

Borough of Manville

Ordinance # BOH 97-1

AN ORDINANCE TO REGULATE BODY PIERCING, TATTOOING PARLORS AND TATTOOISTS WITHIN THE BOROUGH OF MANVILLE; ESTABLISHING A LICENSE FEE FOR THE PRIVILEGE OF ENGAGING IN SUCH PRACTICE AND ESTABLISHING FINES FOR THE VIOLATION THEREOF.

WHEREAS, the Manville Board of Health is a public body having general jurisdiction to adopt ordinances for the control of disease and the improvement of the health of its citizens; and

WHEREAS, N.J.S.A. 16:3a-3c, N.J.S.A. 26:32-8, N.J.S.A. 26:3-64, and N.J.S.A. 26:1a-9 authorizes the Board of Health to regulate tattoo parlors and tattooists within the geographical boundaries of the Borough of Manville, and the Board of Health has reviewed and recommended the passage of this ordinance by the Manville Board of Health.

WHEREAS, there is a need for the regulation of tattoo parlors and tattooists because of the potential danger for the spreading of communicable diseases through the tattoo process unless there are safeguards to ensure that said process is safe and under appropriate regulations; and

WHEREAS, many concerns have been expressed with regard to the practice of body piercing, and it is hereby determined that it is in the public interest to adequately regulate such practice so as to insure the public safety and health against illness and injury and disease transmission if the procedure is improperly conducted.

BE IT ORDAINED by the Board of Health of the Borough of Manville as follows:

Section I. Definition:

The basis of our efforts is to control the general environment in order to prevent cross contamination. Therefore, we may want to define the following:

- A. "Sanitize" means a bactericidal treatment of cleaned surfaces by a process which is effective in reducing the number of micro-organisms to a safe level.
- B. "Sterilization" means destruction of all forms of microbotic life, including spores.
- C. "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.

- D. The term "health officer" shall mean the appointed licensed health officer or his authorized representative.
- E. The term "certificate of inspection" shall mean written approval from the health officer or his authorized representative that said tattooing or body piercing establishment has been inspected and meets all of the terms of this ordinance.
- F. The term "operator" shall mean 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 that art of tattooing or body piercing on the person of another.
- G. The terms "tattoo", "tattooed", or "tattooing" refer to any method of placing designs, letters, scrolls, figures, symbols or any marks under the skin with ink or any substance resulting in the coloration of the skin by the aid of needles or any other instruments designed to puncture the skin.
- H. "Body piercing" shall mean the placing of an permanent or temporary foreign object in a person's body, such as ears, nose, lips, genitals, nipples, or parts thereof, for a decorative or other non-medical purpose by a person not directly under the supervision of a licensed physician.
- I. "Tattoo establishment" means the location wherein tattooing is performed.
- J. A "tattoo artist" is one who engages in tattooing.
- K. "Body piercing area" means within a body piercing establishment; the immediate vicinity where body piercing is performed.
- L. "Body piercing artist" is a person engaged in the practice of body piercing.
- M. "Body piercing establishment" is the building or structure where body piercing is practiced.
- N. "Facility" shall refer to either a place where tattooing or body piercing is conducted.
- O. "Artist" shall refer to a person who does tattooing or body piercing.

Section II. Applicability:

The standards in this article apply to permanent tattooing and body piercing establishments.

- A. A permanent tattooing or body piercing establishment is an established business operating in Manville, licensed and inspected annually by the Manville Board of Health.
- B. This ordinance forbids the operation of any temporary body tattooing or body piercing facilities in Manville. This includes carnivals, street fairs, hotels, or other facilities wishing to offer tattooing or body piercing temporarily.

Section III. Licensing Requirements:

- A. It shall be unlawful for any person to engage in the business of operating an establishment where tattooing or body piercing is performed without first obtaining a license from the Manville Board of Health to engage in such business in accordance with the provisions hereof.
- B. An application for an initial license shall be accompanied by a fee in the amount of two hundred dollars (\$200). The licensing period shall be January 1st through December 31st of a calendar year. All permits shall expire December 31st regardless of the date of issue. Any change of ownership shall require a new application and license with payment of fees therefore. All applicants shall submit plans for the establishment to the Manville Board of Health prior to initiation or construction.
- C. The renewal license fee for engaging in the business of operating a tattoo or body piercing establishment within the Borough of Manville shall be one hundred dollars (\$100) per year. If renovations of the tattoo or body piercing establishment occur, plans must be submitted to the Manville Board of Health and the applicant will be required to comply with Section V. The late fee for failure to renew the license shall be fifty dollars (\$50) per month if not paid by the final due date of January 31st of the following year (allowing for a thirty (30) day grace period).
- D. All existing establishments 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 provisions of subsection B of this Section.
- E. The provisions of this ordinance and all licensing fees shall be due immediately upon enactment of this ordinance.

- F. The application accompanied by the license fee herein after fixed shall set forth:
1. Local and permanent addresses and telephone numbers of applicant and manager.
 2. If applicant is a corporation, the name, address and telephone numbers of its registered agent and officers.
 3. The educational and/or business experience of the applicant in the business or occupation for which the license is sought.
 4. The length of time that the applicant has been engaged in such business or occupation.
 5. Whether the applicant has ever been convicted of any criminal violation, the date, nature and disposition of such criminal charges, summons, complaint or indictment.
 6. Name, address and age of every person to be initially employed to conduct the service. This shall be a continuing obligation for licenses to update this list of employees.
 7. The name of the company providing liability insurance and the amount of said coverage.
 8. An after care plan shall be submitted to the Board of Health for tattoo and each body site for body piercing parlors. Once approved by the Board the after care plan must be reviewed verbally and given in printed instructions to each client.
- G. The Board of Health may deny any application where the investigation or inquiry demonstrates that:
1. The information set forth in the application is incomplete or fraudulent.
 2. The applicant or any person conducting the business has been convicted of a crime or disorderly person offense which has not been expunged pursuant to N.J.S.A. 2C:52-1 et seq. or pardoned and which offense relates adversely to the business for which the license is sought. In this regard the Board of Health shall be guided by N..J.S.A. 2A:168A-2.
 3. The applicant has within four (4) months of the application been addicted to the habitual use of drugs or intoxicating liquors.
 4. The business property and location do not comply with requirements for business use, as same are set forth by the construction official, and/or other departments or agencies of the Borough of Manville.

Section IV. 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 an individual under eighteen (18) years of age without authorization signed by a parent or legal guardian and witnessed by the operator or a parent's notarized signature. 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 twenty-first (21st) birthday. The

operator shall also obtain a copy of a photo ID of the individual being tattooed and/or body pierced and maintain said copy for the same period of time.

- B. Each person wishing a tattoo or body piercing must fill out an application which will include the name, date of birth, address and telephone number of the client, the location(s) of the tattoo or body piercing, and the name of the operator. All records for anyone eighteen (18) years of age or older are to be maintained for a minimum of two (2) years and shall be available to the Health Officer or his authorized representative upon request. Records for minors with parental authorization must be maintained in accordance with Section IV, A.
- C. No person shall state or imply in any advertisement or in any other way that the tattoo or body piercing establishment is endorsed, regulated or approved by the Borough of Manville or by any of its departments, boards or representatives, or is conducted in compliance with the terms of this ordinance.
- D. If the applicant is suspected to be under the influence of alcohol, drugs, or any other behavioral modifying substance, the operator must refuse the applicant. If an applicant is suspected of having an infectious disease in a communicable stage, the operator shall refuse service.
- E. Written guidelines shall be established for the care of the body site. Each client shall receive a written copy of the guidelines for care of tattoo or body piercing sites. A signed copy of the receipt of the guidelines by the client must be maintained by the operator as part of the permanent record. Maintenance of said record is established in Section IV, A, B.
- F. Care instructions for body piercing must include the following minimum recommendations:
 1. Wash the body piercing gently with mild soap and water and pat dry.
 2. Apply an anti-bacterial cleaner at least twice daily.
 3. Avoid swimming or soaking of the body piercing until healed.
 4. Avoid scratching, picking, or touching of the body piercing.
 5. If redness or swelling develops, contact your doctor.

Section V. Design Requirements:

- A. Each facility (tattoo or body piercing) shall have bathroom accessible to the public and staff. 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 at all times. Common towels are prohibited. Employee handwashing signs shall be posted in each toilet room area.

- B. The chair or seat reserved for the person receiving a tattoo or body piercing shall be of a material that is smooth and easily cleaned and is constructed of a material that is of barrier type fabric. Any surfaces on the chair that become 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 operator shall be smooth and easily cleaned and constructed of material that is non-absorbent. There shall be a covered junction between the table/counter and the wall if the table/counter is to be placed against the wall. This table/counter must be cleaned and sanitized, utilizing a method approved by the Manville Board of Health, between customers.
- D. The walls in the work area shall be smooth and easily cleaned and constructed of a non-absorbent material.
- E. The floor in the work area shall be of durable material that is non-absorbent and is easily cleaned. Floors shall be kept clean.
- F. Lighting within the work area shall be adequate so as to provide a minimum of one hundred (100) foot candles in all areas.
- G. The work area reserved for the application of the tattoo or body piercing shall be separated from other areas of the establishment by walls or durable partitions extending at least six (6) foot in height and so designed to discourage any persons other than the customer and the operator from being in the work area.
- H. A utility room shall be provided for the cleaning, packing, and sterilization of equipment which is physically separated from the work area and waiting rooms.

Section VI. Sanitary Requirements:

- A. Any surfaces in the establishment that become exposed to blood or body fluids must be cleaned and sanitized, utilizing a method approved by the Manville Board of Health.
- B. All products used in cleaning, sanitizing and sterilizing procedures must be clearly marked and stored in their original containers in an acceptable manner in accordance with Hazard Communications Regulations.
- C. Proper waste receptacles for non-infectious waste shall be provided and waste disposed of at appropriate intervals in a safe manner.

- D. All hazardous medical waste shall be disposed of according to State standards. All records shall be kept on site and shall be made available for inspection. All medical waste records shall be maintained for at least three (3) years after manifest as required by N.J.A.C. 7:26-3A21.
- E. The entire premises and equipment shall be maintained in a clean, sanitary condition and in good repair. These areas of the establishment are to be accessible for inspection by the Board of Health and its authorized representatives.
- F. Employees shall wear clean outer garments and footwear; maintain a high standard of personal cleanliness and conform to hygienic practices while on duty.
- G. The use of tobacco in any form while engaged in tattooing and/or body piercing procedures is prohibited.
- H. The consumption of food and drink shall be restricted to designated areas.
- I. No live bird, turtle, snake, dog, cat or other animals 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. The only exception to this rule is seeing dogs would be permitted with the client.
- J. Effective measures shall be taken to protect against the entrance in to the shop and the breeding or presence on the premises of insects or rodents.
- K. The facility shall comply with the provisions of the Medical Waste Tracking Act of 1988, and N.J.S.A. 13:1E-48.1 et seq., the Comprehensive Regulated Medical Waste Act, and all rules and regulations promulgated pursuant to the aforementioned Acts.
- L. The parlor shall comply with the most current version of the Center for Disease Control and Prevention (CDC) guidelines and the Occupational Safety and Health Administration (OSHA) publication, "enforcement procedures for occupational exposure to Hepatitis B Virus (HVB) and Human Immunodeficiency Virus (HIV)," OSHA instruction CPL-2-2.44A, August 1988 or revised or later editions.

Section VII. Regulation:

A. Operator.

- 1. Hepatitis B pre-exposure vaccination or proof of immunity is required for all operators. Any accidental needle sticks shall be reported to the Manville Board of Health. If a person cannot obtain the vaccination for

medical reasons, he shall submit to the Manville Board of Health a letter from his physician certifying that the individual does not have Hepatitis B and the vaccination is contraindicated. This certification shall be annually renewed and shall be made available upon request during inspection.

2. All future operators shall pass an examination from an accredited college or health care facility showing knowledge of sterile techniques and universal precautions to assure that infection and contagious disease shall not be spread by work practices. In lieu of the aforementioned requirement, documentation of education or training previously received shall be satisfactory if determined to be of equivalent quality by the Health Officer.
3. Before working on each patron, each artist shall scrub and wash his/her hands thoroughly with hot water and an F.D.A. approved antimicrobial agent using his/her individual hand brush. Fingernails shall be kept clean and short.
4. Disposable gloves shall be worn by the artist during preparation and application to prevent contact with blood or body fluids. Universal precautions as required by 29 CFR 1910.1030 Section d, 1 shall be followed. All materials shall be disposed of in accordance with Section XI 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. Medical waste shall be disposed of in compliance with the latest State regulations.
5. Immediately after treating a patron, the operator shall advise the patron on the care of the tattoo or body pierced area and shall instruct the patron to consult a physician at the first sign of infection. Printed instructions regarding these points shall be given to each patron as described in Section IV, E,F of this ordinance.
6. All infections resulting from the practice of tattooing or body piercing which become known to the operator shall be reported to the Manville Health officer by the person owning or operating the establishment or by the artist within twenty-four (24) hours.

Section VIII. Skin Preparation:

- A. Only disposable safety razors shall be used for the skin preparation. Blades shall be disposed of according to applicable requirements of Section X and XI of this ordinance. A new disposable safety razor shall be used for each patron.
- B. Following shaving, the area shall be thoroughly cleaned and scrubbed with tincture of green soap or its equivalent and warm water. Before working on the

patron's skin, the area shall be treated with seventy percent (70%) alcohol and allowed to air dry.

- C. No tattooing or piercing shall be done on skin surface that has rash, pimples, boils, or infections, or manifests any evidence of unhealthy conditions.
- D. Ear piercing guns may not be used for any body piercing other than for piercing ear lobes. If the ear piercing gun is reused, it must be cleaned and sterilized between patrons. An ear piercing gun may only be used to apply studs in a patron's ears, following manufacturer's instructions. The use of an ear piercing gun to apply a stud or any other jewelry to other areas of the body is prohibited.
- E. Satisfactory lubricants or antiseptic ointments shall be applied to the tattoo area prior to tattooing. The ointment shall be applied in a satisfactory manner, disposing of the utensils after spreading. Collapsible tubes of ointment or jelly may also be used.

Section IX. Technique:

A. Tattooing.

1. The use of single-service hectographic stencils shall be required for applying a tattoo outline to the skin. Multi-use stencils shall be prohibited.
2. 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. It shall be the responsibility of the operator to provide certification to the Manville Board of Health of the non-toxicity of the dyes or inks at the time of license application and renewal.
3. 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. Any dye in which the needles are dipped shall not be used on another person.
4. The complete tattoo shall be washed with sterile gauze and a solution of tincture of green soap or its equivalent, then disinfected with seventy percent (70%) alcohol. The area shall be allowed to air dry and antiseptic ointment applied and spread with sterile gauze and sterile dressing attached.

B. Body Piercing.

1. Jewelry Preparation - Jewelry or an insertion taper that has been autoclaved and never worn must be placed in a medical anti-bacterial prep soak for ten (10) minutes and dried thoroughly before insertion. Jewelry previously worn

by the patron must be soaked in a medical anti-bacterial prep soak for ten (10) minutes in a separate disposable container. The disposable container and soak solution must be disposed of after each patron. Jewelry worn by a person other than the patron must be cleaned and sterilized before insertion.

2. Linen Cleaning and Storage - Cloth towels, robes, and similar items used in conjunction with body piercing must be laundered in a washing machine with hot water, laundry detergent, and chlorine bleach between uses. A closed, dustproof container must be provided for the storage of clean towels and linen. A hamper or similar container that complies with O.S.H.A. standards must be provided for the storage of soiled towels and linen.

Section X. Needles and Instruments:

- A. Only single-service sterile 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 or sharp instrument that penetrates the skin shall be immediately disposed of in accordance with Sections VI and XI of this ordinance and applicable State laws.
- D. Needle tubes shall be soaked with soapy water, then scrubbed with a clean brush, then rinsed clean. Needle tubes shall be sterilized, stored in sterile bags, and maintained in a dry, closed area as required by this ordinance.
- E. Each item to be sterilized shall be individually wrapped using indicator bags or strips. Sterilization shall be by steam sterilization. The sterilizer shall be well maintained with a tight fitting gasket and a clean interior. The manufacturer's operating instructions and sterilization specifications shall be at hand. The sterilizer shall conform to the sterilization cycle. Proper functioning of sterilization cycles shall be verified by the weekly use of biologic indicators (i.e., spore tests). A bound log book of these weekly test results shall be available, and a test may be required to be done during inspections. A loose leaf log book or one that permits additions or deletions shall not be used.
- F. If the primary source of sterilization malfunctions, the Manville Board of Health shall be notified within twenty-four (24) hours. In an emergency situation, the Manville Board of Health may approve alternative sterilization techniques.
- G. Needles and bars shall not be bent or broken prior to disposal. Tattoo artists shall take precautions to prevent injuries from contaminated needles or tubes.

Section XI. Disposal of Wastes:

- A. All used needles, needle bars, or other tools used in the tattooing process, as well as gloves, gauze, and other materials contaminated with blood or body fluids shall be sterilized in accordance with Sections VI, K and X of this ordinance, and then discarded in a disposable rigid container. In lieu of this requirement, contracting with an authorized service for the disposal of infectious waste shall be acceptable. All medical waste regulations shall be adhered to.
- B. All non-infectious waste shall be disposed of in accordance with Section VI, K of this ordinance.

Section XII.

- A. Holders of Other Licenses - Nothing in the foregoing shall be construed so as to affect the practice of medicine or any other recognized profession or occupation by a person duly licensed by the State of New Jersey to engage in such practice, profession or occupation and whose license would lawfully authorize the piercing of the body.

Section XIII. Penalty Provisions:

- A. Not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation of this ordinance shall be applied as penalty. Each day that the violation exists is considered to be a separate offense.
- B. Reasonable counsel fees incurred by the Manville Board of Health in the enforcement of this ordinance shall be paid by the defendant. The amount of such reimbursement fees and costs shall be determined by the Court hearing the matter.
- C. This ordinance shall preempt any municipal ordinance inconsistent herewith.

Section XIV. Suspension or Revocation of License:

- A. In addition to being subject to the penalties provided in Section XIII of this ordinance, any license issued under this ordinance may be revoked or suspended by the Manville Board of Health for any misstatement in any application or for any violation of this ordinance. No license shall be revoked or suspended until the licensee has been afforded a hearing before the Manville Board of Health. Notice of the filing of a complaint which seeks to suspend or revoke any license issued under this ordinance shall be served on the defendant personally or on the manager, registered agent, or officer of the corporation by certified mail or personal delivery to the business establishment's address or house address of a responsible party. The notice will establish a date for a hearing to be held not

more than fifteen (15) days from the date a such notice, at which time the defendant shall have the right to be represented by counsel, call witnesses, cross-examine witnesses produced in support of the complaint, as well as such other rights necessary in order to insure due process. Should any license be suspended or revoked, no part of the license fee shall be returned.

This ordinance shall take effect thirty (30) days after its final passage and publication as required by law.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed on its first reading at the regular meeting of the Manville Board of Health held at the Municipal Building, Borough of Manville, Somerset County, New Jersey, on the _____ day of _____, 1997 and will be considered for a second reading and final passage at the regular meeting of said Manville Board of Health to be held on the _____ day of _____, 1997 at _____ p.m. in the Municipal Building located at 325 North Main Street, Manville New Jersey at which time and place any persons desiring to be heard will be given the opportunity to be heard.