initial violation may constitute a class A misdemeanor.

7.2 Civil & Administrative Penalties.

- 7.2.1 Penalties may be included in a Settlement Agreement or Stipulation & Consent Order. Penalties may be assessed according to the following factors:
 - 7.2.1.1 The violator's history of compliance or non-compliance;
 - 7.2.1.2 The violator's economic benefit of non-compliance;
 - 7.2.1.3 The documented costs associated with environmental or health damage;
 - 7.2.1.4 The violator's degree of willfulness or negligence; and
 - 7.2.1.5 The violator's good faith efforts to comply and cooperate.
- 7.2.2 The Director may multiply the penalty by the number of days the violation occurred

7.3 Recovery of Investigation & Abatement Costs.

- 7.3.1 The Department may recover its inspection, investigative and abatement expenses and costs from violators, owners, managers, occupants and/or other responsible person(s).
- 7.3.2 The Department may record a judgment lien on a violator's property to recover its expenses and costs.

8.0 EFFECTIVE DATE.

- 8.1 This regulation shall become effective 15 days after its adoption by the Weber-Morgan Board of Health.