

**ORDINANCE NO. O-2008-52**

**AN ORDINANCE ADDING CHAPTER 6.116 TO TITLE 6 THE GENERAL  
ORDINANCE CODE OF THE COUNTY OF ALAMEDA RELATING TO BODY  
ART AND BODY PIERCING ESTABLISHMENTS**

The Board of Supervisors of the County of Alameda ordains as follows:

**SECTION I**

Chapter 6.116 is added to Title 6 of the General Ordinance Code of the County of Alameda to read:

Chapter 6.116 GENERAL PROVISIONS FOR BODY ART (TATTOOING), BODY PIERCING and PERMANENT COSMETICS

This Chapter is adopted by the County of Alameda to establish standards for the design, construction, operation, and maintenance of Body Art and Piercing Establishments, to prevent disease transmission and meet consumer expectations.

**Section 6.116.010 Definition of Terms:**

“ACDEH” means the Alameda County Department of Environmental Health

"Aftercare" means written instructions given to the client, specific to the procedure(s) rendered, on caring for the Body Art and surrounding area.

“Antiseptic” means an agent that destroys disease-causing microorganisms on human skin or mucosa as approved by the U.S. Food and Drug Administration, as indicated in the label.

“Blood” means human blood and its components including but not limited to plasma.

“Bloodborne Pathogen” means pathogenic microorganisms that may be present in Blood that may cause disease(s) in humans. These pathogens include but are not limited to Hepatitis B virus (HBV), Hepatitis C virus (HCV), and Human Immunodeficiency virus (HIV)

“Body Art” means physical body adornment using, but not limited to, the following techniques: Body Piercing, Tattooing, and permanent cosmetic tattooing.

“Body Art Establishment” or “Establishment” means any place or premise, whether public or private, temporary or permanent in nature or location, where the practices of Body Art, whether or not for profit, are performed.

“Body Piercing” means the creation of an opening in the body of a human being for the purpose of inserting Jewelry. This includes, but is not limited to, piercing of an ear, lip, tongue, nose or eyebrow as defined in the California Health and Safety Code sec 119300.

“Contaminated Waste” means any material to be disposed of that has had contact with Blood or other potentially infectious material in the process of tattooing, Body Piercing, or the application of permanent cosmetics.

“Disinfection” means the destruction of disease-causing microorganisms on inanimate objects or surfaces using an approved US Environmental Protection Agency product thereby rendering the objects safe for use or handling.

“Equipment” means all instruments, machinery, fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks, and all other apparatus and appurtenances used in the operation of a Body Art Establishment.

“Establishment Plan” means a drawing of the establishment’s layout illustrating the requirements of this Chapter.

“Exposure Control Plan” means a written plan, applying to all Persons who perform tattooing, application of permanent cosmetics, or Body Piercing within a facility pursuant to Cal/OSHA Title 8, California Code of Regulations section 32049(e) and section 5193 Blood borne Pathogens and Federal OSHA 29 CFR 1910.1030. An Exposure Control Plan is designed to eliminate or minimize exposure of all individuals to Bloodborne Pathogens and communicable diseases.

“Hot Water” means water at least 120° F or as specified by the local building authority.

“Jewelry” means any ornament or decoration meant to be inserted into a pierced area in a human body.

“Liquid Chemical Germicide” means a disinfectant or sanitizer registered with the U S Environmental Protection Agency.

“Local Enforcement Agency” means the Alameda County, Department of Environmental Health (ACDEH) and its designated employees, or other designated agents.

“Lower Ear Lobe” for purposes of this ordinance means the lower fatty area of the ear that does not contain cartilage.

“Lower Ear Lobe Piercing” for purposes of this ordinance means piercing of the lower fatty area of the ear that does not contain cartilage by use of a mechanical device (e.g. ear piercing gun) with a single use sterile stud or a single use needle.

“Owner” means and includes a lessee and every Person who operates, controls or has custody of any place of business or employment used as a Body Art Establishment.

“Permanent Cosmetics” means the application of pigments to or under the skin of a human being for the purpose of permanently changing the color or other appearance of the skin. This includes, but is not limited to eyebrows, permanent eyeliner, eye shadow, or lip color, as defined in the California Health and Safety Code Section 119300(c).

“Permit” means written approval by the Alameda County Department of Environmental Health (ACDEH) to operate a Body Art Establishment. Approval is given in accordance with the standards in this Ordinance and as may be established by Regulation, and is separate from and in addition to any other licensing requirements that may exist within the local jurisdiction or under state or federal law.

“Person” means an individual or an entity including, but not limited to a partnership, corporation, or association.

“Practitioner” means any individual who performs or intends to perform any Body Art procedure.

“Procedure Surface” means the surface area of Equipment that may come into contact with the client’s clothed or unclothed body during a Body Art procedure. "Procedure Surface" also means the area of the client's skin where the Body Art procedure is to be performed and the surrounding area of the skin.

“Remodel” means any change to the current Body Art Establishment requiring either a building or trades permit for the work to proceed. "Remodel" does not include changes to the front desk area, waiting area, painting, wallpapering, or carpeting, even if a permit is otherwise required. Adding a new workstation, plumbing changes, or expanding into an adjacent space to add workstations are examples of remodeling. "Remodeling" also means any changes to an Establishment Plan previously submitted to the ACDEH.

“Regulation” means rules, orders and procedures that may be issued by the ACDEH to assist in implementing and enforcing this Chapter.

“Sanitization” means effective bactericidal and virucidal treatment of Equipment and surfaces by a process that is effective in destroying pathogens and has been approved by the Alameda County Department of Environmental Health (ACDEH). This is not the same as sterilization.

“Sharps” means any device having acute edges, or protuberances capable of cutting or piercing the skin, which is used in the performance of Body Art, including but not limited to the following: tattoo needles, disposable piercing needles, and disposable razors.

“Sharps Container” means a puncture-resistant, leak-proof container that is closed for handling, storage, transportation and disposal of “Sharps” waste. The "Sharps Container" shall be labeled with the international biohazard symbol as defined in the Medical Waste Management Act of the California Health and Safety Code §§117600 *et seq.*

“Single Use” means products or items intended for one time use and are disposed of after use on each client. Examples of "Single Use" items include cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, tattoo needles, scalpel blades, stencils, ink cups, and protective gloves.

“Standard Precautions” means a set of guidelines and controls, published by the Center for Disease Control (CDC) as guidelines for prevention of transmission of human immunodeficiency virus and hepatitis B virus to health-care and public safety workers. This method of infection control requires the assumption that all human Blood and specified human body fluids are infectious for HIV, HVB and other Bloodborne pathogens. Precautions include hand washing, using gloves, personal protective Equipment, injury prevention, and proper handling and disposal of needles, other sharp instruments, and Blood and body fluid contaminated products.

“Sterilization” means a process resulting in the destruction of all forms of microbial life, including highly resistant bacterial spores.

“Tattooing” means any method of placing ink or other pigments into or under the skin or mucosa with 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, as defined in the California Health and Safety Code §119300.

“Temporary Body Art Event” means any place or premises operating at a fixed location where a Practitioner performs Body Art procedures for no more than 21 days in conjunction with a single event or celebration.

**Section 6.116.020: Jurisdiction**

This Chapter shall apply to all of Alameda County except for those cities where the governing body of that incorporated area (city) has authorized its own local health officer or environmental health director to administer and enforce the provisions of California Health and Safety Code 119300 et sec. This Chapter shall be administered and implemented by the Alameda County Department of Environmental Health (ACDEH). The ACDEH shall have the authority to prepare and implement necessary Regulations for the administration and implementation of this Chapter and to protect the public health and safety.

This Chapter shall apply to all Persons performing Body Art procedures and all Body Art Establishments located within the jurisdiction defined above.

**Section 6.116.030 Exemptions**

This Chapter shall not apply to any physician or surgeon made exempt under Health and Safety Code §119309 or other applicable law.

**Section 6.116.040: Prohibitions.**

- A. No Person shall own or operate a Body Art Establishment in violation of any state or federal law.
- B. No Person shall own or operate a Body Art Establishment within the jurisdiction of this Chapter as set forth in section 6.116.020 without a current valid permit to operate.
- C. No Person who owns, controls or operates a Body Art Establishment shall allow any other Person who does not possess a current valid registration, as required and issued under this Chapter to perform Body Art procedures, at that Establishment.

- D. No Person shall perform Body Art procedures, without a valid registration, as required under this Chapter.
- E. No Person shall perform Body Art procedures in violation of any state or federal law.
- F. No Person shall perform Body Art procedures at any place other than a Body Art Establishment that possesses a current valid permit issued under this Chapter.
- G. No Person shall perform any Body Art procedure without complying with the provisions of this Chapter.

### **Section 6.116.050 Permits**

A. Prior to performing or allowing any other Person to perform a Body Art procedure, a Person who owns, controls, operates or intends to own, control or operate a Body Art Establishment shall apply for a permit to operate the Body Art Establishment. The permit application shall be submitted to the ACDEH and be accompanied by all of the following:

1. A completed application form;
  2. Design and other plans for the Establishment in sufficient detail to ascertain compliance with the provisions for operating such an Establishment set forth in this Chapter;
  3. An Exposure Control Plan; and,
  4. Such other information as the ACDEH reasonably determines is necessary in order to evaluate that the Establishment will meet the provisions for operating such an Establishment set forth in this Chapter.
  5. None refundable fee as established by the Alameda County Board of Supervisors
- B. Establishments performing only the Body Art procedures of Lower Ear Lobe Piercing by the use of a mechanical device must apply for and obtain a permit, however, need not submit the documents required under (A) 2 and (A) 3 above. Such application must be accompanied by written procedures that all individuals must follow to assure proper sanitation and adherence to the requirements of this Chapter, including any Regulations.

- C. Prior to being issued a permit, all permit applicants must deposit with the ACDEH all applicable fees required by ACDEH.
- D. Permits are valid for one year and shall be renewed annually by the permittee.
- E. Permits must be prominently displayed within the customer area of the Body Art Establishment.

### **Section 6.116.060 Practitioner Registration**

- A. Before performing any Body Art procedure, a Practitioner shall register with the ACDEH. In connection with that registration, each applicant shall submit to the ACDEH all of the following:
  - 1. A completed registration form;
  - 2. Current proof of successful completion of ACDEH approved courses on Bloodborne Pathogens and prevention of disease transmission as set forth in Cal OSHA Title 8, California Code of Regulations section 5193 and Federal OSHA 29 CFR 1910.1030 or other applicable regulations.
  - 3. Written certification that the Practitioner has received vaccination for Hepatitis B or submit letter of declination for Hepatitis B vaccination
  - 4. Such other information as the ACDEH reasonably determines is necessary in order to implement or administer the provisions of this Chapter.
- B. Before performing any Body Art procedure, a Practitioner shall deposit with the ACDEH all applicable fees.
- C. At Establishments where the only Body Art procedures performed are Lower Ear Lobe Piercings, individuals that pierce the Lower Ear Lobe only using a mechanical device are not required to register as a Body Art Practitioners. This section does not remove the requirement for businesses performing Lower Ear Lobe Piercings to obtain a permit.

### **Section 6.116.070 Non-Transferability of Permit or Registration.**

A permit or registration issued under the provisions of this Chapter is for the exclusive use of the Person who was issued the permit or registration and shall not be transferable or assignable to any other Person at any time.

### **Section 6.116.080 Suspension or Revocation of Permit or Registration.**

A. *Violations.* A permit or registration issued under the provisions of this Chapter may be suspended or revoked for just cause, and upon a finding by the ACDEH, after notice and opportunity to be heard, that the permittee or registrant has violated one or more of the provisions of this Chapter or any federal or state law relating to the design, construction, operation, and maintenance of Body Art and Piercing Establishments.

B. *Penalties.* The length of time for suspension of the permit or registration may be determined as follows:

1. First violation: up to 90 days.
2. Second violation: up to 120 days.
3. Third violation: up to two years.

A permit or registration may be revoked for a serious or for multiple violations, even if it is the first enforcement action taken by ACDEH. Multiple violations may result in permanent revocation of the permit.

C. *Incomplete or Inaccurate Application.* After a permit or registration has been issued, it may be revoked by the ACDEH, after notice and opportunity to be heard, if it is determined that the application for the permit or registration was materially incomplete or inaccurate. In order to reinstate the permit or application, the applicant shall re-submit a complete, accurate permit or registration application in compliance with this Chapter for purposes of fees; the resubmission may be considered a new application.

D. *Fraud or Material Misrepresentation.* A permit or registration may be denied, or revoked if it has already been issued, after notice and opportunity to be heard, if it is determined that the application for the permit or registration contained fraud or material misrepresentation. In cases of fraud or material misrepresentation, the ACDEH may order that the permit be denied or revoked without the right to reapply or reinstate the permit or application.

D. *Appeal.* The decision of the ACDEH to suspend or revoke a permit or registration may be appealed to the Director of Health Care Services or his or

her designee. The appeal shall be in writing and shall be filed with the Director within ten calendar (10) days after the date that the decision to revoke or suspend was issued by ACDEH. Failure to file the appeal within that time shall constitute a waiver of appeal rights and the decision shall be final. The appeal shall state the name address and phone number of the appellant and specify the ground(s) for the appeal and provide an explanation why the Director should not uphold the decision.

- E. *Not Exclusive Remedy*, This Chapter is intended to supplement existing law and shall not limit the County's authority as otherwise provided by law to take all necessary action to protect the public health, safety or welfare.

### **Section 6.116.090 Temporary Events**

Temporary Body Art Establishments and Persons performing Body Art procedures at a temporary event must meet all requirements of this Chapter. Permit applications for temporary events shall be submitted to the ACDEH no later than ten (10) working days prior to the start of the event. Temporary event permits shall be issued for the specific days and hours of operation specified on the application if approved by the ACDEH.

### **Section 6.116.100 Health and Safety Standards for Establishments**

- A. All Body Art Establishments, must meet all of the following standards in order to qualify for a permit to operate, except in those Establishments where the only Body Art procedures performed are Lower Ear Lobe Piercings:
  - 1. Any new or remodeled Establishment shall obtain the appropriate planning and building permits from the Community Development Department or local building and/or planning authority if applicable.
  - 2. A minimum of forty-five (45) square feet of floor space must be provided for each procedure area. The procedure area(s) must be separated from any retail sales area, hair salon area, or any other area that may cause potential cross-contamination of Procedure Surfaces. Items such as dividers, curtains, or partitions shall separate multiple procedure areas.
  - 3. Each Establishment shall have a readily accessible hand sink, separate from the public or employees restroom, which is equipped with:
    - a. Hot and cold running water under pressure;
    - b. Non-hand operated faucet controls such as wrist or foot operated;
    - c. Liquid hand soap;
    - d. Single use paper towels.

- e. A waste receptacle with a lid that is foot operated and lined with a DHS approved biohazardous waste bag. .
4. Every Body Art Establishment shall have available at least one bathroom equipped with a toilet and a hand lavatory. The hand lavatory shall be supplied with all of the following:
  - a. Hot and cold running water under pressure;
  - b. Liquid hand soap;
  - c. Single use paper towels;
  - d. A waste receptacle.
  - e. An automatic self-closing door.
  - f. Adequate ventilation.
5. The Body Art Establishment shall have an artificial light source equivalent to 20 foot-candles at three feet above the floor. At least 100 foot-candles of light shall be provided at the level where Body Art procedures are performed, where sterilization takes place, and where instruments and sharps are assembled.
6. All Procedure Surfaces shall be smooth, nonabsorbent and easily cleanable. Procedure Surfaces shall be cleaned and sanitized after each client.
- 7 All ceilings shall be in good condition and repair.
8. All walls and floors shall be free of open holes or cracks and washable.
- 9 All facilities shall be maintained in good working order.
10. The Establishment and all facilities shall be maintained in a clean and sanitary condition.
11. No Body Art Establishment shall be used or occupied for living or sleeping quarters.
12. Only service animals or service animals in training may be allowed in the Establishment. Only the Practitioner, authorized personnel and the client are allowed in the procedure area when Body Art procedure is performed.
13. Effective measures shall be taken by the Practitioner and Owner to prevent entrance, breeding, and harborage of insects, vermin, and rodents in the Establishment.
14. No smoking shall be allowed inside of the Establishment. . (Labor Code §6404.5.)

15. A copy of this Chapter shall be available at all times at the Establishment.
- B. Establishments where the only Body Art procedures performed are Lower Ear Lobe Piercings using a mechanical device must meet all of the following standards in order to qualify for a permit to operate:
  1. The Establishment and all facilities shall be maintained in a clean and sanitary condition.
  2. Effective measures shall be taken by the Owner to prevent entrance, breeding, and harborage of insects, vermin, and rodents in the Establishment.
  3. No smoking shall be allowed inside of the Establishment. (Labor Code §6404.5.)

#### **Section 6.116.110 Health and Safety Standards for Equipment**

All Equipment must be maintained and operated in accordance with all of the following procedures:

- A. All jewelry used as part of a piercing procedure shall be sterilized before use. All reusable instruments shall be thoroughly washed to remove all organic matter, rinsed, and sterilized before and after use. All needles shall be single use needles and sterilized before use. All sterilization shall be conducted using steam heat. Steam heat sterilization units shall be operated according to the manufacturer's specifications. A minimum of 121 degrees Centigrade or 250 degrees Fahrenheit temperature for at least 30 minutes is required for sterilization. (California Health & Safety Code 118215)
- B. At least once a month, but not to exceed 30 days between tests, a spore test shall be conducted on the sterilizer to ensure that it is working properly. A log relating to this monthly testing must be maintained and kept by the Establishment for 3 years. If a positive spore test result is received, the sterilizer cannot be used until a negative result is obtained.
- C. Jewelry must be made of surgical implant grade stainless steel, solid 14k or 18k white or yellow gold, niobium, titanium or platinum, and/or a dense low-porosity plastic. Jewelry must be free of nicks, scratches or irregular surfaces and must be properly sterilized prior to use.

- D. All inks and other pigments must be specifically manufactured for tattoo procedures. The mixing of such inks, or pigments, or their dilution with distilled water or alcohol is acceptable.
- E. Immediately before applying a tattoo or permanent cosmetic, the quantity of the pigment used shall be transferred from the dye bottle and placed into single use paper or plastic cups. Upon completion of the application, these single use cups and their contents shall be discarded.
- F. All tables, chairs, furniture or other procedure surfaces that may be exposed to Blood or body fluids during the tattooing or piercing procedure shall be constructed of stainless steel, or other suitable material that will allow complete sanitization, and shall be sanitized between uses with a liquid chemical germicide.
- G. Single use towels or wipes shall be provided to the client. These towels shall be dispensed in a manner that precludes contamination and disposed of in a cleanable garbage container with a liner.
- H. All bandages and surgical dressings used shall be sterile or bulk-packaged clean and stored in a clean, closed container.
- I. All Equipment shall be maintained in good working order and in a clean and sanitary condition.
- J. All instruments and supplies shall be stored clean and dry in covered containers.

### **Section 6.116.120 Practitioner and Patient Hygiene**

- A. The following provisions apply to all Body Art Establishments and Practitioners:
  - 1. Whenever it is necessary to shave the skin, a new disposable razor must be used for each client.
  - 2. The skin area subject to a Body Art procedure must be thoroughly cleaned with soap and water, rinsed thoroughly, and swabbed with an antiseptic solution. Only single use towels or wipes shall be used in the skin cleaning process.
  - 3. No Body Art procedure shall be performed on any area of the skin where there is a visible or evident infection, irritation, or open wound.

4. Each Practitioner shall apply soap and scrub his or her hands and wrists thoroughly for a minimum of 20 seconds, and thereafter rinse with water, before and after performing a Body Art procedure.
  5. Practitioners with skin infections of the hand shall not perform Body Art procedures.
  6. The Practitioner must wash his or her hands with soap for a minimum of 20 seconds after contact with the client receiving the procedure or after contact with potentially contaminated articles.
  7. Practitioners shall wear clean clothing and use a disposable barrier such as a lap cloth when performing Body Art procedures.
  8. For each client, single use disposable barriers shall be provided on all Equipment used as part of the procedure that cannot be sterilized. Examples may include, but not limited to spray bottles, procedure light fixture handles, and tattoo machines.
  9. Practitioners shall not smoke, eat, or drink while performing Body Art procedures.
  10. Single use gloves of adequate size and quality as to preserve dexterity shall be used for touching clients, handling sterile instruments, or handling Blood or body fluids.
  11. Gloves must be removed and exchanged for new, unused and clean gloves if any of the following occur:
    - a. They become soiled or damaged;
    - b. They come in contact with any non-clean surface or objects; or
    - c. They come in contact with a third person.
  12. Hands and wrists must be washed with soap per subsection 4 above before putting on a clean pair of gloves and after removing a pair of gloves.
  13. Gloves shall not be reused and shall be discarded after the completion of a procedure on a client.
- B. Establishments in which the only Body Art procedures performed are Lower Ear Lobe Piercings using a mechanical device must adhere to the above provisions, with the exception of provisions where soaping, scrubbing and rinsing with water is required. When washing with water is required, as an alternative a sanitizer (such as a liquid gel hand sanitizer)

must be used before putting on single use gloves. Single use gloves are required to be used in performing all Lower Ear Lobe Piercings.

### **Section 6.116.130 Proper Handling and Disposal of Medical Waste**

- A. Contaminated waste that may contain Blood must be placed in a California Medical Waste Management Act approved "red" bag that is marked with the international biohazard symbol. All contaminated waste must be disposed of by a licensed medical waste hauler at an approved site, or as otherwise in compliance with the California Medical Waste Management Act (Health and Safety Code §§117600 *et seq.*).
- B. Waste that does not contain Blood may be placed in a covered receptacle and disposed of through normal, solid waste disposal methods.
- C. Sharps ready for disposal shall be disposed of in approved Sharps container as specified in the California Medical Waste Management Act (Health and Safety Code §§117600 *et seq.*).
- D. Storage time of contaminated waste on-site shall not exceed the time period specified in the California Medical Waste Management Act (Health and Safety Code §§117600 *et seq.*).

### **Section 6.116.140 Record Maintenance**

- A. *Practitioner Information.* Every Person who owns, controls or operates a Body Art Establishment shall maintain records on site at the Body Art Establishment containing all of the information listed below concerning each Practitioner, at the Establishment. Those records shall be maintained at all times while the Practitioner performs Body Art procedures at the Establishment and for a period of two years after the Practitioner terminates at the Establishment. Those records shall be available for inspection by ACDEH or it's representative upon request.

The Practitioner records shall contain all of the following:

1. Full name of each Practitioner;
2. Home address of each Practitioner;
3. Home phone number of each Practitioner;
4. Date of birth of each Practitioner;
5. Identification photo of each Practitioner
6. Proof of a valid ACDEH registration for each Practitioner; and,

7. Proof that each Practitioner has completed an approved Bloodborne Pathogen Course, pursuant to Health and Safety Code 119300 et seq.

This record-keeping requirement does not apply to Establishments performing only the Body Art procedures of Lower Ear Lobe Piercing by the use of a mechanical devise.

- B. *Client Information.* Every Person who owns, controls or operates a Body Art Establishment shall maintain records on site at the Body Art Establishment for each client at the Establishment containing all of the information listed below. The records shall be maintained for a period of three years after any procedure is performed on the client and shall be available for inspection by the ACDEH or its representative upon request.

The client records shall contain all of the following:

1. The date(s) of any procedure performed;
2. The appropriate Consent forms;
3. Record of information on picture identification showing name, age, and current address of the client;
4. The type of the Body Art procedure performed; and
5. The name and registration number of the Practitioner performing the procedure.

This record-keeping requirement does not apply to Establishments performing only the Body Art procedures of Lower Ear Lobe Piercing by the use of a mechanical devise.

- C. *Establishment Information:* The following information also shall be documented and maintained by the Owner or operator on site at the Body Art Establishment at all times during the operation of the Establishment. Every Person who owns, controls or operates a Body Art Establishment shall maintain this information for period of at least three years after the Establishment is closed. This additional documentation shall be available for inspection by the ACDEH or its representative upon request.

1. A description of all the Body Art procedures performed and/or procedures that may be performed in the Body Art Establishment.
2. A complete list or inventory of instruments, body jewelry, sharps, and inks or pigments used or available for use on site for all procedures including the names of manufacturers, serial and lot numbers. Invoices or orders shall satisfy this requirement.
3. Copies of spore tests conducted on the sterilizer.

4. All repair and maintenance records for Equipment used at the Establishment.

Establishments performing only the Body Art procedures of Lower Ear Lobe Piercing by the use of a mechanical device must adhere to this record keeping requirement, section C.

### **Section 6.116.150: Lower Ear Lobe Piercing Practice**

“Lower Ear Lobe Piercing” for purposes of this Chapter means a piercing of the lower fatty area of the ear that does not contain cartilage by use of a mechanical device (e.g. ear piercing gun) with a single use sterile stud or a single use needle. All businesses, Body Art Establishments and Practitioners who perform Lower Ear Lobe Piercing must comply with this Chapter and any promulgated Regulations unless specifically excluded. In addition the following requirements are specifically required for Lower Ear Lobe Piercing:

1. The mechanical ear-piercing instrument shall be made from a material that can be disinfected after every use.
2. The mechanical ear-piercing instrument shall not be used in any other part of the body at any time.
3. The mechanical ear- piercing instrument shall be capable of being reloaded without the need to touch the studs that are sterile.
4. Only sterile studs shall be used in the mechanical ear-piercing instrument and shall not be touched by or handled with bare hands.

### **Section 6.116.160: Practitioner Professional Standards**

- A. *Client Limitations.* No Practitioners shall perform Body Art procedures on any individual with:
  1. Diabetes
  2. A history of hemophilia;
  3. A history of skin diseases, skin lesions, or skin sensitivities to soap or disinfectants;
  4. A history of allergies to metals;
  5. A history of epilepsy, seizures, fainting or narcolepsy;

6. A condition for which the client takes medications, such as anticoagulants, that thin the Blood and/or interferes with Blood clotting;
  7. Any evidence of any unhealthy medical condition without the written clearance by a physician licensed under the Business and Professions Code §§2000 *et seq.*; or
  8. Any indication that the individual is under the influence of alcohol or controlled substances.
- B. *Body Piercing and Minors:* No Person shall perform or offer to perform Body Piercing upon an individual under the age of 18 years, unless the Body Piercing is performed in the presence of, or as directed by a notarized writing by, the individual's parent or guardian. This does not apply to the Body Piercing of an emancipated minor and does not include the piercing of an ear. Violation of this section is also a violation punishable pursuant to Penal Code Section 652.
- C. *Tattoos and Minors:* No Person shall tattoo or offer to tattoo an individual under the age of 18 years. Violation of this section is and punishable by Penal Code Section 653.
- D. *Written Consent.* No Practitioner may perform any Body Art procedure without the client's written informed consent. Written informed consent may be obtained by utilizing an informed consent form, signed by the client. The consent form, shall provide to the client all information necessary to allow the client to make an informed decision about the procedure including, without limitation, all of the following information:
1. That any tattoo or permanent cosmetic is permanent; that it may only be removed with a surgical procedure; and that removal may result in visible scarring;
  2. That any piercing may leave visible scarring; and,
  3. Complications such as allergic reactions, potential skin infections, or other tissue damage may occur to the client's body or skin at the site where the piercing, tattooing, or application of permanent cosmetic is to be performed or elsewhere on the body or skin.
- E. *Aftercare.* Practitioners shall provide each client with written instructions on recommended care of the Body Art during the healing process, before starting the procedure. These instructions also shall include information on when to seek medical treatment.

### **Section 6.116.170: Required Notifications:**

All Persons including a permittee, Establishment Owner or operator, Practitioner, registrant or client, shall immediately notify the ACDEH of any information regarding or indicating the transmission or potential transmission of Bloodborne Pathogen transmission that may have occurred during the performance of any Body Art procedure.

### **Section 6.116.180: Inspection and Closure of Establishments:**

- A. *Access to Premises and Records.* Any permittee or other Person who owns, controls or operates a Body Art Establishment shall, upon request of the ACDEH, permit access to all parts of the Establishment at any reasonable time, for the purpose of inspection of the Establishment for compliance with the provisions of this Chapter and/or to allow review of records required to be maintained by this Chapter.
- B. *Review of Records.* A permittee or other Person who owns, controls or operates a Body Art Establishment shall allow review of any records required to be maintained by this Chapter or of such other records reasonably necessary in order to allow the ACDEH to ascertain compliance to this Chapter.
- C. *Interference with Enforcement of Ordinance.* No Person shall interfere with or hinder the ACDEH in the performance of its duties, or refuse to permit the representative of the ACDEH to perform inspections pursuant to this Chapter or other applicable law.
- D. *Correction of Violations.* Each permittee or other Person who owns, controls or operates a Body Art Establishment shall promptly correct and/or remove any violation of any of the provisions of this Chapter upon receipt of a written inspection report from the ACDEH listing one or more violations of this Chapter. In the inspection report, the ACDEH may specify the length of time that, in its judgment, is appropriate to correct and/or remove the violation in order to meet the purposes of this Chapter. Failure to remove and/or correct each violation within the time period specified in the inspection report shall constitute a separate, additional violation of this Chapter.
- E. *Immediate Closure of Establishment.* The ACDEH or its representative may order, consistent with existing law, a permittee or other Person who owns, controls or operates a Body Art Establishment to immediately stop

operations of the Body Art Establishment, in whole or in part, if a condition exists that creates an immediate substantial risk to the public health, safety or welfare including, but not limited to, the following:

1. Failure to possess a valid permit required by this Chapter;
2. Evidence of a sewage backup in an area of the Establishment where Body Art procedures are performed or conducted;
3. Lack of potable, plumbed, hot or cold water to the extent that hand washing or toilet facilities are not operational;
4. Lack of electricity or gas service to the extent that hand washing, lighting, or toilet facilities are not operational;
5. Significant damage to the Establishment due to, fire, flood, earthquake, or other disasters;
6. Evidence of an infestation of rodents or other vermin;
7. Evidence of contamination, unsanitary conditions, untrained staff or poor personal hygiene;
8. Any time a public health nuisance exists;
9. Use of non-sterilized instruments or jewelry;
10. Repeated failure to maintain or allow review of records required by this Chapter;
11. Failure to use gloves as required by this Chapter;
12. Failure to properly dispose of Sharps, Blood, or body fluid contaminated items;
13. Failure to properly report complaints of potential Bloodborne pathogen transmission to the ACDEH; or
14. Evidence of a positive spore test on the sterilizer.

The owner of a closed establishment may request a hearing within 60 days of closure.

- F. *Reopening After Closure.* If an Establishment is closed by the ACDEH pursuant to the provisions of this Chapter, a permittee or other Person who owns, controls or operates a Body Art Establishment may reopen the Establishment only after receiving written permission from the ACDEH.

### **Section 6.116.190 Fees**

The fees for Body Art Establishment permits and Practitioner registration shall be contained in a fee ordinance or resolution approved by the Alameda County Board of Supervisors.

### **Section 6.116.200: Penalty**

In addition to other fines and penalties allowed by law, any individual who fails to register or who violates the sterilization, sanitation or safety standards or other provisions of this Chapter may be subject to civil penalty in the amount of Five Hundred Dollars (\$500) per violation pursuant to Health and Safety Code 119306, and also may be charged with a misdemeanor.

### **Section 6.116.210: Administrative Fines**

Individuals and/or entities are also subject to the following administrative fines, in addition to any civil or criminal penalties, if they violate any provision of this ordinance:

1. A fine not exceeding Three Hundred Dollars (\$300) for a first violation.
2. A fine not exceeding Five Hundred Dollars (\$500) for a second violation.
3. A fine not exceeding Eight Hundred Dollars (\$800) for a third violation and subsequent violations.

Each day that a Body Art procedure is performed without a valid registration shall constitute a separate violation. Violation may result in permanent revocation of a permit in addition to any administrative fines.

### **Section 6.116.220: Severability**

If any provision or application of this Chapter is for any reason held to be invalid, such decision shall not affect the remaining provisions or applications of this Chapter. To that end, the provisions of this Chapter are declared to be severable.

**SECTION II**

This Ordinance shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of fifteen days after its passage it shall be published once with the names of the members voting for and against the same in the Inter-City Express, a newspaper published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on \_\_\_\_\_, 2008 by the following called vote:

AYES:  
NOES;  
EXCUSED:

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SCOTT HAGGERTY,  
President of the Board of Supervisors  
County of Alameda, State of California

ATTEST: CRYSTAL K. HISHIDA-GRAFF, Clerk  
of the Board of Supervisors, County of Alameda

By \_\_\_\_\_

Approved as to form:  
RICHARD E. WINNIE, County Counsel

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