

CHAPTER 8-11. BODY ART

8-11-01. Definitions.

1. "Body Art" means the practice of physical body adornment by permitted establishments and operators using, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding, and scarification. This definition does not include practices that are considered medical procedures by the state board of medical examiners nor does this definition include, for the purposes of this Title, piercing of the non-cartilaginous lobe of the ear with pre-sterilized single-use stud-and-clasp ear-piercing systems.

2. "Body Art Establishment" means any place or premise where the practices of body art, whether or not for profit.

3. "Body Piercing" means the piercing of any part of the body for the purpose of inserting studs, pins, rings, chains, or other jewelry or adornment.

4. "Department" means the Bismarck Public Health Department, Environmental Health Division.

5. "Operator" means a permittee, or person working for a permittee, performing body art services.

6. "Tattooing" means the marking of the skin of a person by insertion of permanent colors by introducing such colors through puncture of the skin.

(Ord. 5264, 07-08-03; Ord. 5714, 04-28-09; Ord. 6156, 10-13-15)

8-11-02. Tattooing and Body Piercing of Minors Prohibited.
No person shall tattoo or body pierce any person under the age of eighteen (18) years, except in the presence of and with the written permission of a properly identified parent or legal guardian of such person.

1. In addition, under no circumstances shall any person:

a. Perform body art on the genitalia or nipples on any person under the age of eighteen (18) years;

b. Tattoo a person under the age of sixteen (16) years; nor

c. Body pierce a person under the age of fourteen (14) years with the exception of piercing the non-cartilaginous lobe of the ear in a licensed body art establishment.

2. A person providing tattoo or body piercing services shall conspicuously post a notice stating the following:

a. It is illegal to tattoo or body pierce any person under the age of 18 years old without the parent or legal guardian's consent and presence;

b. It is illegal to ever tattoo any person under the age of 16 years old;

c. It is illegal to body pierce any person under the age of 14 years old with the exception of piercing the non-cartilaginous lobe of the ear in a licensed body art establishment.

(Ord. 5264, 07-08-03; Ord. 6316, 04-10-18; Ord. 6484, 10-04-21)

8-11-03. License Required. No person, firm or corporation shall establish, operate, conduct, maintain or manage any establishment or place offering body art services without first obtaining a license to do so.

1. A license issued under the provisions of this chapter shall be for a period of up to one year and all permits shall expire on March 31st of each year.

2. A license is required for both permanent and temporary locations. All of the requirements of this chapter apply to both permanent and temporary locations.

3. The annual fee for a license is as set from time to time by the city commission and contained in the fee schedule on file with the office of the city administrator.

4. The license must be posted in the permitted location in a manner visible to customers at all times of operation.

5. A license issued under this chapter is not transferable to another operator or location.

(Ord. 5264, 07-08-03; Ord. 5618, 07-24-07; Ord. 6239, 12-13-16)

8-11-04. Application for License. Any person, firm, or corporation, that desires to engage in the business of body art within the city, shall make application for a Body Art License to the public health department, environmental health division. Prior to issuance of a Body Art License, the public health department, environmental health division shall conduct an inspection of the applicants proposed location and equipment to insure compliance with this chapter. The application shall be in writing on forms provided by the public health department, environmental health division. A license issued under this chapter shall be limited to the location specified in the license. No person, firm, or corporation shall provide body art services at any place other than the place or location named in the license.
(Ord. 5264, 07-08-03; Ord. 5714, 04-28-09; Ord. 6156, 10-13-15; Ord. 6239, 12-13-16)

8-11-05. Inspection. The initial inspection shall occur prior to opening the business and be made to ensure that license requirements are met. Each licensed body art establishment shall be inspected by an Environmental Health Practitioner at least annually.
(Ord. 5264, 07-08-03; Ord. 6239, 12-13-16)

8-11-06. Body Art Establishments; General Provisions.

1. All walls, floors, ceilings, and procedure surfaces of a body art establishment shall be smooth, free of open holes or cracks, light-colored, washable, and in good repair. Walls, floors, and ceilings shall be maintained in a clean condition. All procedure surfaces, including client chairs or benches, shall be constructed so as to be easily cleaned and sanitized after each client. The permitted location shall be completely separated from any other activities that may cause potential contamination of work surfaces.

2. Effective measures shall be taken by the licensee to protect against the entrance of or the breeding or presence of insects, vermin, or rodents in the permitted location. Insects, vermin, and rodents shall not be present in any part of the permitted location, its appurtenances, or appertaining premises.

3. There shall be adequate floor space for each operator in the permitted location. Each permitted location shall have an area that may be screened from public view for clients requesting privacy. Multiple stations shall be, at a minimum, separated by dividers or partitions.

4. The licensed location shall be well-ventilated and provided with an artificial light source equivalent to at least 20 foot-candles at a height of 3 feet off the floor, except that 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.

5. No animals of any kind shall be allowed in a body art establishment except for service animals used by persons with disabilities (e.g., seeing eye dogs). Fish aquariums shall be allowed in waiting rooms and nonprocedural areas.

6. A hand-sink with hot and cold potable water, under pressure, preferably equipped with wrist-or foot-operated controls and supplied with liquid soap and disposable paper towels shall be readily accessible to each procedural area within the licensed location. There shall be at least one hand-sink for each three operators.

7. At least one covered waste receptacle shall be provided in each operator area and each toilet room. Receptacles in the operator area shall be emptied daily, and solid waste shall be removed from the premises daily. All refuse containers shall be lidded, cleanable, and kept clean.

8. All instruments and supplies shall be stored in clean, dry, covered containers. Reusable cloth items shall be mechanically washed with detergent and dried after each use. Cloth items shall be stored in a clean environment until use.

9. Toilet facilities must be available for body art establishment patrons and employees pursuant to the requirements of the ND Plumbing Code.

10. Tables, chairs, and other general use equipment must be constructed of plastic, metal with enamel or porcelain coating, or stainless steel. General use equipment must be maintained in an easily cleanable condition. Covered waste receptacles for wastes generated from the operation not directly associated with the application of tattoos or body piercing must be equipped with disposable single use plastic liners.

11. A body art establishment must be maintained in a clean, sanitary and vermin free condition and be kept in good repair.

(Ord. 5264, 07-08-03; Ord. 6239, 12-13-16)

8-11-07. Sanitation and Sterilization Procedures.

1. A body art establishment must be equipped with a steam pressure autoclave capable of producing the minimum p.s.i. and temperature to sterilize to the autoclave manufacturer's specifications. Body art establishments must also be equipped with an ultrasonic cleaner equipped to hold disposable containers of cleaning solution and clean rinsing water.

2. All non-single-use, non-disposable instruments used for body art shall be cleaned thoroughly after each use by scrubbing with an appropriate soap or disinfectant solution and hot water or by following the manufacturer's instructions, to remove blood and tissue residue, and shall be placed in an ultrasonic unit also operated in accordance with manufacturer's instructions.

3. After cleaning, all non-disposable instruments used for body art shall be packed individually in approved bags and subsequently sterilized. All bags shall contain either a sterilizer indicator or internal temperature indicator. Bags must be dated with an expiration date not to exceed six (6) months.

4. All cleaned, non-disposable instruments used for body art shall be sterilized in an approved steam autoclave. 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 the sterilization unit must be available for inspection by the public health department, environmental health division. Sterile equipment may not be used if the package has been breached or after the expiration date without first repackaging and re-sterilizing. Sterilizers shall be located away from work stations or areas frequented by the public. If the body art establishment uses only single-use, disposable instruments and products and only sterile supplies, an autoclave shall not be required.

5. Each licensee shall demonstrate that the sterilizer used is capable of attaining sterilization by appropriate

spore destruction tests. These tests shall be verified through an independent laboratory. The license shall not be issued or renewed until documentation of the sterilizer's ability to destroy spores is received by the public health department, environmental health division. These test records shall be retained by the body art establishment for a period of three (3) years and made available to the public health department, environmental health division upon request.

6. All instruments used for tattooing or body piercing shall remain stored in sterile packages until just prior to the performance of a body art procedure. When assembling instruments used for body art procedures, the operator shall wear disposable medical gloves and use medically recognized techniques to ensure that the instruments and gloves are not contaminated.

7. All inks, dyes, pigments, needles, and equipment shall be specifically manufactured for performing tattoo procedures and shall be used according to manufacturer's instructions. The mixing of inks, dyes, or pigments or their dilution with potable water is acceptable. Immediately before a tattoo is applied, the quantity of the dye to be used shall be transferred from the dye bottle and placed into single-use paper cups or plastic cups. Upon completion of the tattoo, these single cups or caps and their contents shall be discarded.

8. Single use items shall not be used on more than one client for any reason. After use, all single-use needles, razors and other sharps shall be immediately disposed of in approved sharps containers. All products applied to the skin, including 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 gauze or in a manner to prevent contamination of the original container and its contents. The gauze or single use towel shall be used only once and then discarded.

9. Floors, walls, counters, chairs and other equipment coming in contact with blood and/or body fluids shall be cleaned and sanitized immediately after a procedure has been performed.

(Ord. 5264, 07-08-03; Ord. 6156, 10-13-15; Ord. 6239, 12-13-16)

8-11-08. Professional Standards. Body art operators shall comply with the following practices:

1. No operator shall perform body art on a person who the operator knows is under the influence of alcohol or drugs, or has reason to believe may be otherwise legally incapacitated or incompetent or under the age of 18 years of age except as provided in Section 8-11-02. Nothing in this section is intended to require an operator to perform any body art procedure on a person under 18 years of age with parental or guardian consent.

2. Body art operators must be at least 18 years of age.

3. Smoking, eating and drinking are prohibited in the body art procedure area.

4. All operators shall maintain a high degree of personal cleanliness, conform to hygienic practices, and wear clean clothes when performing body art procedures. Before performing a body art procedure, the operator must thoroughly wash his or her hands in hot running water with liquid soap, rinse hands and dry them with disposable paper towels and do so as often as necessary to remove contaminants.

5. All operators shall be vaccinated against the Hepatitis B virus.

6. All licensees shall have at least one person certified in CPR present during hours of operation.

7. In performing body art procedures, the operator shall wear disposable medical gloves. Gloves must be changed if they become contaminated by contact with any non-clean surface or object or by contact with a third person. The gloves shall be discarded, at a minimum, after the completion of each procedure on an individual client, and hands shall be washed before the next set of gloves is donned. The use of disposable medical gloves does not preclude or substitute for hand washing procedures. Under no circumstances shall a single pair of gloves be used on more than one person.

8. If, while performing a body art procedure, the operator's glove is pierced, torn, or otherwise contaminated, the procedure delineated in paragraph 7 shall be repeated immediately. The contaminated gloves shall be immediately

discarded, and the hands washed thoroughly before a fresh pair of gloves is donned. Any item or instrument used for body art that is contaminated during the procedure shall be discarded immediately and replaced with a new disposable item or a new sterilized instrument or item before the procedure resumes.

9. Waste that 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 must then be disposed of by a waste hauler approved by the fire department, environmental health division or, at a minimum, in compliance with 29 CFR Part 1910.1030, "Occupational Exposure to Blood-borne Pathogens". Sharps ready for disposal shall be disposed of in approved sharps containers. Contaminated waste that 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 normal, approved disposal methods. Storage of contaminated waste on site shall not exceed the period specified by the public health department, environmental health division or more than a maximum of 30 days, as specified in 29 CFR Part 1910.1030, whichever is less.

10. Any skin or mucosa surface receiving a body art procedure shall be free of rash or any visible infection.

11. The skin of the operator shall be free of rash or infection. Unless an impermeable cover such as a bandage, finger cot, and medical glove protects the lesion, no person or operator affected with boils, infected wounds, open sores, abrasions, weeping dermatological lesions or acute respiratory infection shall work in any area of a body art establishment in any capacity in which there is a likelihood that that person could contaminate body art equipment, supplies, or working surfaces with body substances or pathogenic organisms.

12. Written after-care instructions shall be provided to and reviewed with each client.

13. Ear piercing studs and clasps shall not be used anywhere on the body other than the non-cartilaginous perimeter and lobe of the ear.

(Ord. 5714, 04-28-09; Ord. 6156, 10-13-15; Ord. 6239, 12-13-16)

8-11-09. License Suspension or Revocation. Any license issued under the provisions of this chapter may be suspended or revoked by the board of health for a violation of the provisions of this chapter, after notice and an opportunity for a hearing.
(Ord. 4572, 01-04-94; Ord. 4891, 03-24-98; Ord. 5264, 07-08-03; Ord. 6239, 12-13-16)