

PART II - CODE OF ORDINANCES
Chapter 26 - BUSINESS REGULATIONS
ARTICLE IX. - BODY ART

DIVISION 1. - GENERALLY

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Sec. 26-801. - General provisions.

- (a) The purpose of these rules is to protect the health of the public by establishing standards for the prevention of disease that may be associated with body art procedures. These rules shall be interpreted and applied to protect the public health.
- (b) The city adopts by reference the provisions of the current rules or the rules as amended by the State Board of Health found in 25 Texas Administrative Code, §§ 229.401—229.413.
- (c) No person may cause, suffer or allow the operation, management, or maintenance of a tattoo and certain body piercing studio and temporary location without a license issued in accordance with these sections.
- (d) All tattoo and certain body piercing studios and temporary locations shall comply with the minimum standards specified in these sections in addition to the existing standards contained in the Tattoo and Certain Body Piercing Studio Act and the Health and Safety Code, Chapter 431, the Texas Food, Drug, and Cosmetic Act, relating to drugs, devices, and cosmetics, including adulteration and misbranding.

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Sec. 26-802. - Definitions.

Sec. 26-802. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Body art means the practice of physical body adornment including but not limited to body piercing, tattooing, and cosmetic tattooing. Body art does not include branding and scarification or practices that are considered medical procedures by a state medical board, such as implants under the skin.

Apprenticeship agreement means a written agreement between a sponsor and an apprentice outlining the terms of the apprenticeship.

Body art means the practice of physical body adornment including but not limited to body piercing, tattooing, and cosmetic tattooing. Body art does not include branding and scarification or practices that are considered medical procedures by a state medical board, such as implants under the skin.

Body art establishment means any place or premise where body art, whether or not for profit, is performed.

Director of Health means the director of the Wichita Falls-Wichita County Public Health District or their authorized representative.

Client means a person who receives a body art procedure on some part of his own body.

Contaminated means not sterile or no longer sterile.

Contaminated waste means any liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; contaminated sharps and pathological and microbiological wastes containing blood and other potentially infectious materials, as defined in 29 Code of Federal Regulations Part 1910.1030, known as "Occupational Exposure to Bloodborne Pathogens."

Cosmetic tattooing means the practice of depositing pigment into the epidermis, utilizing needles, which is either permanent, semi-permanent, or temporary by someone other than a state licensed physician. Cosmetic tattooing shall also mean the same as permanent cosmetics, dermagraphy, micro-pigmentation, permanent color technology and micro-pigment implantation.

Department means the Wichita Falls-Wichita County Public Health District or its authorized representatives having jurisdiction to promulgate, monitor, administer and enforce these regulations.

Director of Health means the director of the Wichita Falls-Wichita County Public Health District or his their authorized representative.

Health District means the Wichita Falls-Wichita County Public Health District or its authorized representatives having jurisdiction to promulgate, monitor, administer and enforce these regulations.

Licensee means a person who holds a license issued under this article.

Disinfection means the killing of disease-causing microorganisms on inanimate objects or surfaces.

Equipment means all machinery including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks, and all other apparatus and appurtenances used in connection with the operation of a body art establishment.

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Licensee means a person who holds a license issued under this article.

Hot water means water, which is at a constant temperature of at least 100° F and sufficient in capacity to meet the peak water demands of the body art establishment.

Instruments means hand pieces, needles, needle bars, hemostats, forceps, pliers, and other items that may come in contact with a client's body or possible exposure to bodily fluids during body art procedures.

Licensee means a person who holds a license issued under this article.

Operator means any person who controls, operates, manages, conducts, performs or practices body art activities.

Permittee means a person who holds a permit issued under this article.

Person means a natural person, any form of business or social organization and any other non-governmental legal entity including but not limited to a corporation, partnership, limited liability company, association, trust, or unincorporated organization.

Procedure surface means any work area or any surface that comes in contact with any part of the client's unclothed body.

Sanitize means to treat a surface using a product registered with the United States Environmental Protection Agency which has been approved by the department as being effective in reducing the number of microorganisms to a safe level.

Sharps means any object that may purposefully or accidentally cut or penetrate the skin or mucosa including, but not limited to, needles, scalpel blades, and razor blades.

Sharps container means a puncture-resistant, leak-proof container that can be closed for handling, storage, transportation, and disposal and that is labeled with the International Biohazard Symbol.

Single use means articles intended for one-time, one-person use and which are to be discarded after such use including, but not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, stencils, ink cups, and protective gloves.

Spensor means a licensed body art operator who is approved to conduct apprenticeship training in accordance with this article and who assumes full responsibility for any apprentices.

Sterilization means destruction of all forms of microbiotic life, including spores.

Tattoo means the practice of producing an indelible mark or figure on the human body by scarring or inserting a pigment under the skin using needles, scalpels, or other related equipment. The term also means the indelible mark or figure itself, and includes the application of permanent cosmetics.

Under direct supervision of a physician means a person employed by and working in the office or clinic of a physician, where the treatment being performed is ordered by a physician.

Sec. 26-803. - Exemptions.

(Ord. No. 11-2012, § 1, 3-6-2012)

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Sec. 26-803. - Exemptions.

(a) This article does not apply to:

- 1) A medical facility licensed under other law or procedures performed in that facility;
- 2) An office or clinic of a person licensed by the Texas State Board of Medical Examiners or procedures performed in that office or clinic;
- 3) A person who performs only ear piercing; or
- 4) A facility in which only ear piercing is performed.

Sec. 26-804. - Establishment permit.

Sec. 26-804. - Establishment permit.

(a) No person may operate a body art establishment unless they have received a body art establishment permit from the State.

(b) State permits shall be prominently displayed in the body art establishment and shall not be defaced or altered in any manner.

(c) The holder of a State body art establishment permit shall only permit the performance of body art in the establishment by operators who have complied with the bloodborne pathogen training requirements.

(d) The holder of a State body art establishment permit shall only permit the performance of body art in the establishment by operators who hold a current valid operator's license from the Health District.

Sec. 26-805. Operator License

(a) Every operator shall give all verbal and written public educational information approved by the department to every client wanting to receive a body art procedure.

(b) Upon completion of a body art procedure, the operator shall provide verbal and written instructions, as approved by the department, to each client for the care of the body art procedure site. The written instructions shall advise the client to consult a physician at the first sign of infection and shall contain the name, address and phone number of the establishment. These documents shall be signed and dated by both the operator and the client. A copy shall be given to the client and the operator shall retain the original with all other required records.

(c) All establishments shall prominently display a disclosure statement, provided by the department, which advises the public of the risks and possible consequences of body art services. The facility permit holder shall also post in public view the name, address and phone number of the department and the Texas Department of Health, and the procedure for filing a complaint. The disclosure statement and the notice for filing a complaint shall be provided in writing to each client.

(Ord. No. 11-2012, § 1, 3-6-2012)

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Sec. 26-805. Operator License

- (a) Prior to performing body art on a client, the operator shall require the client to present a valid, government-issued, positive identification card including, but not limited to a driver's license, passport, or military identification. A copy of the provided identification shall be contained in the client file. The identification must contain a photograph of the individual and a printed date of birth.
- (b) Prior to performing body art on a client, the operator shall obtain a verbal or written statement as to whether the client falls within one or more of the following risk group categories:
 - (1) The client has a history of jaundice or hepatitis;
 - (2) The client has a history of AIDS, or has had a positive HIV test;
 - (3) The client has a history of skin disease or skin cancer at the proposed site of the body art;
 - (4) The client has a history of allergies, anaphylactic reaction to pigments or dyes, or other sensitivities;
 - (5) The client is taking medications which interfere with blood clotting, such as anticoagulants, which thin the blood; or
 - (6) The client has a history of hemophilia.
- (c) The operator shall then ask client to disclose verbally or in writing any other known medical condition or history that could influence or impair the healing process.
- (d) The client shall sign a written statement, also signed by the operator, that the information provided regarding risk group categories and known medical conditions and history is true and complete to the client's best knowledge and ability.
- (e) Each operator shall keep a record of each body art procedure performed to include:
 - (1) Name, address, and telephone number of the client;
 - (2) Client's age, date of birth and copy of identification provided to the establishment;
 - (3) The date the procedure was performed;
 - (4) Name of operator who performed the procedure;
 - (5) The area of the body where the procedure was performed;
 - (6) The signature of client.
- (f) If the client is a minor, the parent, managing conservator or guardian must be physically present during any body art procedure. The parent, managing conservator or guardian must execute an affidavit stating that the person is the parent, managing conservator or guardian of the individual on whom the body art is being performed; and must provide written and notarized consent by the individual's parent, managing conservator or guardian which shall contain:
 - (1) The full name, address, and telephone number of the client;
 - (2) The full name, address, and telephone number of the parent, managing conservator or guardian;
 - (3) The area of the body and the specific body art procedure for which consent is granted; and
 - (4) The signature of the minor and the signature of the parent, managing conservator, or guardian.

(Ord. No. 11-2012, § 1, 3-6-2012)

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Sec. 26-805. Operator License

(a) The following information shall be kept on file on the premises of a body art establishment for a minimum of three years and shall be readily available for inspection by the department:

(1) The identification of each operator in the establishment, including the following information:

- a. Full name;
- b. Date of birth;
- c. Gender;
- d. Home address;
- e. Home and work phone numbers;
- f. Identification photo; and
- g. Duties.

(2) The name of the establishment, the hours of operation, and the proprietor's name and address.

(3) A complete description of all body art procedures performed, including the clients' files and, for a tattoo procedure, the specific color(s) applied, and, when available, the manufacturer or catalogue identification number of each color.

(4) A full inventory (including the manufacturer and serial or lot numbers, if available or applicable) for the following items:

- a. Instruments;
- b. Body jewelry;
- c. Sharps; and
- d. Inks used for body art procedures.

(5) A copy of these regulations.

(6) Records regarding each employee that show one of the following:

- a. Proof that the employee has completed the Hepatitis B vaccination series;
- b. A statement that the employee was offered and declined in writing the Hepatitis B vaccination series;
- c. A statement that antibody testing has revealed that the employee is immune to Hepatitis B; or
- d. A dated and signed physician's statement specifying that the Hepatitis B vaccination series is contraindicated in a particular employee for medical reasons.

(b) Client records shall be confidential.

(Ord. No. 11-2012, § 1, 3-6-2012)

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- (a) Before performing a body art procedure, the skin and surrounding area where the body art procedure is to be placed shall be washed with antimicrobial soap, or if appropriate the client shall be provided iodine with which to cleanse the area, and any washing pad shall be discarded after use on a single client.
- (b) If shaving is necessary, disposable razors or safety razors with single use blades shall be utilized. Single use blades shall be discarded after each use and the reusable holder shall be autoclaved after each use. Following shaving, the skin and surrounding area will be washed with antimicrobial soap and the washing pad shall be discarded after a single use.
- (c) If the skin of the client is not free of rash, infection, or any other visible pathological condition, no body art procedure may be performed. No person affected with boils, infected wounds, open sores, abrasions, exudative lesions, acute respiratory infection, nausea, vomiting, fever or diarrhea shall receive a body art procedure until such condition is resolved or documentation is presented to the operator to assure that there is not a likelihood of disease contagion.
- (d) In the event of blood flow, all products used to check the flow of blood or to absorb blood shall be single use and disposed of immediately after use.

(Ord. No. 11-2012, § 1, 3-6-2012)

Sec. 26-808. Sanitation and sterilization.

- (a) The operator shall maintain a high degree of personal cleanliness, conform to hygienic practices, and wear clean clothes when performing body art procedures. Before performing body art procedures, the operator must thoroughly wash his hands in hot running water with liquid antimicrobial soap, and then rinse hands and dry with disposable paper towels. This shall also be done as often as necessary to remove contaminants.
- (b) In performing body art procedures, the operator shall wear disposable medical gloves. The gloves shall be discarded after the completion of each procedure on an individual client, if not more frequently.
- (c) If, while performing a body art procedure, the operator's glove is pierced, torn, or otherwise contaminated, the procedures in subsections (a) and (b) shall be repeated immediately. The contaminated gloves shall be immediately discarded and the hands washed thoroughly before a fresh pair of gloves are applied. Any item or instrument used for body art which is contaminated during the procedure shall be removed and replaced immediately with new ones before the procedure resumes.
- (d) Sharps ready for disposal shall be disposed of in approved sharps containers.
- (e) Contaminated waste which may release liquid blood or body fluids when compressed or may release dried blood or body fluids when handled must be placed in an approved red bag marked with the international biohazard symbol. It shall then be disposed of by a waste hauler approved by the department.
- (f) Contaminated waste which does not release liquid blood or body fluids when compressed or does not release dried blood or body fluids when handled may be placed in a covered receptacle and disposed of through approved disposal methods. Storage of contaminated waste on-site shall not exceed the period specified by the department or more than a maximum of 30 days.
- (g) The skin of the operator shall be free of rash, infection, or any other visible pathological condition. No person affected with boils, infected wounds, open sores, abrasions, exudative lesions, acute

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~~respiratory infection, nausea, vomiting, or diarrhea shall work in any area of a body art establishment in any capacity.~~

- (h) All non-disposable instruments used for body art shall be cleaned thoroughly after each use by scrubbing with an antimicrobial soap solution and hot water or with an approved disinfectant to remove blood and tissue residue, and then placed in an ultrasonic unit which will be operated in accordance with manufacturer's instructions. A copy of the manufacturer's recommended procedures for operation of the unit must be readily available for inspection on the premises by employees and by the department.
- (i) After cleaning, all non-disposable instruments used for body art shall be packed individually in paper peel-packs and sterilized. All paper peel-packs shall contain either a sterilizer indicator or internal temperature indicator. Paper peel-packs must be dated and initialed by the individual responsible for cleaning and sterilizing equipment, with an expiration date not to exceed 30 days. Sterile equipment may not be used after the expiration date without repackaging and resterilizing.
- (j) All non-disposable instruments used for body art shall be sterilized in an autoclave or in a dry heat sterilizer if approved by the department. The sterilizer shall be used, cleaned, and maintained according to manufacturer's instruction. A copy of the manufacturer's recommended procedures for the operation of their sterilization unit must be readily available for inspection on the premises by employees and by the department.
- (k) A permittee shall demonstrate monthly that the sterilizer used is capable of attaining sterilization through spore destruction tests. These tests shall be verified through an independent laboratory at least once per year. No permit shall be issued or renewed until the department receives documentation of the sterilizer's ability to destroy spores. Monthly test records and laboratory verification shall be retained by the operator for a period of three years and made available to the department upon request.
- (l) After sterilization, the instrument used for body art shall be stored in a dry, clean cabinet or other tightly covered sanitizing container reserved for the storage of such instruments.
- (m) All instruments used for body art shall remain stored in sterile packages until just prior to performing a body art procedure. When assembling instruments used for performing body art procedures, the operator shall wear disposable medical gloves and use techniques to ensure that the instruments and gloves are not contaminated.
- (n) All inks, dyes, pigments and sharps shall be specifically manufactured for performing body art procedures and shall not be adulterated or contaminated. Immediately before applying a tattoo, the quantity of the dye to be used for the tattoo shall be transferred from the dye bottle and placed into sterile, single use paper cups or plastic caps. Upon completion of the tattoo, these single cups or caps and their contents shall be discarded.
- (o) Smoking, eating, or drinking is prohibited in the area where body art is performed.

(Ord. No. 11-2012, § 1, 3-6-2012)

Sec. 26-809. - Requirements for single use items.

- (a) Single use pre-sterilized items shall expire in accordance with the manufacturer's expiration date. All paper peel-packs shall contain either a sterilizer indicator or internal temperature indicator. Paper peel-packs must be dated and initialed by the individual responsible for cleaning and sterilizing equipment, with an expiration date not to exceed 30 days. Sterile equipment may not be used after the expiration date without repackaging and resterilizing.

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(c) All body art stencils shall be single-use and disposable. Petroleum jellies, soaps and other products used in the application of stencils shall be dispensed and applied on the area to be tattooed with sterile gauze or in a manner to prevent contamination of the original container and its contents. The gauze shall be used only once and then discarded.

(Ord. No. 11-2012, § 1, 3-6-2012)

Sec. 26-810. Requirements for body art establishment premises.

(a) All walls, floors, and procedure and seating surfaces of a body art establishment shall be of such construction as to be easily cleaned and sanitized after each client. Walls, floors, and procedure and seating surfaces shall be smooth, non-absorbent, free of open holes or cracks, light-colored, washable, and in good repair. Walls, floors, procedure and seating surfaces and ceilings shall be maintained in a clean condition. Procedure and seating surfaces shall be sanitized after each client.

(b) Effective measures shall be taken by the body art operator to protect the entrance into the establishment to prevent the breeding or presence on the premises of insects, rodents, and other pests. Insects, rodents, and other pests shall not be present in any part of the establishment. Insects, rodents, and other pests shall be controlled to minimize their presence:

- (1) Within the physical facility and its contents; and
- (2) On the contiguous land or property under the control of the permittee.

(c) The presence of insects, rodents, and other pests shall be controlled by:

- (1) Routinely inspecting incoming shipments of supplies;
- (2) Routinely inspecting the premises for evidence of pests; using methods, if pests are found, such as trapping devices or other means of pest control; and eliminating harborage conditions.

(d) Dead or trapped birds, insects, rodents, and other pests shall be removed from control devices and the premises at a frequency that prevents their accumulation, decomposition, or the attraction of pests.

(e) Maintenance tools such as brooms, mops, vacuum cleaners, and similar items shall be:

- (1) Stored so they do not contaminate equipment, utensils, linens, and single-use articles; and
- (2) Stored in an orderly manner that facilitates cleaning of the area used for storing the maintenance tools.

(f) The premises shall be free of litter and items that are unnecessary to the operation or maintenance of the establishment such as equipment that is nonfunctional or no longer used.

(g) No animals of any kind shall be allowed in a body art establishment except:

- (1) Animals trained and actively used to assist persons with physical disabilities;
- (2) Governmental agency police dogs accompanying police officers;
- (3) Sentry dogs running loose in outside fenced areas; and
- (4) Fish in aquariums in waiting rooms and nonprocedural areas.

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- (i) The establishment shall be well-ventilated and equipped with an artificial light source equivalent to at least 20 foot-candles, measured three feet off the floor, for cleaning. At least 100 foot-candles shall be provided at the level where the body art procedure is being performed, and where instruments and sharps are assembled.
- (j) All body art establishments shall be completely separated by solid partitions or by walls extending from floor to ceiling from hair salons, retail sale establishments, or any other such activity which may cause potential contamination of work surfaces.
- (k) Outer openings of a body art establishment shall be protected against the entry of insects and rodents by:
 - (1) Filling or closing holes and other gaps along floors, walls and ceilings;
 - (2) Closed, tight-fitting windows; and
 - (3) Solid self-closing, tight-fitting doors, except that doors designed for emergency exit only and which activate a security alarm when opened need not be self-closing.
- (l) If a body art establishment opens into a larger structure, such as a mall, airport, or office building, or into an attached structure, such as a porch, and the outer openings from the larger or attached structure are protected against the entry of insects and rodents as per subsection (k), this shall be deemed to comply with subsection (k).
- (m) If the windows or doors of a body art establishment, or of a larger structure within which a body art establishment is located, are kept open for ventilation or other purposes, the openings shall be deemed to comply with subsection (k) if they are protected against the entry of insects and rodents by:
 - (1) Sixteen mesh to 25.4 millimeters (16 mesh to one inch) screens; or
 - (2) Properly designed and installed air curtains or other effective means.
- (n) The perimeter walls and roof of a body art establishment shall effectively protect the establishment from the weather and the entry of insects, rodents, and other animals.
- (o) A separate hand sink with available hot and cold running water under pressure, supplied with liquid antimicrobial soap and disposable paper towels, shall be readily accessible within the body art establishment for each operator. In addition, there shall be at least one lavatory, excluding any service sinks, and one toilet in a body art establishment.
- (p) At least one covered waste receptacle and one sharps receptacle shall be provided in each operator area and one covered waste receptacle shall be provided in each toilet room. Receptacles in the operator area shall be emptied daily and solid waste shall be removed from the premises at least twice weekly. All refuse containers shall be lidded and kept clean and all bio-hazard items shall be appropriately marked.
- (q) All instruments and supplies shall be stored in clean, dry, and covered containers.
- (r) If reusable cloth items are used, they shall be mechanically washed after each client. Soiled cloth items shall be kept in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of clean equipment, clean instruments, and single-use articles. Reusable cloth items shall be mechanically washed with detergent and dried. Clean cloth items shall be stored in a dry, clean environment until used.

(Ord. No. 11-2012, § 1, 3-6-2012)

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- (a) No person may operate a body art establishment unless he has received a body art establishment permit from the department.
- (b) A permit shall expire one year from the issuance of the permit. Any person operating a body art establishment shall obtain a permit from the department annually.
- (c) Any person applying for a body art establishment permit shall submit a scale drawing and floor plan of the proposed establishment for a plan review by the department as part of the original permit application process. Permit renewals must be accompanied by such a drawing if the floor plan changes from the plan submitted with the original application.
- (d) A permit for a body art establishment shall not be transferable from one place or person to another.
- (e) Permits shall be prominently displayed in the body art establishment and shall not be defaced or altered in any manner.
- (f) The holder of a body art establishment permit shall only permit the performance of body art in the establishment by operators who have complied with the operator license or apprenticeship program requirements of this article.

(Ord. No. 11-2012, § 1, 3-6-2012)

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(a) It shall be unlawful for a person to practice body art procedures without first obtaining an operator's license from the Health District. The available licenses are as follows:

- 1) Tattoo Operator
- 2) Body Piercing Operator
- 3) Micropigmentation Operator

(b) Prior to the issuance of an operator's license applicants must:

- 1) Fill out an application.
- 2) Provide a valid certificate of training from an approved bloodborne pathogen training program.
- 3) Provide proof of completed Hepatitis B vaccination series, a statement that the operator declines the Hepatitis B vaccination series, a statement that antibody testing has revealed that the employee is immune to Hepatitis B, or a signed physician's statement specifying that the Hepatitis B vaccination series is contraindicated for medical reasons.
- 4) Pass an exam approved or given by the Health District. Applicants who have prior licensure from another jurisdiction may request reciprocity from the Director of Health.

(c) Operators' licenses shall be valid from the date of issuance and shall expire annually at the anniversary of the date of issuance unless revoked sooner by the Health District.

Sec. 26-806. - Temporary performance of body art.

(a) The Health District may grant a temporary body art license to a person rather than requiring that person to obtain a body art operator license under the following circumstances:

- 1) The applicant for a temporary body art license has been qualified by another jurisdiction to perform body art, and that the requirements to be so qualified by that jurisdiction are commensurate with those for a body art operator license under this article;
- 2) The applicant for a temporary body art license is sponsored by a body art operator licensed under this article;

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- 3) The applicant will be performing body art only at a permitted body art establishment or permitted temporary body art establishment;
- 4) The temporary body art license shall be good for a period of no longer than 14 days; and
- 5) The Director of Health is satisfied that the circumstances under which the applicant for a temporary body art license will perform body art conform to the requirements of this article and state law.

(b) In determining whether the issuance of a temporary body art license is appropriate, the public health and safety shall be the primary concern of the Health District. Nothing in this section shall be construed as requiring the Director of Health to issue a temporary body art license.

(c) Any person making application for a temporary body art license shall provide any and all such information as the Health District may deem necessary to assist in the determination whether the issuance of the license is appropriate.

Sec. 26-807. - Enforcement.

- (1) Tattoo operator;
- (2) Cosmetic tattoo operator; and
- (3) Body piercing operator.

(b) The director shall issue the license required under this division for a period of one year from the date of approval. The license may be renewed from year to year upon the filing of a renewal application, and upon payment of a renewal fee.

(c) The operator license shall be valid from the date of issuance and shall automatically expire annually at the anniversary from the date of issuance unless revoked sooner by the department.

(d) An application for an operator license shall include:

- (1) Name;
- (2) Date of birth;
- (3) Sex;
- (4) Residence;
- (5) Mailing address;
- (6) Home phone number;
- (7) Place(s) of employment as an operator;
- (8) Training and experience; and
- (9) Proof of attendance at a bloodborne pathogen training program, given or approved by the department.

(e) Knowledge of facility safety, anatomy, infectious disease control, and skin diseases, disorders and conditions shall be demonstrated through submission of documentation of completion of courses or successful completion of an examination approved or given by the department with a passing grade of 70, attained prior to issuance of the operator license. The department will maintain a list of courses approved for this purpose. Training provided by professional body art organizations or associations or by equipment manufacturers may also be submitted for consideration to comply with this requirement.

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~~The director shall make a final determination as to whether an applicant's training coursework or examination suitably demonstrates the required knowledge.~~

- (f) No operator license shall be issued unless the body art operator has demonstrated compliance with the provisions of this section and all other provisions of this article.
- (g) All operator licenses shall be conditioned upon continued compliance with the provisions of this section as well as all applicable provisions of this article.
- (h) An operator license shall be posted in a prominent and conspicuous area where clients may readily observe it.

~~(Ord. No. 11-2012, § 1, 3-6-2012)~~

Sec. 26-813. Apprenticeship program.

- (a) A person interested in learning the profession of body art may make application to the director for a body art apprentice license. An application for a body art apprentice license shall contain:
 - (1) Name;
 - (2) Date of birth;
 - (3) Sex;
 - (4) Residence;
 - (5) Mailing address;
 - (6) Home phone number;
 - (7) Proof of attendance at a bloodborne pathogen training program, given or approved by the department;
 - (8) An apprenticeship agreement, signed by both the sponsor and the person applying to be an apprentice; and
 - (9) Proof of the completion of any other requirements the director shall deem necessary prior to allowing the person to become an apprentice.
- (b) An apprenticeship agreement shall not be sufficient for the purposes of this article unless it contains:
 - (1) The name, operator license number, and place of employment of the sponsor;
 - (2) All locations where the apprentice will participate in training;
 - (3) The duration of the apprenticeship, to be for a period of at least one year;
 - (4) Whether the apprentice will be paid during the apprenticeship, and whether the apprentice will be an employee or an independent contractor;
 - (5) A statement that both the apprentice and the sponsor agree to comply with all applicable state and local laws regarding body art.
- (c) No body art operator shall sponsor more than two apprentices at any given time.
- (d) When performing body art, an apprentice will clearly identify himself to the client and the client's parent, managing conservator or guardian if the client is a minor, and shall have the client sign a written statement demonstrating the client's awareness that the body art procedure will be performed by an apprentice.

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Sec. 26-807. - Enforcement.

(Ord. No. 11-2012, § 1, 3-6-2012)

Sec. 26-814. - Temporary performance of body art.

- (a) The director may grant a temporary body art license to a person rather than requiring that person to obtain a body art operator license under the following circumstances:
 - (1) The director has determined that the applicant for a temporary body art license has been qualified by another jurisdiction to perform body art, and that the requirements to be so qualified by that jurisdiction are commensurate with those for a body art operator license under this article;
 - (2) The applicant for a temporary body art license is sponsored by a body art operator licensed under this article;
 - (3) The applicant will be performing body art only at a permitted body art establishment where the sponsoring licensed body art operator is presently employed;
 - (4) The temporary body art license shall be good for a period of no longer than 14 days; and
 - (5) The director is satisfied that the circumstances under which the applicant for a temporary body art license will perform body art conform to the requirements of this article and state law.
- (b) In determining whether the issuance of a temporary body art license is appropriate, the public health and safety shall be the primary concern of the director. Nothing in this section shall be construed as requiring the director to issue a temporary body art license.
- (c) Any person making application for a temporary body art license shall provide any and all such information as the director may deem necessary to assist him in determination whether the issuance of the license is appropriate.

(Ord. No. 11-2012, § 1, 3-6-2012)

Sec. 26-815. - Additional prohibitions.

- (a) It shall be unlawful for any person to perform any body art procedure upon a person under the age of 18 years without the presence, consent, and proper identification of a parent, managing conservator or guardian. Nothing in this section is intended to require an operator to perform any body art procedure on a person under 18 years of age even with the consent of a parent, guardian or managing conservator. It shall be unlawful for any person to tattoo upon a person under the age of 18 years, regardless of parental consent, except in accordance with V.T.C.A., Health and Safety Code § 146.012 as amended.
- (b) It shall be unlawful to perform body art on a person who the operator has reason to suspect is under the influence of alcohol or drugs.
- (c) It shall be unlawful to perform, own, operate, or solicit business as a body art establishment, or operator without first obtaining all necessary permits, licenses and approvals from the department.
- (d) It shall be unlawful to obtain or attempt to obtain any body art establishment permit or operator license by means of fraud, misrepresentation, or concealment.

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(f) ~~Temporary body art establishments, events, and mobile units are not allowed.~~
(g) ~~It shall be unlawful for any person to perform body art procedures unless such procedures are performed in a body art establishment with a current permit.~~

~~(Ord. No. 11-2012, § 1, 3-6-2012)~~

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Sec. 26-816. - Suspension or revocation of permits.

(a) ~~Permits and licenses issued under the provisions of this article may be suspended by the department for failure of the holder to comply with the requirements of this article.~~
(b) ~~Whenever a permit or license holder has failed to come into compliance with this article after receipt of a notice issued informing him of his failure to comply with the requirements of this article, he must be notified in writing that the permit or license is immediately suspended. The notice must also contain a statement informing the permit or license holder that an opportunity for a hearing will be provided if a written request for a hearing is filed with the department within ten days.~~
(c) ~~Any person whose permit or license has been suspended may, at any time, make written request for reinstatement of the permit or license. Such application shall include a statement signed by the applicant that in his opinion the conditions causing the suspension have been corrected. Within ten days following receipt of a written request, the department shall reinspect the body art establishment or evaluate documentation provided by the permittee or licensee. If the director determines that the applicant is complying with the provisions of this article, the permit or license will be reinstated.~~
(d) ~~For serious or repeated violations of any of the requirements of this article or for interference with the department in the performance of its duties, the permit or license may be permanently revoked after an opportunity for a hearing has been provided by the department. Before taking such an action, the department shall notify the permit or license holder or operator in writing, stating the reasons for which the permit or license is subject to revocation and advising the permit or license holder or operator of the requirements for filing a request for a hearing. A permit or license may be suspended for cause, pending its revocation or a hearing relative thereto.~~
(e) ~~The department may permanently revoke a permit or license after ten days following service of the notice unless a request for a hearing is filed with the department by the permit or license holder within ten days of notice.~~
(f) ~~A notice as required in this subdivision is properly served when it is delivered to the holder of the permit or license or when it is sent by a registered or certified mail, return receipt requested, to the last known address of the holder of the permit or license. A copy of the notice shall be filed in the records of the department.~~
(g) ~~The hearings provided for in this section will be conducted by the director at a time and place designated by the department. Based upon the record of the hearing, the director shall make a finding and may sustain, modify, or rescind any official notice or order considered in the hearing. The department within 20 days will furnish a written report of the hearing decision to the permit or license holder.~~
(h) ~~Other licensing authorities will be notified by the department of the revocation of any permit or license.~~

~~(Ord. No. 11-2012, § 1, 3-6-2012)~~

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- (a) Complaint investigations may be conducted as often as necessary during a body art establishment's normal working hours or by appointment at non-working hours throughout the year to ensure compliance with this article.
- (b) It shall be a class C misdemeanor punishable by a fine not to exceed \$2,000.00 for any violation of or failure to perform any duty required by this article.
- (c) If any person is found guilty of having violated any provision of this chapter, any license held by such person may be suspended or revoked as provided in this chapter.
If any person is found guilty of having violated any provision of this chapter there shall be a moratorium of 60 days prior to the issuance of a new operator's license.
- (d) An operator's license is automatically revoked upon
- (e) It is unlawful for any person to interfere with the department or its agents in the performance of its duties.
- (e) It is unlawful for any person to interfere with the department or its agents in the performance of its duties.
- (d) A copy of the inspection report must be furnished to the permit holder of the body art establishment, with the department retaining possession of the original.
- (e) If, after investigation, the director should find that a permittee or licensee is in violation of this article, he may, as an alternative to suspension or revocation, advise the permittee or licensee in writing of his findings and instruct the permittee or licensee to take specific steps to correct such violations within a period of time not to exceed 30 days.
- (f) If during the course of a complaint investigation the operation of the body art establishment constitutes an imminent hazard to public health, the Health District may offer the owner or manager of the body art establishment the choice to voluntarily close. Voluntary closure must last until the imminent hazard has been resolved and a facility may not reopen until cleared by the Health District.
(1) Issue an order stating the cause for the action and restricting any or all operators from the body art establishment and from performing any body art procedure until the director determines there is no further risk to public health. If during the course of a complaint investigation the operation of the body art establishment constitutes an imminent hazard to public health, the Health District may offer the owner or manager of the body art establishment the choice to voluntarily close. Voluntary closure must last until the imminent hazard has been resolved and a facility may not reopen until cleared by the Health District.
- (g) License Suspension
 - 1) The Health District may, without warning, notice, or hearing, suspend any body art operator license if the operator constitutes an imminent hazard to public health. Suspension is effective upon service of the written notice required by this subdivision. The Health District may end the suspension at any time if the reason for suspension no longer exists.
 - 2) Whenever a license is suspended, the holder of the license shall be notified in writing that the license is, upon service of the notice, immediately suspended. An opportunity for a hearing will be provided if the holder of the license files a written request with the Director of Health within ten days of receipt of written notice of suspension. Whenever a license is suspended and a request for a hearing is made, the holder of the

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licensee shall be afforded a hearing within ten days of the receipt by the regulatory authority of a request for a hearing. If no written request for a hearing is filed within ten days, the suspension is sustained. The Health District may end the suspension at any time if reasons for suspension no longer exist.

(h) License Revocation

- 1) The Health District may, after providing an opportunity for a hearing, revoke a body art operator's license for serious or repeated violations of any of the requirements of this ordinance or for interference with the Health District in the performance of its duties. Prior to revocation, the Health District shall notify the licensee in writing, of the reason for which the license is subject to revocation. The license shall be revoked at the end of ten days following service of such notice unless the licensee files a written request for a hearing with the Director of Health within such ten-day period. If no request for a hearing is filed within the ten-day period, the revocation of the license becomes final.
- 2) A license holder is not eligible to reapply for an operator's license for 60 days following the revocation of a license.

(i) Nothing in this article shall be construed to require an operator to perform any body art procedure upon a client.

(g) Nothing in this article shall be construed to require an operator to perform any body art procedure upon a client. Nothing in this article shall be construed to require an operator to perform any body art procedure upon a client.

Secs. 26-808. – Service of Notice; Conduct of Hearings

Secs. 26-808. – Service of Notice; Conduct of Hearings

- (a) A notice as required in this ordinance is properly served when it is delivered to the operator or when it is sent by registered or certified mail, return receipt requested, to the last known address of the operator.
- (b) A copy of the notice shall be filed in the records of the Health District. The Health District shall conduct the hearings provided for in this ordinance, at a time and place designated by the Director of Health. Based upon the recorded evidence of such hearing, the Director of Health shall make final findings and shall sustain, modify or rescind any notice or order considered in the hearing. The Health District shall furnish a written report of the hearing decision to the holder of the license.

Secs. 26-809—26-839. - Reserved.

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