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## Howell, MI, Code of Ordinances

### **ARTICLE 5** **BODY ART ESTABLISHMENTS**

#### **Section 5.01 Purpose and Intent.**

The intent of this Article is to safeguard the health, safety and welfare of the public from the spread of infectious diseases from practices which prick, pierce, or scar the skin, by regulating the operation of body art establishments in the City of Howell; to establish environmental health standards for the conduction of body arts procedure; to regulate the establishment and practice of body arts services; to authorize the City of Howell to enforce these standards and regulations by inspections; to require a license to operate a body art establishment; to require a permit, which requires the demonstration of knowledge in anatomy and body art technology, effective sterilization, sanitation, and hygienic and disease-controlling techniques, for individuals engaged in the practice of body art; and for providing licensing and permitting procedures and fees.

#### **Section 5.02 Authority.**

This Article is established by the City Council pursuant to Public Act 368 of the Public Acts of 1978, as amended.

#### **Section 5.03 Definitions.**

- a. **"Aftercare"** means written instructions given to the client, specific to the body art procedure(s) rendered, about caring for the body art and surrounding area. These instructions will include information about when to seek medical treatment, if necessary.
- b. **"Antiseptic"** means an agent that destroys disease-causing microorganisms on human skin or mucosa.
- c. **"Body Art"** means the practice of physical body adornment by licensed establishments and permitted practitioners utilizing, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding and scarification. It does not include practices or procedures which are considered to be medical procedures by the state medical board, such as hair or skin implants, or plastic surgery.
- d. **"Body art establishments"** means any place or premise, whether public or private, transient, temporary or permanent in nature or location where the practice of body art, whether or not for profit, is carried out.
- e. **"Body piercing"** means any method of piercing the skin or mucosa, except the ear, in order to place any object, including, but not limited to, rings, studs, bars, or other forms of jewelry or ornamentation, through the skin or mucosa.

- f. **"City"** shall mean the City of Howell.
- g. **"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; and 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 (latest edition), known as "Occupational Exposure to Blood-borne Pathogens."
- h. **"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, dermography, micro-pigmentation, permanent color technology and micro-pigment implantation.
- i. **"Disinfection"** means the killing of the microorganisms on inanimate objects or surfaces which cause disease in humans.
- j. **"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.
- k. **"Hand sink"** means a lavatory equipped with hot and cold running water under pressure used solely for washing hands, arms and other portions of the body.
- l. **"Hot water"** means water which is at a constant temperature of at least 100 degrees Fahrenheit.
- m. **"Instruments used for body art"** means hand pieces, needles, needle bars and other instruments that may come in contact with a client's body fluid during body art procedures.
- n. **"Invasive"** means entry into the body either by incision or insertion of an instrument into or through the skin or mucosa, or by any other means intended to compromise the skin or mucosa.
- o. **"Jewelry"** means any personal ornament inserted into a newly-pierced area, which must be made of surgical implant-grade stainless steel; solid 14k or 18k white or yellow gold, niobium, titanium, or platinum; or a dense, low-porosity plastic, which is free of nicks, scratches, or irregular surfaces and has been properly sterilized prior to use.
- p. **"License"** means written approval by the City of Howell to operate a body art establishment.
- q. **"Minor"** means an individual under 18 years of age who is not emancipated under Section 4 of Act no. 293 of the Public Acts of 1968, being Section 722.4 of the Michigan Compiled Laws.
- r. **"Operate/Operator"** means an individual who is self-employed and conducts his or her own body art establishment, or who is employed by another person to directly manage the day-to-day activities of a body art establishment.
- s. **"Permit"** means the permitting of individual practitioners engaged in the practice of body art, through the demonstration of knowledge by means of the successful completion of a written

examination, in anatomy and body art technology, effective sterilization, sanitation, and hygienic and disease-controlling techniques, the proper use of single-use sharps and apparatus, recognition of skin disorders and diseases and other diseases such as diabetes, which contraindicates the practice of body art, and procedures required to safely collect and dispose of contaminated waste.

- t. **"Person"** means a person as defined in MCL 333.1106 or a government entity.
- u. **"Practitioner"** means any person who controls, operates, manages, conducts, or practices body art activities, and who is responsible for compliance with these regulations whether or not actually currently performing body art activities. The term includes technicians and persons who assist in the actual performance of body art activities.
- v. **"Procedure surface"** means any surface that contacts a client's unclothed body during a body art procedure or any associated work area that may require sanitizing.
- w. **"Sanitize/Sanitization"** means a treatment of the cleanable surfaces of equipment by a product registered with the United States Environmental Protection Agency and which has been approved by the Livingston County Health Division as being effective in reducing the number of microorganisms to a safe level.
- x. **"Sharps"** means any sterilized object that is used for the purpose of penetrating the skin or mucosa including, but not limited to, needles, scalpel blades, razor blades, and broken glass.
- y. **"Sharps container"** means a puncture-resistant, leak-proof container that can be closed for handling, storage, transportation and disposal, and is labeled with the international "biohazard" symbol.
- z. **"Single use"** means products or items that are intended for one-time, one-person use and are disposed of after use on each client 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, stencil ink cups, and protective gloves.
- aa. **"Sterilize/Sterilization"** means destruction of all forms of microbotic life, including spores.
- bb. **"Tattooing"** means any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instruments used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This includes all forms of cosmetic tattooing.
- cc. **"Temporary body art establishment"** means any place or premise operating at a fixed location where a practitioner performs body art procedures for no more than fourteen (14) days consecutively in conjunction with a single event or celebration.
- dd. **"Universal precautions"** means a set of guidelines and controls, published by the Centers for Disease Control and Prevention (CDC), as "Guidelines for Prevention of Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Health-Care and Public Safety Workers" in *Morbidity and Mortality Weekly Report* (MMWR), June 23, 1989, Vol. 38, No. S-6, and as "Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures", in MMWR, July 12, 1991, Vol. 40, RR-8. This method of infection control requires the employer and employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV, and other blood pathogens. Precautions include hand

washing, gloving, personal protective equipment, injury prevention, and proper handling and disposal of needles, other sharp instruments, and blood and body fluid-contaminated products.

#### **Section 5.04 License Required.**

a. A person shall not operate a body art establishment without an annual license from the City. Every applicant for a license to maintain, operate or conduct a body art establishment shall file an application under oath with the City Clerk's office upon a form provided by the City and pay a nonrefundable application investigation fee. Such fee shall be set by resolution of City Council. The application shall contain the following information:

1. A description of services to be provided.
2. The location, mailing address and all telephone numbers for the body art establishment (s).
3. The name and permanent residence address of the applicant(s).
  - i. If the applicant is a corporation, the names and permanent residence addresses of each of the officers, directors and resident agents of said corporation and of each stockholder owning more than ten (10) percent of the stock of the corporation, the address of the corporation itself, if different from the address of the body art establishment, and the name and address of a resident agent in Livingston County, Michigan.
  - ii. If the applicant is a partnership, the names and permanent residence addresses of each of the partners and of the partnership itself, if different from the address of the body art establishment, and the name and address of a resident agent in Livingston County, Michigan.
4. The applicant's two (2) immediately preceding addresses.
5. Proof that each applicant is at least eighteen (18) years of age.
6. Copy of picture identification such as driver's license which bears a date of birth and photograph for each individual or partnership applicant(s), officers, directors, stockholders and resident agent.
7. One front face current portrait photograph of the applicant(s) at least two inches by two inches (2" x 2") and a complete set of applicant(s) fingerprints which shall be taken by the Howell City Police Chief or his/her agent. If the applicant is a corporation, one front face current portrait photograph at least two inches by two inches (2" x 2") of all officers and resident agents of said corporation and a complete set of the same officers', directors' and resident agents' fingerprints which shall be taken by the Howell City Police Chief or his/her agent. If the applicant is a partnership, one front-face current portrait photograph at least two inches by two inches (2" x 2") in size of each partner, including a limited partner in said partnership, and a complete set of each partner or limited partner's fingerprints which shall be taken by the Howell City Police Chief or his/her agents.
8. Business, occupation, or employment of the applicant(s) for the three (3) years immediately preceding the date of application.
9. The body art or similar business history of the applicant(s).

10. Statement of whether or not the applicant(s) has previously operating a body art establishment in this or another municipality or state;
11. Statement or whether or not the applicant(s) has had a business license of any kind revoked or suspended and the reason therefore;
12. All criminal convictions other than misdemeanor traffic violations not involving a controlled substance or alcohol, including the dates of conviction(s), nature of the crime(s) and court or tribunal.
13. The names, addresses, birth dates and drivers license numbers of each employee or independent contractor, who is or will be employed in said body art establishment.
14. The name, address, birth dates and driver's license number of each individual who will be a manager, acting manager or in charge of each facility.
15. The name and addresses or any body art establishment or other facility owned or operated by any person whose name is required to be given in subsection (c) wherein the business or profession of body art is carried on.
16. A description of any other business(es) to be operated on the same premises or on adjoining premises owned or controlled by the applicant(s).
17. Authorization for the City, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant(s) for the permit including a LEIN records check of all applicants, employees, officers, directors, resident agents or stockholders.
18. Such other identification and information necessary to discover the truth or the matters herein before specified as required to be set forth in the application.
19. The names, current addresses and written statements of at least three (3) bona fide permanent residents of the United States that the applicant is of good moral character. If the applicant is able, the statement must first be furnished from residents of the City of Howell, then the County of Livingston, then the State of Michigan and lastly from the rest of the United States. These references must be persons other than relatives and business associates.
20. Evidence of current valid General Liability Insurance with minimum limits of One Million (\$1,000,000.00) Dollars per occurrence, and Workers Compensation Insurance to comply with ail State of Michigan statutory requirements.

All information required by this section shall be provided at the applicant's expense. Upon the full completion of the application form and the furnishing of all foregoing information and documentation, the City shall accept the application for the necessary investigations. The holder of a body art establishment license shall notify the City of each change in any of the data required to be furnished by this section within ten (10) days after such change occurs.

The body art establishment license shall be conspicuously displayed within the reception area of the establishment. A license shall clearly indicate whom to contact or call with a complaint. A license is not transferable and shall not be issued or renewed before the full fee is paid, the premises, equipment, and operations of the establishment have been inspected, and the operator has complied with all inspection deficiencies.

- a. An operator of a licensed establishment shall not allow the practice of body art procedures until the City of Howell has determined that all body art practitioners practicing body art at the operator's establishment are individually permitted.
- b. A license may be revoked, suspended, or limited, or a license application denied, pursuant to the procedures set forth in Section 5.15, if after an inspection it is determined that an operator has failed to follow standard disease control techniques, or has failed to keep required records of services performed, or has provided services to an underage person without the required consent and presence of a parent or legal guardian.
- c. A person shall not operate a temporary establishment for the performance of body art procedures without a license from the City of Howell and the Livingston County Health Department. The City may issue a temporary establishment license for a period of up to fourteen (14) days to provide body art services outside the physical site of a licensed establishment for the purpose of product demonstration and promotion, industry trades shows, or for educational purposes.
- d. A person shall not operate a mobile body art establishment within the City of Howell. The City shall not license the use of mobile body art establishments.
- e. A person whose license to operate a body art facility has been revoked, suspended, or limited, or a person whose license application has been denied, has the right to appeal to the City Council. A request for an appeal must be in writing, accompanied by the prescribed fee, and submitted to the City Council within ten (10) days of the City's action. The City Council may uphold, reverse or alter the action by a majority vote.
- f. The license, permit, plan review, and hearing fee shall be set by the resolution of the City Council.

### **Section 5.05 Inspection of Body Art Facilities.**

- a. The Howell City Police Chief, or his/her designee, shall have the authority to inspect every premise and location at which the aforesaid practice is being carried on as often as deemed necessary for the enforcement of this Chapter. The Howell City Police Chief, or his/her designee, may at any reasonable time, make inspections of the body art facility to ensure compliance with this Chapter. All body art facilities within the City of Howell shall be inspected a minimum of two (2) times per year by the Director of Public Services, or his/her designee.
- b. No person shall refuse to permit the Howell City Police Chief, or his/her designee, after proper identification, to inspect any body art facility at reasonable hours nor shall any person impede or impair a City representative from carrying out his or her duties as authorized under this Article.

### **Section 5.06 Plan Review Requirement.**

- a. After the effective date of this Article, no person, firm, association, corporation, or governmental entity shall construct, install, operate, equip, or extensively alter a body art facility until plans have been submitted to, and approved in writing by, the Building Official, or his/her designee.

b. The plans and specifications shall be submitted through the plan review process for approval by the Building Official, or his/her designee, on forms provided by the City. The plan and specifications shall comply with the criteria established for the plan review before a license is issued.

### **Section 5.07 Practitioner Permit Required.**

a. The practice of body art shall not be performed without a permit from the Livingston County Health Division and the City of Howell. The permit shall be conspicuously displayed within the reception area of any establishment in which body art is performed. The City shall issue practitioner permits to individuals who have paid the required permitting fee, met the requirements of this Article, and who have successfully passed a written examination offered by the Livingston County Health Division which demonstrates the practitioner is knowledgeable and proficient in:

1. Anatomy and body art technology.
2. Effective sterilization, sanitization, and hygienic techniques: use of single-use sharps and apparatus; and other related disease-control techniques.
3. The discovery and recognition of skin disorders and disease, and other diseases such as diabetes, which contraindicate the practice of body art.
4. Procedures required to safely collect and dispose of contaminated waste. The City may accept other certification or credentials it deems acceptable in lieu of the written examination.

b. All practitioners permitted under this Article need to complete a Hepatitis B vaccination series, or have medical evidence of immunity, or have an approved medical waiver. Exceptions for other reasons will be considered upon written submission to the City.

c. A permit may be revoked, suspended, or limited, or a license application denied, pursuant to the procedures set forth in Section 5.15, if an inspection determines that a practitioner has failed to follow standard disease control techniques, or has failed to keep required records of services performed, or has provided services to an underage person without the required written consent and presence of the parent or guardian.

### **Section 5.08 Body Art Prohibitions.**

a. A practitioner shall not perform a body art procedure upon a person who is under the age of eighteen (18) without the written consent and presence of a parent or legal guardian of that minor, except a minor emancipated under the laws of the State of Michigan. A practitioner shall require positive proof of age from all prospective clients who reasonably appear to be less than twenty-five (25) years of age, such as driver's license or equivalent photo identification card, and shall make and keep a photocopy of that proof of age as part of the permanent client record.

b. A practitioner shall not perform a body art procedure upon any person who appears to be under the influence of alcohol or other drugs.

c. A practitioner shall not perform a body art procedure upon a person who has not completed a medical screening questionnaire. This questionnaire shall ask whether the client falls within

one or more of the following risk group categories. To protect confidentiality, a client shall not be asked to specify the risk group.

1. History of jaundice or hepatitis.
  2. History of AIDS, or positive HIV test.
  3. History of skin disease or skin cancer at site of service.
  4. History of allergies or anaphylactic reaction to pigments, dyes or other sensitivities.
  5. History of Hemophilia.
  6. Is taking medications which thin blood and prevent clotting.
  7. History of any other known medical condition which would influence or impair the healing process.
- d. The client shall sign and date a written statement, witnessed and also signed by the practitioner, that the client does/does not fall within one of the risk group categories to the client's best knowledge.

### **Section 5.09 Exemptions.**

- a. Physicians licensed to practice in the State of Michigan, who use body art procedures as part of patient treatment, are exempt from these regulations.
- b. An establishment where the practice is limited to the piercing of the outer perimeter and lobe of the ear with a pre-sterilized, single use, stud-and-clasp ear-piercing system only is exempt from the licensing and permitting requirements of this article.

### **Section 5.10 Client Notice Requirements.**

- a. Before performing any body art procedure, a prospective client shall be provided with a written factual information regarding the effects, risks, and permanence of that body art procedure. This written information shall first be submitted for approval by the Livingston County Health Division and the City as to the accuracy and completeness. Before undertaking a procedure, a client shall acknowledge on a copy of the written information, that he or she has read and understands the information, and this copy shall be retained in the permanent file for that client.
- b. After a procedure is completed, a client shall also be provided with written instructions, also pre-approved by the Livingston County Health Division and the City, on proper care of the body art site. These instructions, known as aftercare, shall, at a minimum, advise the client to consult a physician at the first sign of infection; shall contain the name, address and telephone number of the establishment; and shall name the Livingston County Health Division and the City and the telephone numbers to which to make a complaint. If tattooing was performed, this document shall also specify the colors applied and, when available, the manufacturer or catalogue identification number of each color applied. This document shall be executed in at least two (2) copies and signed by both the practitioner and the client. A copy shall be provided to the client and another shall be retained in the permanent record.

### **Section 5.11 Required Records.**

a. An establishment shall maintain a record of all clients who have had body art services performed. This record shall indicate the name, address, telephone number, and date of birth of the client; a signed and dated acknowledgment by the client that they understand the pre-procedure information; a medical screening questionnaire signed and dated by the client; a description of procedures performed, and name of each practitioner performing the services; proof of age, where relevant; proof of parent or guardian consent and presence, where relevant; and a receipt signed and dated by the client acknowledging they have received a copy of the aftercare instruction and pigment identification.

b. These records shall be retained for at least five (5) years by the owner of the establishment. These records shall be made available to the Livingston County Health Division and City representatives immediately upon request, but shall otherwise be maintained in confidence.

### **Section 5.12 Standards for Premises.**

A body art establishment shall meet the inspection criteria and standard operating procedures established by the Livingston County Health Division.

### **Section 5.13 Required Procedures for Preparing Body Area.**

a. Before performing a procedure, the skin of and surrounding the area where the procedure is to be performed, shall be washed with antimicrobial soap or treated with iodine, as appropriate.

b. If shaving of the area is necessary, safety razors with single-use blades, or disposable razors, shall be used and discarded after each use. If safety razors with disposable blades are used, the reusable holder shall be autoclaved after each use. After shaving, the shaved area shall be washed with antimicrobial soap and the washing pad shall be discarded after a single use.

c. In the event of blood flow, all products used to check the flow or to absorb the blood shall be single-use and shall be disposed as bio-hazard waste.

### **Section 5.14 Required Procedures for Performing Body Art.**

a. A practitioner shall maintain a high degree of personal cleanliness, conform to hygienic practices and wear clean clothing when performing body art procedures. Before performing procedures, a practitioner shall thoroughly wash hands in hot running water using liquid antimicrobial soap, scrubbing for at least one (1) minute, then rinse and dry hands with disposable paper towels. This procedure shall be repeated as often as needed to remove contaminants.

b. While performing procedures, a practitioner shall wear disposable medical gloves. The gloves shall be disposed, at a minimum, after each client.

c. If, while performing a procedure, a glove is pierced, torn, or otherwise contaminated, the glove shall be immediately discarded and hands washed thoroughly before a new glove is applied. Any item dropped on the floor or otherwise contaminated shall be immediately discarded and a new one used.

- d. All reusable instruments used for body art shall be cleaned thoroughly after each use by scrubbing with an antimicrobial soap solution and hot water or by an appropriate disinfectant, to remove blood and tissue residue and placed in an ultrasonic unit which shall be operated in accord with the manufacturer's instructions.
- e. After cleaning, all reusable instruments used for body art shall be packed individually in paper peel-packs and sterilized. All paper peel-packs shall be dated with an expiration date not to exceed thirty (30) days. Sterile equipment shall not be used after the expiration date without first re-packaging and re-sterilizing.
- f. All reusable instruments used for body art shall be sterilized in an autoclave using procedures outlined in the inspection criteria approved by the Livingston County Health Division. The autoclave shall be used, cleaned, and maintained in accordance with the manufacturer's instructions. A copy of the manufacturer's instructions must be kept available on the premises for inspection by the Livingston County Health Division and the City of Howell.
- g. Each holder of a license to operate a body art establishment shall demonstrate that the autoclave used is capable of attaining sterilization by conducting a monthly spore test through an independent certified laboratory. The license shall not be issued or renewed until documentation of satisfactory testing is presented to the Livingston County Health Division and the City of Howell. Test records shall be kept for at least five (5) years by the establishment owner and made available to the City upon request. If the body art facility is notified by the testing entity that a test result is positive for biologic growth, the body art facility shall immediately cease all operations and notify the Livingston County Health Division. Operations in the body art facility cannot resume until test results that are negative for biologic growth have been provided to the Livingston County Division and the City of Howell by the testing entity and all reusable instruments in the body art facility have been re-sterilized.
- h. After sterilization, an instrument used for body art shall be stored in a dry, clean cabinet or other tightly covered container reserved for storage of only such instruments.
- i. All instruments used for body art shall remain stored in sterile packages until immediately prior to performing a body art procedure. When assembling instruments used for performing a body art procedure, a practitioner shall wear disposable medical gloves and use techniques to ensure that the instruments and gloves are not contaminated.
- j. All inks, dyes, pigments and sharps shall be specifically manufactured for performing body art procedures and shall not be adulterated. Immediately before applying a tattoo, the quantity of dye to be used for the tattoo shall be transferred from the dry bottle and placed into sterile single-use paper or plastic cups. Upon completion of the tattoo, these single-use cups and all of their contents shall be discarded.
- k. All sharps shall be sterilized prior to use and stored in paper peel-packs in the manner prescribed above.
- l. Single-use sharps shall not be used for more than one (1) client for any reason. After use, all single-use needles, razors and other sharps shall be immediately disposed in an approved sharps container.
- m. All body art stencils shall be single-use and disposable. Petroleum jellies, soaps and other products used in the applications of stencils shall be dispensed and applied to 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.

### **Section 5.15 Suspension or Revocation of Licenses or Permits.**

a. A license or permit issued under this Article may be suspended temporarily by the City of Howell for failure of the holder to comply with one or more requirements of this Chapter.

b. If a license or permit is to be suspended, the City of Howell shall give the holder prompt notice and the suspension shall occur immediately upon receipt of the notice.

c. If a license or permit is suspended, the holder may apply at any time for immediate reinstatement of the license.

d. After a re-inspection fee is paid, the City of Howell shall respond promptly and in no more than fourteen (14) working days to a request for reinstatement. If re-inspection determines that the holder has come into compliance with this Chapter, the license shall be promptly reinstated.

e. For serious or repeated violations of the requirements of this Article, the City of Howell may revoke a license or permit. Before issuing a permanent revocation, the City shall give notice to the holder in writing of its intent and the reasons for revocation. A person who has been denied or had a license or permit revoked as required by this Chapter, shall have the right of appeal by petition in writing to the City Clerk and such appeals shall be heard before the City Council pursuant to Section 3.13 of this Chapter.