

**BOROUGH OF KENILWORTH**  
**ORDINANCE NO. 2014-04**

**Chapter 208**

**AN ORDINANCE OF THE BOROUGH OF KENILWORTH ADDING  
CHAPTER 208 ENTITLED “TANNING FACILITIES”**

This chapter may be cited as the “Tanning Facility Ordinance of the Borough of Kenilworth.”

**208-1              Purpose, Summary and Findings**

The purpose of this Ordinance is to safeguard and protect the public from the improper use of tanning equipment that has been related to health hazards.

The Governing Body of the Borough of Kenilworth makes the following findings:

- A. That there has been rapid growth in popularity of facilities offering tanning equipment; and
- B. The operation of tanning facility involves a serious potential hazard to the public health, welfare and safety through the exposure of persons to concentrations of ultraviolet light in excess of those normally occurring in the environment; and
- C. It has been established that acute overexposure to the ultraviolet light emitted by tanning booth lamps will cause skin burns and eye damage, and
- D. It has been established that chronic exposure to ultraviolet light can result in increased incidences of skin cancer; and
- E. To protect the health, welfare and safety of its citizens from the potential hazards associated with the operation of tanning equipment at tanning facilities and gyms hereby adopts a licensing procedures and standards to govern such commercial facilities which are to be administrated by the Health Department.

**208-2              Definitions**

Wherever used in this chapter, the following terms shall have the following meanings:

**TANNING EQUIPMENT**

Any enclosed or semi-enclosed area, bed or room, containing one or more ultraviolet lamps, intended for irradiation of any part of the human body that induces skin tanning.

**TANNING FACILITY**

Any commercial enterprise or establishment containing one or more piece of tanning equipment made available to the public or membership in any organization.

**208-3              License required; application.**

- A. No person shall at any time within the Borough of Kenilworth conduct, maintain or operate a tanning facility without first having obtained a license to do so from the Board of Health of the Borough of Kenilworth.
- B. Application for such a license shall be made to the Board of health, on forms approved by it, signed and executed by the applicant.
- C. Maintain liability insurance for injury to any individual using the tanning equipment in an amount of no less than one hundred thousand dollars for any injury and agree that no user of the equipment may be solicited to waive liability for any injury or disease related to the use of the tanning equipment.

**208-4              Conditions and requirements.**

No license to conduct, maintain or operate a tanning facility shall be granted to any person until such person has demonstrated to the satisfaction of the Board of Health that the following requirements have been met.

- A. Each piece of tanning equipment shall have, prominently displayed on its door or beside its entrance, a sign that states: “Danger—Ultraviolet Radiation. Follow instructions. As with natural sunlight, overexposure can cause injury and sunburn; repeated exposure may cause premature aging of skin and skin cancer. Exposure of eyes to ultraviolet light without protective eyewear may cause serious injury to eyes. Medications or cosmetics applied to the skin may increase oversensitivity to ultraviolet light,

**BOROUGH OF KENILWORTH**  
**ORDINANCE NO. 2014-04**

as may a family history of skin problems or allergy to sunlight. Consult a physician before using this booth if you are taking any medications or if you believe yourself sensitive to sunlight.”

- B. Each piece of tanning equipment shall be equipped with handrails, floor markings or other suitable physical aids to assure that the user maintains the proper exposure distance from the lamps.
- C. Users shall, on each visit, be provided, free of charge, with sanitary protective eyewear that protects the user's eyes from ultraviolet radiation but permits sufficient vision to enable the user to maintain balance, read necessary labels or instructions and effect a quick, safe exit from the tanning equipment.
- D. Each timer used to control exposure duration, whether controlled by the user from within the tanning equipment or by the operator of the tanning facility, shall be accurate to within plus or minus 10% of any selected timer interval.
- E. The ambient air temperature in each tanning booth shall at no time exceed 100° F.
- F. Each piece of tanning equipment shall be sufficiently strong and rigid to resist collapse due to the impact of a falling person. Tanning booth access doors shall open outwardly shall be free of locks or latches and shall, in all other respects, be designed to facilitate safe and rapid entrance to and exit from the booths. Tanning equipment area floors shall provide adequate traction, even when wet, to allow such safe and rapid ingress and egress.
- G. Each piece of tanning equipment shall be equipped with heavy wire grids, ultraviolet transmitting plastics or some similar physical barrier to protect users from contact with ultraviolet lamps. Such barrier shall be sufficiently strong and rigid to resist collapse due to the impact of a falling person.
- H. In addition to the foregoing, each piece of tanning equipment and tanning facility shall be constructed, operated and maintained in compliance with State regulations.
- I. When tanning equipment is in use, an attendant must be present at all times to ensure its safety. This attendant must be versed in the proper use and operation of the equipment as well as the recommended exposure time of the tanning equipment.
- J. Each tanning facility and the equipment used therein shall comply with the regulations promulgated by the United States Food and Drug Administration and published in Volume 21 of the Code of Federal Regulations at 1002.61(a)(4) and 1040.20.
- K. Each tanning facility shall obtain and maintain on file with the Board of Health of Kenilworth an annual certification
  - i. from a dermatologist who maintains an active medical practice within the State of New Jersey stating that the methods for exposure determination, both as to duration and distance, utilized by the tanning facility are safe and that such methods annually comply with current medical standards; and
  - ii. from each operator of the tanning equipment stating that they have been trained in the safe operation of each one of the tanning equipment in the facility, is aware of the proper use and duration of the equipment.

**208-5 Fees**

Every applicant, for whom a license is granted, as required by the provisions of this chapter, shall pay to the Board of Health an annual facility license fee for the same in the amount of \$100.00 plus \$25.00 per piece of tanning equipment and \$25 per operator at the facility.

**208-6 Contents of license, transferability, display & expiration**

- A. Each license issued under the provisions of this chapter shall bear the actual date of issue thereof, the legal name of the person, firm, corporation or other organization, society or group to whom issued and the location of the premises or other place of operation for which the license is requested.
- B. No license shall be transferable.
- C. Each tanning facility shall display its license in a conspicuous place on the licensed premises.
- D. All licenses and permits granted under the provisions hereof shall expire on the close of the first business day of each year, unless suspended or revoked or unless issued for a temporary or shorter specified period.

**BOROUGH OF KENILWORTH**  
**ORDINANCE NO. 2014-04**

**208-7 Violations, Suspensions and Penalties**

- A. A license or permit may be suspended or revoked for any violation by the holder thereof of any provisions of this chapter after an opportunity has been afforded to said holder for a hearing before the Board of Health, the Health Officer, or their designee of the Borough of Kenilworth.
- B. Any person who violates any provision of this chapter, upon conviction before the municipal court, shall be liable to a penalty of not less than \$100 or more than \$500 for each violation. Each day a particular violation continues shall constitute a separate offense.
- C. If more than five violations shall occur within any calendar year at a facility, the Health Department may request the municipal Court to revoke the license for tanning equipment for a six month period and should the tanning facility continue to be operated without a license, an additional fine of \$2,000.00 shall be imposed by the municipal court.

**208-9 Exclusion**

The chapter shall not be applicable to or include any hospital, clinic or other medical facility wherein ultraviolet radiation is or may be used, under the supervision of a trained medical staff, for the diagnosis or treatment of disease.

**208-10 Severability**

If any section, paragraph, subdivision, clause, sentence, phrase or provision of this ordinance is declared unconstitutional or invalid by a Court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.

**208-11 Repealer**

All Borough ordinances and parts of ordinances that are inconsistent with this ordinance are hereby repealed.

**208-12 Effective Date**

This ordinance shall become effective days after final passage, adoption and publication as required by law.

Introduced: \_\_\_\_\_ March 26, 2014 \_\_\_\_\_

Adopted: \_\_\_\_\_ April 23, 2014 \_\_\_\_\_

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Mayor Scott Klinder

ATTEST: \_\_\_\_\_  
Laura Reinertsen, Borough Clerk