

AN ORDINANCE TO REGULATE TATTOOING AND BODY PIERCING PARLORS,
TATTOOISTS AND BODY PIERCERS WITHIN THE BOROUGH OF FAIR LAWN

WHEREAS, the Fair Lawn Department of Health and Human Services, having general jurisdiction under N.J.S.A. 26:32-8, to adopt health ordinances for the control of disease and the improvement of the health of its citizens; and

WHEREAS, N.J.S.A. 26: 3-64 and N.J.S.A.26: 1A-9 authorizes the Health Department to regulate tattoo parlors, tattooists and body piercers within the geographical boundaries of the Borough of Fair Lawn; and

WHEREAS, there is a need for the regulation of tattoo parlors, tattooists and body piercers in order to establish standards of operation which serve to promote the public's health and welfare,

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF FAIR LAWN AS FOLLOWS:

SECTION ONE: Chapter XIII, entitled "Health" is hereby amended and supplemented by the addition of the following section:

23-9.1 Regulations and Inspection Fees for Tattooing and Body Piercing Parlors

Section I. Definitions

A. The term "health officer" shall mean the Fair Lawn Borough Health Officer or his/her authorized representative

B. The term "certificate of inspection" shall mean written approval from the health officer or his/her authorized representative that said tattooing or body piercing establishment has been inspected and meets all of the terms of this ordinance.

C. The term "operator" shall mean any individual, firm, company, corporation, or association that owns or operates an establishment where tattooing or body piercing is performed, and any individual who performs or practices the art of tattooing on the person of another.

D. The terms "tattoo," "tattooed," or "tattooing" refers to any method of placing designs, letters, scrolls, figures, symbols or any marks under the skin with ink or any other substance resulting in the coloration of the skin, by the aid of needles or any other instruments designed to puncture the skin.

E. The terms "body piercing" refers to the piercing of any portion of the human body for placement of any type of jewelry or any other ornamentation, other than ear lobe piercing.

F. The term "establishment" means the premises wherein tattooing or body piercing is performed.

G. A "tattoo artist" is one who engages in tattooing.

H. A "body piercer" is one who engages in body piercing

I. "Sanitize" means a bacterial treatment of cleaned surfaces by a process which is effective in reducing the number of microorganisms to a safe level.

J. "Sterilization" means destruction of all forms of micro biotic life, including spores, through the use of a steam sterilizer or autoclave.

K. "Single use" means products or items that 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 covering, razors, needles, scalpel blades, stencils and ink cups.

L. The term "personal identification" shall mean a document or other written or memorialized instrument setting forth the presenter's true name, address, correct age, or other identifying data, examples of which include but are not limited to driver's license, credit card issued by a national company, birth certificate, passport, employment identification card, or any instrument issued by a governmental agency setting forth the pertinent and required information.

Section II Licensing Regulations:

A. It shall be unlawful for any operator to engage in the business of operating an establishment where tattooing or body piercing is performed without first obtaining a license from the Fair Lawn Health Department to engage in such business in accordance with the provisions hereof.

B. An application for an initial license shall be made to the Health Department of the Borough of Fair Lawn accompanied by a fee in the amount of Two Hundred and No/100 (\$200.00) DOLLARS.

1. Application for licenses under this Article shall be made to the Fair Lawn Health Department, in writing, upon such printed forms as the Fair Lawn Health Department shall prescribe and prepare. Such forms as the Board of Health shall prescribe and prepare may be obtained from the Fair Lawn Health Department and shall be signed by the applicant under oath and shall contain

the following information:

a. If an individual, the full name, age, sex, residence address at the time of application.

b. If a corporation, the full corporate name, the date and the state of incorporation, address of the place or places of business, the name and address of the registered agent, and the name, address and age of any principal owning more than 10 per cent (10%) of the stock.

c. If a partnership, the information required by Subsection 1(a) above for each partner and the name under which the business is being conducted.

d. The apprenticeship, training and/or business experience of the applicant in the business or occupation for which the license is sought.

e. The length of time that the applicant has engaged in such business or occupation.

f. Whether the applicant carries public liability insurance, and, if so, the amount of said coverage and the company providing such liability insurance.

g. Name, address and age of every tattoo artist and/or body piercer to be initially employed to conduct the service. This shall be a continuing obligation for licenses to update once a year the list of tattoo artists and/or body piercers employed by the establishment.

h. State the date upon which Construction Official has approved the location for business.

C. No ownership rights in any license or renewal thereof granted under the provisions of this Article shall be assignable or transferable without the permission of the Health Department whose permission shall not be unreasonably withheld. Any change of ownership shall require a new application and license with payment of fees.

D. The renewal license fee for engaging in the business of operating an establishment subject to this Ordinance within the Borough of Fair Lawn shall be One Hundred and No/100 (\$100.00) Dollars per year. All licenses shall expire on the last day of each calendar year. The first license expiration date for renewal shall be December 31, 2000. All applications for renewal must be presented to the Health Department in writing on a form prescribed by the Health Department, within thirty (30) days of the end of the calendar year.

E. All establishments existing at the time of the enactment of this Ordinance will be considered renewal applications provided that they apply for renewal of said license within one (1) month after the effective date of this Ordinance. Establishments failing to apply within the specified time period will be considered new applicants and will be subject to the provision of Subsection B of this section.

F. If renovations of the tattoo or body piercing establishment occur, plans must be submitted to the Fair Lawn Health Department and the applicant will be required to comply with Section IV herein, as well as all other applicable codes, regulations or laws.

G. In the event that an applicant fails to qualify for a license under this Article, the fee herein shall not be refunded.

H. The license issued pursuant to this section shall be posted conspicuously in the place of business or location named therein.

I. All establishments shall manage contaminated (body fluids) contact waste materials as medical waste pursuant to N.J.A.C. 7:26-A.8. All establishments shall be licensed with the State of New Jersey as a medical waste generator, pursuant to N.J.A.C. 7:26-A.8, prior to approval from the Fair Lawn Health Department.

Section III General Provisions:

A. It shall be a violation of this Ordinance for anyone or any tattoo or body piercing business to tattoo or body pierce any individual under 18 years of age without authorization signed by the parent or legal guardian, witnessed and attested to by a notary public. The operator shall be responsible for maintaining the original consent form and copies of all consent information for a period of two (2) years beyond the recipient's eighteenth (18th) birthday. The operator shall obtain a copy of a two forms of personal identification of such individual being tattooed and/or pierced.

B. Each person wishing to receive a tattoo or body piercing must first sign a consent form presented by the operator the content of which has been approved by the Fair Lawn Health Department. This form shall commence with the following statement: "I swear, certify or affirm under the penalties of false swearing or perjury the following information." The consent form shall contain language above the applicant's signature which shall read, "I have read and understand the contents of this form, and acknowledge that an operator of the above-named tattoo and/or body piercing establishment has reviewed the same with me. I have presented to the operator the

following forms of identification which I represent, warrant and guarantee are truthful and correct and are identification that relates to me. I further represent that I am an adult over the age of 18, and am not currently intoxicated or under the influence of any narcotic substance, and make this statement entirely of my own free will and sound mind." The form shall also include a signature line for the operator above which the following language shall appear: "I have reviewed the language of this form with the applicant who has represented to me that he/she fully understands the contents of same, and that the information provided is truthful, in addition, I have reviewed the documentation presented by the applicant with respect to his/her age." If the applicant appears to be visibly intoxicated or disoriented, the operator must refuse the applicant.

C. All records regarding tattoos or body piercing are to be maintained for a minimum of two (2) years. Information required for each applicant referred to in Section III, B. is to include the name, age, date of birth, health history including allergies and medical conditions, home address and telephone numbers of the applicant as well as the name of the person who did the tattoo or body piercing, the design, location and the date of the tattoo or type of body piercing done.

Section IV. Sanitary Requirements, Design and Layout Specification

A. Each tattoo or body piercing facility shall have a bathroom accessible to the public and staff, and a stainless steel sink in a separately designated sterilization room which is to be used by staff only as required by paragraph I of this section (IV). The sink in the sterilization room shall be connected to hot and cold running water. Each bathroom shall be equipped with a commode and a sink, with the sink being connected to hot and cold running water. Soap and sanitary towels, or other approved hand drying devices, shall be available at the sink in the bathroom(s) and sterilization room at all times. Common towels are prohibited. Employee Hand washing Signs shall be posted in each bathroom and sterilization room. There shall be no door requiring the use of a tattoo artist/body piercer's hand in going from a hand-washing area to a work area.

B. The chair or seat reserved for the person receiving the tattoo or body piercing shall be a material that is smooth and easily cleanable and constructed of material that is non-absorbent. Any surface on the chair that becomes exposed to blood or body fluids must be cleaned and sanitized prior to use by the next customer.

C. The work table or counter used by the tattoo artist or body piercer shall be smooth and easily cleanable and constructed of material that is non-absorbent. There shall be a non

permeable juncture between a table/counter and a wall if the table/counter is to be placed against a wall. This table/counter must be cleaned and sanitized (utilizing a method approved by the Fair Lawn Health Department) between customers.

D. The walls in the tattooing or body piercing area shall be smooth and easily cleanable and constructed of a non-absorbent material.

E. The floor in the tattooing or body piercing area shall be of durable material that is non-absorbent and is smooth and easily cleanable. Floors shall be kept clean.

F. Lighting within the tattoo or body piercing area shall be adequate so as to provide a minimum of 100 foot candles in all areas. Such illumination shall be reasonable free from glare and distributed to avoid shadows.

G. Each establishment must contain at least one enclosed "privacy room" so as to protect the confidentiality of the applicant, and revelation of the service provided. The privacy room must be used when tattooing or body piercing is to be performed on either female breasts, or the buttocks or groin areas of males or females. The privacy room shall have a swinging type door for ingress and egress, and be separated from other areas of the establishment by either walls or durable partitions, or other materials able to be sanitized, extending at least six (6) feet in height and so designed to prevent visual observation of the customer and the tattoo artist from any other area by any persons other than the customer and the tattoo artist or body piercer.

H. Any surfaces in the establishment that become exposed to blood or body fluids must be cleaned and sanitized, utilizing a method approved by the Fair Lawn Health Department.

I. Cleaning, disinfection and sterilization activities must be conducted in a physically separate work area. This area should have a clearly defined work pattern from soiled to clean in order to prevent cross-contamination. All sterile equipment must be stored in enclosed cabinets outside of the processing room. All containers, regardless of size, must be clearly marked with the name of the product.

J. Proper waste receptacles shall be provided and waste shall be disposed of at appropriate intervals.

K. The use of tobacco in any form in the establishment is prohibited.

L. The consumption of food or drink shall be prohibited in the tattoo/body piercing work areas of the parlor.

M. Only articles considered necessary for the routine and customary operation and maintenance of the tattoo/body piercing business shall be permitted in the tattoo or body piercing establishment.

N. No live bird, turtle, snake, dog, cat or other animal shall be permitted in any area used for the conduct of tattooing and/or body piercing operations or in the immediate open, adjacent areas including the main waiting area and the public access to the toilet room, with the exception of animals utilized for the assistance of the blind and/or deaf.

O. Effective measures shall be taken to protect the entrance into the parlor and the breeding or presence on the premises of insects and rodents.

1) Anyone using pesticides must be certified by the State of New Jersey for application of same.

2) The use of pesticides shall not result in the contamination of dyes, inks, ink reservoirs, needles, jewelry or gloves or any equipment used in connection with the operation.

P. Proper ventilation and exhaust will be provided.

Section V. Regulation of Tattoo or Body Piercing Parlors:

1. Tattoo Artist or Body Piercer/Operator Certificate:

(1) No person shall practice the art of tattooing or body piercing within the Borough of Fair Lawn without first obtaining a certificate from the Department.

(2) All certificates shall automatically expire on December 31 annually.

(3) No certificate to practice the art of tattooing or body piercing shall be issued unless:

(a) the applicant furnishes proof of having previously held such a certificate, or

(b) the applicant furnishes proof of having practiced the art of tattooing or body piercing as a full-time occupation, which may take the form of a letter from a tattoo and/or body piercing establishment representing that the applicant is/was employed by said establishment as a tattoo artist or body piercer, or that the applicant presently operates or had in the past operated a tattoo or body piercing establishment, or had in the past or presently maintains an ownership interest in a business, partnership or corporation which operates or operated a

tattoo or body piercing establishment, and

(c) the applicant furnishes proof of having attended Blood borne pathogen training which includes principles of disinfection and sterilization. Compliance with this paragraph will be waived for guest tattoo artists retained by the establishment so long as the customer upon whom the guest tattoo artist is to provide the service is provided with prior written notice that the guest tattoo artist has not attended blood borne pathogen training including principles of disinfection and sterilization, and

(d) Proof of Hepatitis B pre-exposure vaccination or proof of immunity is recommended for all tattoo artists or body piercers. Notwithstanding the foregoing, all tattoo artists or body piercers shall provide the Fair Lawn Health Department with one of the following: (1) Proof of Hepatitis B pre-exposure vaccination or proof of immunity, or (2) A letter or statement from a physician certifying that the individual does not have Hepatitis B and the vaccination is contraindicated, or (3) A written statement or letter signed by the tattoo artist or body piercer declining to provide the information sought in the immediately preceding subsections (1) or (2).

The operator shall develop operating guidelines, in accordance with the CDC and OSHA, that will reduce the likelihood of accidental needle sticks and establish a monitoring system for those person(s) accidentally stuck by a needle. The guidelines shall be submitted to the Fair Lawn Health Department for approval prior to the issuance of a license and subsequent renewals of license, and

(e) the applicant pays the initial and annual certificate fee of \$25.00 (twenty-five dollars).

(4) Each application for a certificate shall set forth:

- (a) the name and address of the applicant;
- (b) a physical description of the premises where tattooing/body piercing is to be done;
- (c) such other information as the Department may require.

(5) Certificates shall be issued unless, the Fair Lawn Health Department demonstrates that the tattoo/body piercing operator has failed to comply with the provisions of this Section after being afforded reasonable opportunity to cure any deficiencies found in its application.

(6) All certificates shall be conditioned upon continued compliance with the provisions of this Section as well as other applicable provisions.

(7) The certificate shall be posted in a prominent and conspicuous area where it may be readily observed by patrons

The operator of a tattoo/body piercing establishment shall submit a written aftercare plan to the Fair Lawn Health Department. Body piercing establishments will submit an aftercare plan specific to each body site intended to pierce.

A. Before working on each patron, each tattoo artist or body piercer shall scrub and wash his/her hands thoroughly with hot water and antiseptic soap. Fingernails shall be kept clean and short.

B. Disposable vinyl or latex gloves shall be worn by the tattoo artist or body piercer during tattoo preparation and application to prevent contact with blood or body fluids. Universal precautions described by the Centers for Disease Control and Prevention (CDC) shall be followed. All materials shall be disposed of in accordance with Section V.5 of this Ordinance after contact with each patron. Hands shall be washed immediately after removal of gloves. Any skin surface that has contact with blood shall be washed immediately.

C. Immediately after tattooing or body piercing a patron, the tattooist or body piercer shall advise the patron on the care of the tattoo or body piercing in a written form and shall instruct the patron to consult a physician at the first sign of infection of the tattoo or body piercing. Printed instructions regarding these points shall be given to each patron.

D. All medically diagnosed infections resulting from the practice of tattooing or body piercing which become known to the operator shall be promptly reported to the Health Officer by the person owning or operating the tattoo or body piercing establishment or by the tattoo artist or body piercer within 24 hours.

E. Employee Health

(1) The establishment shall comply with all the current OSHA requirements applicable to its operation.

(2) No person affected with infected wounds, open and infected sores, and acute respiratory infection shall work in any area of a tattoo or body piercing establishment in any capacity in which there is a likelihood of contaminating tattoo or body piercing equipment, supplies or work surfaces.

2. Skin Preparation

A. Tattooing or body piercing shall be done only on normal, healthy skin surface that is free of moles or infection.

B. Only safety razors with disposable blades shall be used for the skin preparation. Blades shall be disposed of according to Section V.5 of this Ordinance after each use and new blades shall be used for each patron.

C. Following shaving, the area shall be thoroughly cleansed and scrubbed with tincture of green soap or its equivalent and warm water. Before placing the design or body piercing on the patron's skin, the area shall be treated with 70% alcohol and allowed to air dry.

Piercing of mucous membranes (i.e., oral, nasal, vaginal, etc.) shall be treated with an industry-appropriate and medically indicated antiseptic solution prior to the procedure.

D. Only petroleum jelly (U.S.A. or National Formulary) or antiseptic ointment shall be applied to the tattoo area prior to tattooing or body piercing. The ointment shall be applied in a sanitary manner, disposing of the utensil after spreading. Collapsible tubes of ointment or jelly may also be used.

3 Tattooing or Body Piercing

A. The use of single service hectographic stencils shall be required for applying a tattoo outline to the skin. Multi-use stencils shall be prohibited.

B. Only non-toxic dyes or pigments may be used. Pre-mixed sterile materials are preferred. Pre-mixed dyes shall be used without adulteration of the manufacturer's original formula. The Operator shall represent to the Fair Lawn Health Department, at the time of license application and renewal, that to the best of his/her knowledge the dyes and pigments used in tattoo applications are of non-toxic origins and shall submit supporting documentation on same. The operator shall also present to the Fair Lawn Health Department labels or manufacturer's data sheets relating to dyes and pigments or such other written documentation as is applicable to the dyes and pigments that they are non-toxic or non-hazardous to human health.

C. Single service or individual containers of dye or ink shall be used for each patron and the container disposed of immediately after completing work on each patron.

D. The completed tattoo shall be washed with sterile gauze or single use paper tissue and a solution of tincture of green soap or its equivalent, then disinfected with 70% alcohol. The area shall be allowed to air dry and antiseptic ointment shall be applied and spread with sterile gauze and sterile dressing attached.

E. Upon completion of piercing or the mucous membranes, the area shall be disinfected with the industry-appropriate and medically indicated solutions.

4. Needles, Instruments and Dyes

A. Only single service sterilized needles and needle bars shall be used for each patron.

B. If solder is used in manufacturing needles, needle bars or needle tubes, it must be free of lead.

C. Any needle that penetrates the skin of the tattoo artist or body piercer shall be immediately disposed of in accordance with Section V5 of this Ordinance.

D. Needle tubes shall be ultrasonically cleaned in a solution which isalconox or its equivalent, then scrubbed with a clean brush, then rinsed clean. Needle tubes shall be sterilized in accordance with Section V.4E, stored in sterile bags and maintained in a dry, closed area.

E. Each item to be sterilized shall be individually wrapped using chemical indicator bags or chemical indicator strips. Sterilization shall be by steam sterilization / autoclave. The autoclave shall be well maintained with a tight fitting gasket and clean interior. The manufacturer's operating instructions and sterilization specifications shall be at hand. The sterilizer shall conform to the manufacturer's specifications with regard to temperature, pressure and time of sterilization cycle. Proper functioning of sterilization cycles shall be verified by the monthly use of biologic indicators (i.e., spore tests). A record of these monthly test results shall be available, and a test may be required to be done during any inspections. Establishments are required to maintain an autoclave on site, with a minimum interior chamber that is no less than 7" in diameter and 15" in depth.

F. If the primary source of sterilization malfunctions, the Fair Lawn Health Department shall be notified no later than 4 hours after the deficiency. In an emergent situation, the Fair Lawn Health Department may approve alternate sterilization techniques.

G. Needles and bars shall not be bent or broken prior to disposal. Tattoo artists or body piercers shall take precautions to prevent injuries from contaminated needles or tubes.

H. All dyes and inks shall be from a source of supply which complies with applicable U.S. Food and Drug Administration regulations when available. Dyes and inks are to be used in accordance with the manufacturer's directions and are not to be

adulterated with any substance not recommended by the manufacturer.

Immediately before applying a tattoo, the quantity of dye to be used for the tattoo shall be transferred from the dye bottles and placed into sterile, single-use paper cups or plastic caps. Upon completion of the tattoo, these single use cups or caps and their contents shall be discarded.

Excess dye or ink shall be removed from the skin with a single service wiping tissue or sterile gauze which shall be discarded after each use.

5. Disposal of Waste

All used needles, needle bars or other disposable tools used in the tattooing process, as well as gloves, gauze and other materials saturated with blood or body fluids, shall be removed through the use of a licensed medical waste hauler.

Section VI. Prohibitions

Temporary Tattoo/Body Piercing establishments are prohibited.

Section VII. Penalty Provisions:

A. Any person or entity who or which violates any section of this ordinance shall be subject to the following penalty: A fine not to exceed \$1,000; imprisonment not to exceed 90 days in the county jail; community service not to exceed 90 days or any combination thereof in the discretion of the Municipal Court Judge. Each day that the violation exists is considered to be a separate offense.

B. After due notice and hearing the Health Department may suspend or revoke any license issued under this Ordinance for violation of the provisions of this Ordinance.

Section VII. Inconsistency

Any Ordinance or parts of an Ordinance inconsistent with the provisions of this Ordinance are hereby repealed.

Section VIII. Invalidity

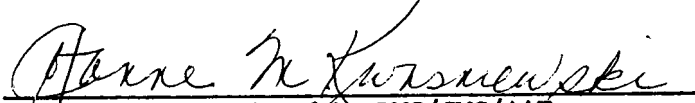
Each section of this Ordinance and every subsection hereof shall be deemed independent, separate and distinct from all other sections, and the holding of any section or a part hereof to be unconstitutional, void, or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or part hereof.

Section IX. Effective Date

The Ordinance shall take effect immediately upon final passage publication according to law.

Attest:

Approved:

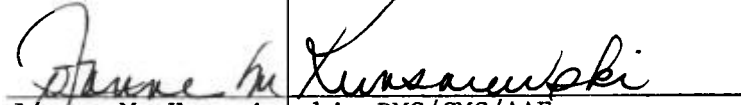

Joanne M. Kwasniewski, RMC/CMC/AAE
Municipal Clerk



David L. Ganz
Mayor

Introduced: May 9, 2000
Seconded: May 23, 2000

I, Joanne M. Kwasniewski, RMC/CMC/AAE, Municipal Clerk of the Borough of Fair Lawn do hereby certify that the within Ordinance No. 1800-2000 was adopted by the Borough Council at their meeting on May 23, 2000.


Joanne M. Kwasniewski, RMC/CMC/AAE
Municipal Clerk