

ORDINANCE NO. 2020 - _____

AN ORDINANCE OF THE BOROUGH OF CHAMBERSBURG, FRANKLIN COUNTY, PENNSYLVANIA AMENDING THE CODE OF THE BOROUGH OF CHAMBERSBURG BY ADDING A NEW CHAPTER, CHAPTER 261, ENTITLED “TATTOO AND BODY PIERCING ESTABLISHMENTS.”

WHEREAS, Section 1202(5) of the Borough Code, 8 Pa. C.S. § 1202(5), authorizes the Borough to make regulations as may be necessary for the health, morals, general welfare, cleanliness, convenience, comfort, and safety of the Borough; and

WHEREAS, Section 1202(20)(ii) of the Borough Code, 8 Pa. C.S. § 1202(20)(ii), authorizes the Borough to prohibit, license, and regulate businesses unless prohibited by law; and

WHEREAS, the Borough has established a Board of Health in accordance with the provisions of Chapter 31 of the Borough Code, 8 Pa. C.S. §§ 3100-3114.

WHEREAS, the Town Council of the Borough of Chambersburg, Franklin County, Pennsylvania deems it to be in the interest of the health, safety, and welfare of the residents and visitors of the Borough to adopt standard regulations for the operation of tattoo and body piercing establishments and penalties for the violation thereof.

NOW THEREFORE BE IT ENACTED AND ORDAINED, by the Mayor and Town Council of the Borough of Chambersburg, Franklin County, Pennsylvania, and it is enacted and ordained as follows:

SECTION I: The Code of the Borough of Chambersburg is hereby amended by adding a Chapter 261, to be entitled “Tattoo and Body Piercing Establishments,” with the contents thereof to be as follows:

§ 261-1 Title.

This Chapter shall be known as, and may be cited as, the “Borough of Chambersburg Tattoo and Body Piercing Establishments Ordinance.”

§ 261-2 Purpose.

To prevent and/or limit infection, disease, and other injuries, it is crucial that tattoo and body piercing establishments be licensed, inspected, and regulated to ensure compliance with uniform health and sanitary requirements.

§ 261-3 Scope.

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The provisions of this Ordinance shall apply to all tattoo and body piercing establishments located within the Borough of Chambersburg.

§ 261-4 More Strict Standards to Apply.

In the event any provision of this Ordinance is inconsistent with a provision of any Chapter of the Code of the Borough of Chambersburg or state law, the provision applying the stricter standard shall apply.

§ 261-5 Definitions.

For the purposes of this Chapter, the following words, terms, phrases, and abbreviations shall have the meanings respectively ascribed to them by this section.

AUTOCLAVE

An apparatus for sterilization, utilizing steam pressure at a specific temperature over a period of time.

BOARD OF HEALTH

The Board of Health of the Borough of Chambersburg.

BODY PIERCING

Perforating the skin for the express intention of insertion of any object including, but not limited to, jewelry; provided, however, that the piercing of the ears shall be specifically excluded from the purview of this Chapter.

BODY PIERCING ESTABLISHMENT

Any place where an Operator performs or practices the art of body piercing.

CLIENT

The person receiving a tattoo or piercing on or in his or her body as a personal service in return for compensation.

HEALTH OFFICER

An individual appointed by the Borough Council or the Board of Health pursuant to Section 3101(a) or 3103(b)(1)(iii) of the Pennsylvania Borough Code, 8 Pa. C.S.A. §§ 101 – 3501.

INFECTIOUS DISEASE

A disease of man or animals resulting from a transmittable infection, whether or not patent, apparent, unapparent, latent, clinical, or subclinical.

OPERATOR

Any individual, firm, company, corporation or association that owns or operates an establishment where tattooing and/or body piercing is performed and any individual who performs or practices the art of tattooing and/or body piercing on another person.

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STERILIZATION

The process of destruction of microorganisms by physical or chemical means.

TATTOO/TATTOOED/TATTOOING

Any method of placing designs, letters, scrolls, figures, symbols, or any other marks upon or under the skin of a human with ink or any other substance, resulting in the coloration of the skin by the aid of needles or any other instrument designed to touch or puncture the skin. Microblading, a technique involving semi-permanent pigmentation of the skin, is expressly included within this definition and subject to the provisions of this Chapter. Medical doctors or doctors of veterinary medicine acting in performance of their professional duties are specifically excluded from this definition.

TATTOO ESTABLISHMENT

Any place where an Operator performs or practices the art of tattooing.

§ 261-6 Enforcement by the Board of Health. The Board of Health of the Borough of Chambersburg shall have the duty to enforce the provisions of this Chapter.

§ 261-7 License.

- A. License Required.** It shall be unlawful for any person to operate a tattoo and/or body piercing establishment without first obtaining a license to engage in such business in accordance with this Chapter and unless abiding by the provisions hereof. An Operator of a licensed establishment shall not perform any tattoo and/or body piercing services outside the licensed establishment premises within the Borough.
- B. Application.** Applicants for a license under this Chapter shall submit to the Borough of Chambersburg a written application containing such information as required by the Board. The Borough Manager, or his or her designee, is authorized to promulgate forms, rules, and regulations necessary to effectuate the provisions of this Ordinance.
- C. Investigation.** Applications for licenses shall be referred to the Health Officer or his or her designee. The Health Officer or his or her designee shall perform an initial investigation of the proposed location prior to issuance of a license to determine if the premises complies with the health and sanitation provisions of this Chapter.
- D. Fee.** Each applicant, before being granted a license, shall pay to the Borough a non-refundable annual fee, which shall be set by Town Council by resolution.
- E. Expiration.** Each license shall expire on December 31 of the year in which such license is issued, regardless of the date of issuance.

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- F. **Display.** The license provided for in this Chapter shall be posted conspicuously at the location where the applicant conducts the tattooing and/or body piercing.
- G. **Transfer.** If the licensee moves his or her tattooing and/or body piercing business to another location within the Borough, the license may be transferred to such new location upon application to the Board giving the address of the new location. The new location must first be approved by the Board in the same manner as provided for in Section 261-7 of this Chapter. A license shall not be transferable to any Operator other than the initial applicant.

§ 261-8 Inspections.

- A. **Health Officer.** The Health Officer, or a designee thereof, shall conduct inspections of any tattooing and/or body piercing establishment, at least twice annually with a minimum of three (3) months between inspections, for the purpose of determining whether or not said establishment and the persons performing tattooing and/or body piercing therein are in compliance with all applicable provisions contained within this Chapter. It shall be unlawful for any person or Operator of a tattooing and/or body piercing establishment to willfully prevent or restrain the Health Officer or a designee thereof from entering any licensed establishment where tattooing and/or body piercing is being performed for the purpose of inspecting said premises after proper identification is presented to the Operator.
- B. **Reinspections.** If an Operator or a tattooing and/or body piercing establishment fails an inspection, a cease and desist order shall be issued immediately by the Health Officer. The Operator shall pay a reinspection fee for each reinspection, and such reinspection(s) shall not count toward the minimum two (2) annual inspections.
- C. **Inspection Fees.** The fees for any inspection or reinspection required under this Ordinance shall be established by Resolution of Town Council from time to time.

§ 261-9 Health and Sanitation Requirements. Every Operator of a tattooing and/or body piercing establishment shall comply with the following health and sanitation requirements. The Board may promulgate, from time to time, additional rules and regulations not inconsistent herewith pertaining to the health and sanitation of tattooing and/or body piercing establishments.

- A. **Premises.** The entire premises of a tattooing and/or body piercing establishment shall be maintained in a safe and sanitary condition and in good repair in accordance with the following:
 - (1) The walls and floors of the room in which tattooing services are administered shall have an impervious, smooth, washable surface and shall be painted or finished in a light color. Carpeting is prohibited in tattooing areas.
 - (2) A toilet shall be located in the tattooing and/or body piercing establishment and shall be accessible at all times when said establishment is open for business. The lavatories shall

be supplied with hot and cold running water, liquid soap, and single-use towels provided in approved dispensers. Carpeting is prohibited in all toilet rooms.

- (3) The tattooing and/or body piercing establishment shall have a sink with unobstructed access supplied with hot and cold water which shall be located within each tattoo area or otherwise located within the overall workroom area. Within reach of the sink shall be antibacterial soap and a stocked single-use towel dispenser.
- (4) During the period of May 15 through October 1, every door, window, and/or other outside opening shall be kept closed or shall be supplied with air curtains or tightly-fitted screens which are not torn or damaged in any way that may allow insect infestation into the tattooing and/or body piercing establishment.
- (5) An easily cleanable, covered waste container must be provided in the tattooing and/or body piercing area for waste materials.
- (6) The telephone numbers of local emergency medical services and local police shall be prominently posted in the tattooing and/or body piercing area.

B. Equipment. All equipment used by the Operator shall comply with the following:

- (1) Single-service or individual containers of dye or ink shall be used for each patron, and the container thereof shall be discarded immediately after completing work on a patron in a double opaque plastic bag in a container with a tightly fitting lid. Any dye in which the needles were dipped shall not be used on another person. Excess dye or ink shall be removed from the skin with an individual, sterile sponge, gauze, or disposable paper towel or tissue, which shall be used on one person and then immediately discarded.
- (2) All pigments, dyes, colors, and other related agents used in tattooing shall be free from bacteria, virus particles, noxious agents, and substances. The stencil, unless composed of acetate, shall be of a single use. If acetate stencils are used, they shall be washed and disinfected between uses. Designs drawn directly onto the skin shall be applied with a single use article only. All bandages and surgical dressings used in connection with the tattooing and/or body piercing of a person shall be sterile and absorbent.
- (3) All tables and other equipment shall be constructed of easily cleanable material, with a smooth, washable finish and shall be separated from waiting customers or the general public by a panel or counter at least four feet high.
- (4) A new, disposable, single-service safety razor shall be available for the Operator's use for each patron. All other sharps, including needles and tubes, shall be of single-use and sterilized in an approved manner as required by the Board and this Chapter before use on each patron.

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- (5) All clean and ready-to-use needles, tubes, and instruments shall be kept in a closed glass or metal case or storage cabinet while not in use. Such cabinet shall be maintained in a sanitary manner at all times.
- (6) The needles, tubes, and instruments required to be sterilized shall be so used, handled, and temporarily placed during tattooing and/or body piercing so that they are not contaminated. Non-disposable and non-autoclavable items such as machines, countertops, wash bottles, clip cords, knobs, lamp handles, procedure tables, and arm and leg rests shall be equipped with a disposable poly barrier or sleeve. New barriers and sleeves shall be used for each client.
- (7) A steam sterilizer (autoclave) shall be provided within the tattoo and/or body piercing establishment for sterilizing needles, tubes, and similar instruments before use on any customer, person, or patron. Sterilization of equipment shall be accomplished by exposure to live steam for at least thirty (30) minutes at a minimum pressure of fifteen (15) pounds per square inch, temperature of 260° Fahrenheit. The autoclave shall be provided with a thermometer reading $\pm 2^\circ$ accuracy, and an accurate steam pressure gauge. Steam pressure gauge accuracy shall be maintained in accordance with the manufacturer's recommendations. Autoclave effectiveness shall be validated by regular quarterly spore testing and conducted by a laboratory approved by the Board. Record of such testing shall be kept on the premises for a period of three (3) years. Every three (3) months, the Operator shall be responsible for providing a copy of the spore testing results to the Board. A Class 5 steam sterilization integrator shall be used in all loads to be sterilized and shall be numbered so as to correspond with the lot number of the sterilized contents. Sterile packaged instruments shall be marked with a lot number, and a logbook shall be kept tracking the date of processing, contents, temperature, time, integrator result, spore test result, and the name of the person responsible for processing. Alternate sterilizing procedures may only be used when specifically instructed by the manufacturer of the sterilizing equipment and approved by the Board. A copy of the instructions from the manufacturer shall be maintained on site at all times. Use of manufacturer pre-sterilized needles, tubes, and similar instruments shall be permitted, and a record of these items shall be kept on the premises for a period of three (3) years. Lot numbers shall be marked on each pre-sterilized item, and a logbook shall be kept tracking the manufacturer name, item description, date received, and expiration date (if any).
- (8) All equipment user manuals, as supplied by the equipment manufacturer, shall be retained and stored at the tattoo and/or body piercing establishment and shall be provided to the Health Officer or his or her designee upon request.
- (9) All instruments that are processed by sterilization must first be cleaned.

- (10) All body piercing jewelry shall be made of high-quality stainless steel, gold, inert plastics, or other approved materials found to be safe for use in body piercing. Jewelry to be inserted shall be sterilized prior to insertion at the piercing site. All receiving corks used in body piercing shall be discarded after each use.
- (11) All bandages and surgical dressings used in connection with the tattooing of a person shall be stored in a sterile manner.
- (12) Needles and all other sharp instruments along with gloves, gauze, and other materials contaminated with blood shall be discarded by following the procedures of a reputable waste services company which collects, transports, and disposes infectious waste and is approved by the Board. Infectious waste disposal shall occur at least once during a calendar year, and record of such disposal shall be kept on the premises for a period of three (3) years. Operators of a tattoo and/or body piercing establishment shall not store needles and other infectious waste materials on the premises for more than one (1) year.

C. Operations and Personnel.

- (1) A signed statement from a licensed physician shall be provided to the Board annually, prior to issuance or renewal of a license under this Chapter, confirming that, within the twelve (12) months preceding the date of the statement, the Operator was examined by the physician, a test of the Operator's blood was performed, and the test results indicate that:
 - (a) the artist is free from all contagious and infectious diseases, including hepatitis B, hepatitis C, and HIV; and
 - (b) the artist has completed a vaccination series or laboratory tests, which tests include hepatitis B surface antibody total, hepatitis C antibody test, and HIV-1 antibody test, or alternatively, antibody testing reveals that the artist is immune to certain diseases; or
 - (c) a vaccine is contraindicated for medical reasons.
- (2) The Operator shall scrub his/her hands thoroughly with soap and hot water before starting to tattoo and/or body pierce. Hands shall be dried with individual, single-use towels. Clean surgical gloves (latex or nitrile) shall be worn by the Operator when tattooing and/or body piercing. Gloves shall be used only once and then disposed of in a double opaque plastic bag in a container with a tightly fitting lid or any alternative manner as prescribed by the Board. Gloves shall be changed and properly disposed of each time there is an interruption of the tattoo and/or body piercing procedure, when the gloves become torn or punctured, or whenever the ability to function as a barrier is compromised.

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- (3) In addition to surgical gloves, personnel shall wear protective eyewear and a fluid-resistant mask when performing services if necessary for the procedure.
- (4) Tattoo and/or body piercing establishment employees or Operators are prohibited from working or providing services in a tattoo and/or body piercing establishment while having skin infections, open sores, and/or weeping dermatological lesions. Documentation from a licensed physician indicating that the condition is resolved or healed and no longer communicable or transmissible is required before returning to work.
- (5) Tattoo and/or body piercing establishment employees or Operators are prohibited from providing services or working in a tattoo and/or body piercing establishment while having an acute respiratory infection or other disease or condition which has been diagnosed to be in a communicable or transmissible condition. Documentation from a licensed physician indicating that the condition is no longer communicable or transmissible is required before returning to work.
- (6) Prior to the procedure, the area to be tattooed and/or externally pierced shall be thoroughly scrubbed with an antiseptic soap or surgical scrub or preparation adhering to manufacturer guidelines for use of the specific product. Any oral skin piercing procedure shall be preceded by the client performing not less than one-minute, vigorous application of an antiseptic mouthwash. Waste materials shall be deposited in an easily cleanable, covered waste container provided in the work area.
- (7) Only petroleum jelly or antibiotic ointment as approved by the Board shall be used on the area to be tattooed and/or pierced during the tattooing and/or piercing procedure, and at the discretion of the Operator. Such petroleum jelly or ointment shall be applied with sterile gauze.
- (8) The use of styptic pencils, alum blocks, or other solid styptics to check the flow of blood is prohibited.
- (9) No establishment licensed under this Chapter shall attempt to remove a tattoo from any person or allow such a procedure to take place on its premises.
- (10) Animals shall not be permitted in a tattoo and/or body piercing establishment, except where permitted by law. Animals are not to be tattooed in tattooing establishments. Animals are not to be tattooed with any of the instruments used in tattooing human customers.
- (11) Ear piercing guns shall not be used for body piercing; such guns shall only be used for piercing ear lobes.

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- (12) Operators of tattoo and/or body piercing establishments shall complete an approved course on the control and prevention of blood-borne diseases prior to opening for business. Existing licensed tattoo and/or body piercing establishments shall have three (3) months after the effective date of this Chapter to comply with this requirement.
- (13) Operators of tattoo and/or body piercing establishments shall complete an approved course on the administration of adult cardiopulmonary resuscitation (CPR) prior to opening for business and maintain a valid certification at all times thereafter. Existing tattoo and/or body piercing establishments shall have three (3) months after the effective date of this ordinance to comply.

D. Clients.

- (1) No holder of a license hereunder, or the employee of such holder shall tattoo and/or body pierce any person under the age of eighteen (18) years without first obtaining written consent from a parent or guardian. The parent or guardian of such person shall be present at the time of the procedure. All parental authorizations shall be maintained on file and be available for inspection for a period of seven years.
- (2) No tattooing and/or body piercing shall be done on a skin surface that has a rash, pimples, boils, infection, or manifests any evidence of unhealthy conditions or infectious disease.
- (3) All infections resulting from the practice of tattooing which become known to the Operator shall promptly be reported to the Board, the Health Officer, or a designee thereof by the Operator.
- (4) Licensed tattoo and/or body piercing establishment personnel shall refuse service to any person who appears to be under the influence of alcohol or drugs.
- (5) After-care instructions shall be provided to each client following any procedure. After-care shall consist of both verbal and written instructions concerning the proper care of the body area involved and instructions to consult a physician if infection occurs.
- (6) Each client shall complete an application prior to any procedure. This application shall include, at a minimum, the client's name, date of birth, proof of age, address, telephone number, procedure performed, date of procedure, name of employee providing service, and, if a minor, proof of parental or guardian consent and client's signature. All applications shall be retained for a minimum of three years and made available upon request to the Board.

§ 261-10 Penalties.

A. Suspension and Revocation of License.

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- (1) A tattoo and/or body piercing establishment license may be suspended or revoked by the Health Officer under any of the following circumstances:
 - (a) the application for such license contained one or more false statements
 - (b) the Operator has violated any of the provisions of this Chapter; and/or
 - (c) the Operator is convicted and pleads guilty or nolo contendere to an offense listed under the Pennsylvania Crimes Code relating to the conduct of business in the tattoo and/or body piercing establishment.
- (2) The Health Officer shall serve the tattoo and/or body piercing establishment with written notice of said suspension or revocation, specifying the reasons therefore, before said suspension or revocation shall become effective. Service of said notice shall be deemed effective if delivered to the person in apparent charge of the tattoo and/or body piercing establishment.

B. Other Penalties. In addition to the suspension and revocation of any license, as provided in Section 261-10(A) of this Chapter, any Operator or other person who shall violate any provision of this Ordinance shall, upon conviction, be subject to a fine of not less than \$100.00 nor more than \$600.00 and costs of the action. Each day that a violation exists shall constitute a separate violation.

§ 261-11 Appeals. Any person aggrieved by an action or decision of the Health Officer may appeal such action or decision to the Borough of Chambersburg Board of Health within thirty (30) days.

SECTION II: Repealer. All provisions of previous ordinances of the Borough of Chambersburg, which are contrary to this ordinance, are expressly repealed.

SECTION III: Savings Clause. In all other respects, the ordinances of the Borough of Chambersburg shall remain as previously enacted and ordained.

SECTION IV: Severability. The provisions of this Ordinance are severable and if any of its sections, clauses, or sentences shall be held illegal, invalid, or unconstitutional, such provision shall not affect or impair any remaining sections, clauses, or sentences of the same.

SECTION V: Effective Date. This Ordinance shall become effective on January 1, 2021.

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ENACTED, ORDAINED, AND APPROVED this ____ day of _____, 2020.

Alice C. Elia
President of Town Council

ATTEST:

Jamia L. Wright
Secretary of Town Council

Walter C. Bietsch
Mayor

Certification

I, Jamia L. Wright, Borough Secretary, hereby certify that the foregoing ordinance was advertised in the Public Opinion on _____, 2020, a newspaper of general circulation in the Municipality and was duly enacted and approved as set forth at the Regular Public Meeting of the Council held _____, 2020.

Jamia L. Wright, Borough Secretary