



City of Hampton, Virginia

Ordinance - Coded

22 Lincoln Street
Hampton, VA 23669
www.hampton.gov

File Number: 12-0448

Enactment Number: 13-0002

Ordinance To Amend And Reenact Chapter 24, Section 24-41 Of The Code Of The City Of Hampton Entitled "Body Art and Body Art Establishments" To Regulate Temporary Body Art Events.

BE IT ORDAINED by the City Council of Hampton, Virginia, that the Code of the City of Hampton, Virginia, be amended and re-enacted to read as follows:

Sec. 24-41. - Body art and body art establishments.

(a) *Definitions.*

- (1) *Body art artist:* Any person who performs the work or procedures involving invasive methods such as body piercing or tattooing to physically adorn the body of another.
- (2) *Body art establishment:* Any establishment, place or premises in which body piercing or tattooing is offered or performed.
- (3) *Body art procedure:* The practice of applying physical body adornment to an individual using invasive procedures or methods such as body piercing, tattooing, and other similar procedures.
- (4) *Body piercer:* Any person who performs the work or act of body piercing.
- (5) *Body piercing:* The act of penetrating the skin of a person to make a hole, mark or scar, generally permanent in nature.
- (6) *Body piercing establishment:* Any establishment, place or premises in which body piercing is performed.
- (7) *Body piercing operator:* A person who controls, operates, owns, conducts or manages any body piercing establishment, whether performing the work of body piercing or not.
- (8) *Ear piercing:* The puncturing of the outer perimeter or lobe of the ear with an instrument or mechanized ear-piercing system.

- (9) *Medical/hazardous 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; sharps and any wastes containing blood and other potentially infectious materials, as defined in 29 C.F.R. § 1910.1030.
- (10) *Sharps*: Any objects (sterile or contaminated) that may purposely or accidentally cut or penetrate the skin or mucosa, including, but not limited to, pre-sterilized, single-use needles, scalpel blades, razor blades, etc.
- (11) *Tattoo*: To place any design, letter, scroll, figure, symbol or any other mark upon or under the skin of any person with ink or any other substance resulting in the permanent coloration of the skin, including permanent make-up or permanent jewelry, by the aid of needles or any other instrument designed to touch or puncture the skin.
- (12) *Tattoo artist*: Any person who actually performs the work of tattooing.
- (13) *Tattoo establishment*: Any place in which is offered or practiced the placing of designs, letters, scrolls, figures, symbols or any other marks upon or under the skin of any person with ink or any other substance, resulting in the permanent coloration of the skin, including permanent make-up or permanent jewelry, by the aid of needles or any other instrument designed to touch or puncture the skin.
- (14) *Tattoo operator*: Any person who controls, operates, conducts or manages any tattoo establishment, whether actually performing the work of tattooing or not.
- (15) *Temporary Body Art Event*: A short-term event, festival or convention of one (1) but no more than five (5) days duration at which body art procedures and application are conducted.
- (16) *Temporary Body Art Event Operator*: The person designated by the temporary body art event permit as responsible for the event.
- (b) *Compliance with section*. No person shall control, operate or conduct or manage any body art establishment, temporary body art event or perform tattooing or body piercing on any person without complying with the requirements of this section.
- (c) *Violations*. Any person who violates any provisions of this section shall be guilty of a Class 2 misdemeanor. Any second or subsequent violation of this section shall be punished as a Class 1 misdemeanor.

- (d) *Exemptions.* This section shall not apply to medical doctors, veterinarians, registered nurses or any other medical services personnel, licensed pursuant to Title 54.1 of the Code of Virginia, when the tattoo or body piercing is applied to identify the location of a lesion, when made necessary by reconstructive surgery, to identify an animal with a code number or other identifier or to perform a valid medical or therapeutic function as determined by the health department. This section shall apply to personnel licensed pursuant to Title 54.1, and tattoo artists working under their directions, when the tattoo is applied for elective cosmetic reasons such as "permanent makeup."
- (e) *Permit required.*
- (1) No person shall control, operate, conduct or manage any body art establishment, whether actually performing the work of body art or not, without first obtaining a permit from the health department. Such an application for a permit shall be made on an application form provided by the city manager or his designee. The permit shall be clearly displayed to the public in the body art establishment at all times when the body art establishment is open for business.
 - (2) If a body art operator controls, operates, conducts, or manages more than one (1) body art establishment, the operator shall obtain and pay for a separate permit for each body art establishment located in Hampton. If there is a change in ownership, the body art operator must obtain a new permit, and pay the permit fee, prior to commencing business under the new ownership.
 - (3) The permit fee shall be one thousand five hundred dollars (\$1,500.00) for a one-year licensing period from January 1 to December 31. All permits issued during the course of a calendar year shall expire December 31 of that year, regardless of the date issue. For any person required to obtain a permit under the provision of this section after the first day of January, the permit fee shall be prorated as follows: between January 1 and on or before March 31, the full permit fee shall be paid; between April 1 and on or before June 30, three-fourths ($\frac{3}{4}$) of the permit fee shall be paid; between July 1 and on or before September 30, one-half ($\frac{1}{2}$) of the permit fee shall be paid; and after September 30 of the licensing year, one-fourth ($\frac{1}{4}$) of the permit fee shall be paid.
 - (4) All body art-related procedures shall be carried out in a clean, safe and sanitary manner as approved by the health department so as to minimize the potential for disease transmission. The health department is authorized to revoke a permit to operate a body art establishment upon fourteen (14) calendar days written notice whenever it determines the body art establishment is in violation of this section to a sufficient degree that it presents a significant

risk to the public health. The operator of the body art establishment may request a hearing of the department within fourteen (14) days of the receipt of the written notice in order to appeal the permit revocation. The department is further authorized to suspend the permit immediately for imminent health hazards to include, but not be limited to lack of water, inoperable toilet facilities, loss of electric power, or significant damage from fire or storm.

(f) *Body art operators and body art artists.*

- (1) No body art operator shall employ a body art artist (including himself if he works as a body art artist) until the artist has been vaccinated against hepatitis B. Prior to beginning work, the body art artist shall present a copy of his medical record or other documentation from a licensed health care provider or immunization clinic, which demonstrates that he has been immunized against hepatitis B. The body art operator shall retain this document, or a copy of it, and present it to the health department when requested and when requesting or renewing a permit.
- (2) A body art artist may begin work as a body art artist when he has received a single dose of hepatitis B vaccine. However, the body art artist shall continue to work only if he completes the immunization series for hepatitis B within six (6) months of the date of the initial vaccination dose. If a body art artist does not complete the series within this time period, he shall cease work as a body artist at the end of that period. He may resume work only upon presentation of documentation indicating that he has completed the vaccine series.
- (3) The body art operator shall be responsible for ensuring and documenting that all body art artists in his employment, (including himself if he works as a body art artist), are in compliance with this hepatitis B vaccination requirement and blood borne pathogen training. The body art operator shall further be responsible for notifying the health department in writing of any body art artist who fails to complete the hepatitis B vaccination series.
- (4) No body art artist known to have chronic hepatitis B, chronic hepatitis C, or HIV infection shall be allowed to work as a tattoo artist. All body art artists shall complete annual blood borne pathogen training approved by the health department prior to beginning work. The body art artist and/or the body art operator shall present a certificate documenting that the artist has received this training, upon request by the health department, and shall display said certificate in public view.

(g) *Body art establishment.*

- (1) All areas of the body art establishment shall be constructed and maintained in a clean, safe and sanitary manner in compliance with all applicable statutes, laws, regulations, codes and ordinances of the city and the Commonwealth of Virginia. The plans for a body art establishment, or for its renovation, shall be submitted to the health department for its approval prior to issuing a permit.
- (2) Sleeping rooms, or arrangements for sleeping such as cots or beds, shall not be permitted in the body art establishment.
- (3) All walls, ceilings and floors shall be smooth and easily cleaned. The floors shall not be carpeted, and neither rugs nor fabrics of any kind shall be placed on the floors. Walls and ceilings shall be painted a light color. Ceiling tiles shall be smooth, non-porous and have vinyl faces. The floors shall be swept and mopped daily. The floors shall not be swept or cleaned while body piercing or tattooing is occurring. All doors shall be tight fitting and self-closing, and all windows able to open shall be screened, to prevent the entrance of vermin.
- (4) Adequate light, at least twenty-foot candles on all surfaces and fifty-foot candles in the location and at the level or surface where the body art is actually applied, and ventilation shall be provided. All lights shall be properly shielded to prevent breakage.
- (5) Adequate toilet and hand-washing facilities, with hot and cold running water, shall be available and accessible in the body art establishment at all times, and shall be separate and isolated from the business area in which body art is performed. These facilities shall be for the use of customers and personnel of the body art establishment. Toilets and washing facilities shall be maintained in a sanitary condition at all times. A separate hand sink shall be provided within the body art area for use by the body art artist(s). The hand sink shall be properly provided with hot and cold running water, hand soap, and individual paper towels in a dispenser. Smoking, eating, drinking or applying make-up is prohibited in the area in which body art is performed.
- (6) All work surfaces shall be cleaned and disinfected promptly after each customer's body art application has been completed. Other surfaces or materials with gross blood shall also be cleaned and disinfected, or disposed of as infectious waste. All areas of the body art establishment shall be accessible for inspection by the health department and its authorized representatives. The health department is authorized to conduct unannounced inspections of body art establishments.
- (7) All inks, dyes, pigments, tools and jewelry shall be specifically manufactured for performing body art procedures and shall be used according to the manufacturer's instructions.

- (8) 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 or plastic cups. Upon completion of the tattoo, such cups and their contents shall be discarded in the manner prescribed in the next subsection.
- (9) Only disposable, single-use instruments shall be used to apply tattoos. These instruments shall not be reused, and shall be disposed of in accordance with applicable laws. Single-use items shall not be used on more than one (1) client for any reason. The tattoo operator shall maintain invoices or other records sufficient to demonstrate that he has obtained and used an appropriate number of instruments to apply the tattoos listed in his log book. These invoices or other documentation shall be presented to the health department at anytime the department requests them.
- (10) Tattooing instruments and equipment that are used repeatedly and are not available as disposable items shall be sterilized prior to each use, and maintained in a sterile condition until used. All instruments and jewelry used in body piercing shall be sterilized prior to each use, and maintained in a sterile condition until used.
- (11) Sterilization of instruments and equipment shall be accomplished by exposure to live steam in an autoclave that is operated in accordance with manufacturer's instructions to obtain that sterilization. A copy of the procedures recommended by the manufacturer for the operation of the sterilization unit it shall be made available at the establishment for inspection by the health department. The body art operator shall be responsible for maintaining a log, which indicates that the autoclave has been checked during each cycle and meets the aforementioned standards. Each load of instruments and equipment shall contain an indicator that demonstrates that the proper temperature has been achieved. A biological indicator shall be used at least every thirty (30) days to demonstrate that the procedure used is capable of killing bacteria. Printed documentation from the testing company shall be presented to the health department at anytime the department requests them. The health department is authorized to approve alternative sterilization methods.
- (12) The skin surface to be tattooed or pierced shall be cleaned and sanitized using processes and materials approved by the health department. All hazardous waste, body fluids, and medical waste of any kind shall be disposed of in accordance with the Virginia Department of Environmental Quality's Regulated Medical Waste Regulations, 9 VAC 20-120-10 et seq., as may be amended from time to time. After use, all single-use needles, razors, and other sharps shall be immediately disposed of in accordance with the Virginia Department of Environmental Quality's Regulated Medical Waste Regulations, 9 VAC 20-120-10 et seq., as may be amended from time to time. A copy of the contract with an

approved medical waste disposal company must be provided to the health department. Receipts for pickup of hazardous and medical wastes shall be maintained and provided to the health department upon request. Such medical waste shall be disposed of at least once every thirty (30) days. Failure to dispose of such hazardous and medical wastes in accordance with this section may result in immediate suspension of the body art establishment's permit to operate.

- (13) At no time shall there be any animals in the establishment except for those used as service animals by patrons with disabilities or by public officials in their official duties.

(h) *Written records.*

- (1) The body art operator shall create and maintain a written record for each person who receives a body art procedure. This record shall contain the information listed below, and any additional information required by the health department. Such records shall be maintained for a minimum period for four (4) years, except if the patron is under eighteen (18) years of age, in which even these records shall be maintained for a minimum of four (4) years from the eighteenth birthday of said patron and shall include the following information:
- a. Name, address, sex and date of birth of the person receiving the body art;
 - b. Date of body art procedure;
 - c. Physical location of the body art on the body, and a description of the body art;
 - d. Name, address and office telephone number of the person performing the body art;
 - e. Parent or legal guardian written consent form for minors;
 - f. Name and address of the manufacturer of the dyes used as well as identifying information about the dye solutions and types of dyes used, including lot numbers, colors and date of expiration. This information shall be made available and released to the customer and the health department upon request; and
 - g. Name and address of the manufacturer of the jewelry used in body piercing, description of the jewelry to include color, composition and shape. This information shall be made available and released to the customer and the health department upon request.

- (2) At such time as the body art establishment ceases doing business or is removed from the city, copies of all such records shall be provided to the health department. If the body art establishment changes its name or has a change in ownership or management, it shall continue to maintain such records in accordance with this section.

(i) *Body art customer.*

- (1) The skin surface to be tattooed and any jewelry to be used shall be cleaned and sanitized using processes and materials approved by the health department. No person, customer or patron having any skin infection or other disease of the skin in the area where the body art is to be applied, or within twelve (12) inches of that area shall have body art performed. No person, customer or patron having a generalized skin infection or other generalized disease of the skin shall have body art performed. No body art artist having any infection or disease on the skin on his hands, arms, face, or neck shall perform body art. All infections resulting from the practice of body art which become known to the body art operator shall promptly be reported to the health department by the person owning or in charge of the body art establishment, and the infected client shall be referred to a physician by the body art establishment operator or body art artist.
- (2) The body art artist shall provide, each customer who receives body art with a written instruction sheet detailing the procedures the customer should use to take care of the body art, indications that the body art may have become infected, a recommendation to have a possibly infected piece of body art evaluated by a physician or other licensed health care professional, and instructions to report the possibly infected body art to the health department.
- (3) No body art shall be performed on any person under the age of eighteen (18) years without the written consent of his or her parent or guardian, and such written consent shall be kept on file for at least four (4) years at the body art establishment from the eighteenth birthday of the minor. Written proof of age shall be obtained for all customers twenty-one (21) years of age or younger before the body art is done. Written proof of age shall be photocopied and kept by the body art operator. All customers under eighteen (18) years of age shall be accompanied by a parent or legal guardian. Both customer and parent or guardian shall sign a consent form and a driver's license or other appropriate form of identification of both the customer and the parent or guardian shall be photocopied and attached to the consent form.
- (4) Body art artists and body art operators shall refuse service to any person whom the body art artist or body art operator knows, or

has reason to believe, is intoxicated or under the influence of illegal or controlled drugs.

- (5) No person shall state or imply in any advertisement or publication, written or oral and prepared or uttered for the purpose of soliciting business, that the body art establishment is endorsed, or approved by the city or by any of its departments.
- (6) The body art artist shall wash his or her hands between customers, between working on different parts of the body on the same person, after removing gloves and after interruption of service. The body art artist shall wear protective, disposable latex or vinyl gloves while performing body art and shall wear a new pair of gloves for each client and when working on different parts of the same client.
- (7) The name, address and telephone number of the body art establishment shall be on the heading of all waivers, care sheets, consent and other forms utilized by the body art establishment.
- (8) The body art operator shall file with the health department annually with the license application and any renewal thereof a list of the following information for each employee: Name, permit number, home address, home phone number, and position or job title. With respect to the body art artists, the body art operator shall also submit proof of vaccination as required by subsection (f)(2). The body art operator shall amend the list accordingly and submit it to the health department immediately upon the addition of an employee or termination of an employee.
- (9) No body art artist or body art operator shall tattoo or pierce the genitals, areola, nipple, pubic area, or buttocks of any member of the opposite sex, nor shall any male body art artist or male body art operator tattoo or pierce the breasts of any female if the tattoo or piercing is outside the areola and nipple.
- (10) No body art artist shall perform body art on any client unless the body art artist complies with the Centers for Disease Control and Prevention's guidelines for the "Universal Blood and Body Fluid Precautions" and provides the client with the following disclosure:
 - a. Body art is an invasive procedure in which the skin is penetrated by a foreign object.
 - b. If proper sterilization and antiseptic procedures are not followed by body art artists, there is an increased risk of transmission of blood borne pathogens and other infections, including, but not limited to, human immunodeficiency viruses and hepatitis B and C viruses. Proper sterilization and antiseptic procedures reduce the

risk of blood borne pathogen transmission but cannot entirely eliminate the risk.

- c. Body art may cause allergic reactions in persons sensitive to dyes or the metals used in ornamentation.
- d. Body art may involve discomfort or pain for which appropriate anesthesia cannot be legally made available by the body art artist unless such person holds appropriate license from a Virginia Health Regulatory Board.

(j) Temporary Body Art Events – Permit, Requirements, Responsibilities of Event Promoter.

- (1) No person shall control, operate, conduct or manage a temporary body art event, whether actually performing the work of body art or not, without first obtaining a temporary body art event permit from the health department. The application for such a permit shall be made on an application form provided by the city manager or his designee. The permit shall be clearly displayed to the public at the temporary body art event at all times when the temporary event venue is open for business. The fee for a temporary body art event permit is five hundred dollars (\$500.00).
- (2) A complete application for a temporary body art event permit must be received by the health department for review and approval at least thirty (30) calendar days prior to the event.
- (3) An application for a temporary body art event permit will be deemed complete if all blanks have been filled in with accurate information, including the name, address and other information for the temporary body art event promoter and the permit fee of five hundred dollars (\$500.00) accompanies the application.
- (4) Only single-use, disposable equipment and supplies shall be used by artists for such events.
- (5) All body art artists participating in a temporary body art event must possess a valid current permanent or interim license from the Commonwealth of Virginia Board of Cosmetology. A copy of that license shall be posted in plain view within the body artist booth at all times during the event.

- (6) All body art artists participating in a temporary body art event must provide proof of current bloodborne pathogen training, completed within the last twelve (12) months, to the health department upon request.
- (7) There shall be no eating, drinking or use of tobacco products within the interior area of the body artist booth.
- (8) All temporary body art events shall be conducted inside of a closed, permanent structure that complies with subsection (g) of this section unless otherwise approved by the health department. Each vendor booth, where a body art shop, company or individual artist displays or performs their body art functions, must be a minimum of seventy five (75) square feet in area. Vendor booths where more than one body art artist is working must have an additional seventy five square feet of area for each body art station therein. A body art station consists of the table or chair in which a patron rests while receiving their body art and the equipment, supplies and chair used by the body art artist within a vendor booth.
- (9) Conveniently located handwashing facilities shall be provided and shall be supplied with liquid soap, paper towels, and tempered water. Each handwashing station may service up to two (2) vendor booths provided that they are easily accessible, free of obstructions and properly maintained and supplied at all times.
- (10) The temporary body art event promoter shall:
 - a. Provide copies of the client application/consent form, written client record form, aftercare information sheet and the disclosure form at least fourteen (14) days prior to the event to the health department for review. Such forms shall comply with the requirements set forth in subsections (h) and (i) of this section;
 - b. Provide a complete list of the participants (body art artists) the name of the contact person for each artist and contact information for that artist's at least seven (7) days prior to the event;
 - c. Provide a copy of a contract with an approved biohazard disposal company for the event to the

health department at least seven (7) days prior to the event;

- d. Provide a complete diagram of the event layout to the health department with each booth properly labeled identifying the occupant at least seven (7) days prior to the event;
 - e. Provide to the health department, within thirty (30) days following the event, copies of all completed client record forms to be kept as medical records of the event;
 - f. Ensure compliance with all other applicable local, state and federal laws for this event.
- (11) If at any time during the event, an individual artist or body art booth operation is in violation of this section, the health director, or his designee, may require that artist or booth to cease operation at the event.

Adopted at the regular meeting of the City Council of the City of Hampton, Virginia held on January 9, 2013.

Signed by _____ **Date** _____
Molly Joseph Ward, Mayor

Attested by _____ **Date** _____
Katherine K. Glass, CMC
Clerk of the Council