

ORDINANCE NO. 2018-4

AN ORDINANCE AMENDING CHAPTER 14, ARTICLE IV TO BE CONSISTENT WITH STATE-WIDE LEGISLATIVE UPDATES FOR BODY ART REGULATIONS AND TO ALLOW MICRODERMAL PIERCING OF ADULTS CONSISTENT WITH STATE STATUTE.

The City Council of the City of Bloomington hereby ordains:

Section 1. That Chapter 14 of the City Code is hereby amended by deleting those words that are in ~~strike through~~ font contained in brackets [] and adding those words that are underlined, to read as follows:

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**CHAPTER 14
LICENSES AND PERMITS**

* * *

ARTICLE IV: BUSINESS LICENSES AND REGULATIONS

* * *

DIVISION T: BODY ART ESTABLISHMENTS

§ 14.376 GENERAL PROVISIONS.

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(d) *Prohibitions.* No person shall:

- (1) Conduct branding, cutting, subdermal implantation, [~~microdermal,~~]suspension, tongue bifurcation or scarification of another person;
- (2) Tattoo a minor;
- (3) Pierce or tattoo the genitalia or nipples of a minor;
- (4) Microdermal pierce a minor;
- (5) Practice tattooing or piercing while under the influence of alcohol, controlled substances as defined in M.S. § 152.01, subd. 4, as it may be amended from time to time, or hazardous substances as defined in the rules adopted under M.S. Chapter 182, as it may be amended from time to time; or
- (~~5~~) Operate a body art establishment or perform body art procedures as described in this Division T without a license.

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§ 14.378 LICENSE AND REGISTRATION REQUIRED.

No person shall own or operate a body art establishment without a body art establishment license, nor shall any person perform body art procedures or engage in any enterprises described in § 14.376 of this Division T, unless a technician registration has been obtained. Licenses and registrations must be prominently displayed in a public area of the establishment.

The following individuals may perform body art procedures within the scope of their practice without a technician's license: a physician licensed under Minnesota Statutes, chapter 147, a nurse licensed under Minnesota Statutes, sections 148.171 to 148.285, a chiropractor licensed under Minnesota Statutes, chapter 148, a physician's assistant licensed under Minnesota Statutes, chapter 147A, a dental professional licensed under Minnesota Statutes, chapter 150A, an acupuncturist licensed under chapter 147B, or a guest artist operating in accordance with the requirements of § 14.379.

§ 14.379 ESTABLISHMENT LICENSE APPLICATION.

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(e) *Technician registration application.* An application for a body art technician registration shall be made on a form supplied by the issuing authority and shall request the following information:

* * *

- (10) Current proof of successful completion in the year preceding application of an approved five hour course on bloodborne pathogens and prevention of disease transmission. Courses considered approved by the Health Authority may include those administered by on the following: the American Red Cross, United States Occupational Safety and Health Administration (OSHA) or the Alliance of Professional Tattooists;

(11) Each technician registration shall include proof of training and experience, which ~~may~~must include a signed affidavit as proof of completion of supervised apprenticeship for a minimum of 200 hours in the area which the applicant is seeking a license or current license issued from another health agency;

(A) For a tattoo technician license an applicant must complete a minimum of 200 hours of tattoo experience under supervision;

(B) For a body piercing technician license an applicant must perform 250 body piercings under direct supervision and 250 body piercings under indirect supervision; and

(C) For a dual body art technician license an applicant must complete a minimum of 200 hours of tattoo experience under supervision and perform 250 body piercings.

(12) Proof of licensure by the State Department of Health; and

(13) Such other information as the City Council or issuing authority shall require.

(f) *Apprenticeship and guest artist procedures.*

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(2) Only a technician who has been licensed as a body art technician for at least two years in Minnesota or in a jurisdiction with which Minnesota has reciprocity may supervise a temporary technician or apprentice.

(3) Any technician who agrees to supervise more than two temporary technicians or apprentices during the same time period must provide to the Minnesota Commissioner of Health and the Health Authority a supervisory plan that describes how the technician will provide supervision to each temporary technician or apprentice.

(4) The Minnesota Commissioner of Health may refuse to approve as a supervisor a technician who has been disciplined in Minnesota or in a jurisdiction with which Minnesota has reciprocity.

(5) At least one of the licensed and registered technician(s) listed in subsection (f)(1)(C) above shall be present at all times when the apprentice is conducting body art procedures.

~~(3)6~~ The sponsoring licensed and registered technician is not required to be present at all times when a guest artist is conducting body art procedures if the guest artist provides to the Health Authority, upon registration, the information required in subsections (e)(10) and (e)(11) above.

~~(4)7~~ An apprentice shall complete a minimum of 200 hours of training under the direct supervision of licensed and registered technician(s) before becoming eligible for a technician license and registration.

~~(5)8~~ The length of time the guest artist may conduct body art procedures shall not exceed 30 days per calendar year per licensed establishment. If the length of time exceeds this, then the guest artist shall apply for a technician license with the State Department of Health and register as a technician with the issuing authority.

~~(6)9~~ If the apprenticeship or guest artist procedure is not followed, the person, apprentice or guest artist and/or licensed technician(s) conducting the apprenticeship may be subject to penalties.

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§ 14.389 ISSUANCE OF TEMPORARY BODY ART EVENT LICENSES.

(a) *Requirements.* The issuing authority may issue a temporary body art event license, provided that the following license requirements are met:

(1) *Duration of event.* The event is no longer than four continuous days;

~~(2) *Number of events.* [The same person or organization has had no more than three body art events in the same calendar year.]~~ No individual who does not hold a current body art establishment license may be issued a temporary event license more than four (4) times within the same calendar year;

(3) *Security measures.* The Chief of Police has approved the security measures for the event;

(4) *Health inspection.* The Health Authority has reviewed the health and safety measures for the event and has inspected each vendor space for the event;

(5) *Liability insurance.* Liability insurance coverage of \$1,000,000 has been obtained to cover the event or in the alternative each vendor has procured insurance to cover the vendor's operations at the event for professional liability in the practice of body art. A certificate of insurance shall be filed with the city; and

(6) *Hours of operation.* No body art procedures can take place before 7:00 a.m. nor after 11:00 p.m.

(b) *Event application.* The temporary body art event license application shall request the following information:

- (1) The applicant's name and current address;
- (2) The applicant's current employer;
- (3) The applicant's addresses for the previous five years;
- (4) The applicant's date of birth, home telephone number, weight, height, color of eyes and color of hair;
- (5) Whether the applicant has ever been convicted of any felony, crime or violation of any ordinance other than a petty misdemeanor, and, if so, the time, place, and offense for which convictions were had;
- (6) Whether the applicant has ever used or been known by a name other than the applicant's name, and if so, the name or names and information concerning dates and places where used;
- (7) The location where the event will be conducted;
- (8) The number of body art booths that will be operational at the event;
- (9) A list of names of body art technicians who will be working the event; and
- (10) The names and addresses of persons in charge of the event.
- (11) No individual who has been disciplined for a serious violation of this Division T. or Minnesota Statutes, chapter 146B, within three years preceding the intended start date of a temporary event may be issued a license for a temporary event. Violations that preclude issuance of a temporary event permit include unlicensed practice; practicing in an unlicensed location; any of the conditions listed in Minnesota Statutes, section 146B.05, clauses (1) to (8), (12), or (13); section 146B.08, subdivision 3, clauses (4), (5), and (10) to (12); or any other violation that places health or safety of a client at risk.

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§ 14.390 PENALTY AND SANCTIONS.

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(c) *Criminal penalties.* A violation of this Division T shall be a misdemeanor under state law. Additionally, practicing body art without a license; in a location not licensed as a body art establishment or a temporary body art event; or tattooing an individual under the age of 18, regardless of parental or guardian consent; shall be a gross misdemeanor under state law.

(d) *Civil penalties.* Civil penalties shall be subject to assessment pursuant to § 12.15 of the City Charter and § 1.19 of this city code. However, nothing in this Article IV shall be construed to limit the city's other available legal remedies for any violation of the law, including without limitation, licensing sanctions, criminal, civil and injunctive actions. In addition, violations or failure to pay civil fines may result in future license or registration ineligibility.

Passed and adopted this 12th day of February, 2018.

/s/ Gene Winstead

Mayor

ATTEST:

APPROVED:

/s/ Denise M. Christenson
Secretary to the Council

/s/ Melissa J. Manderschied
City Attorney