AN ORDINANCE AMENDING CHAPTER 8 OF THE CODE OF THE TOWNSHIP OF FAIRFIELD TO INCLUDE ARTICLE 11, ENTITLED “BODY ART ESTABLISHMENTS”

WHEREAS, The Township of Fairfield finds that body art establishments should be regulated in accordance with provisions enforceable by the New Jersey State Department of Health and Senior Services and the Township of Fairfield Health Department; and

WHEREAS, The Township of Fairfield further finds that the regulation of body art establishments is in the interest of public health and safety; and

WHEREAS, it is the desire of the Governing Body of the Township of Fairfield to amend the Township’s Health Regulations Ordinance to include a section that defines and regulates body art establishments.

NOW, THEREFORE, BE IT ORDIANED by the Mayor and Township Council of the Township of Fairfield, County of Essex, State of New Jersey, as follows:

SECTION 1. Chapter 8, Article 11, entitled “Body Art Establishments,” shall be added to the Township Code of the Township of Fairfield to read in its entirety as follows:

§ 8-11. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

Body Art- The practice of physical body adornment in permitted establishments by operators utilizing, but not limited to, the following techniques: 1. Body piercing, 2. Tattooing, and 3. Permanent cosmetic.

Body Art Establishment- Any place or premises, whether public or private, temporary or permanent in nature or location, where the practices of body art, whether or not for profit, are performed, provided it is compliant with the Fairfield Township Zoning Ordinance.

Certificate of Inspections- Written approval from the Department that said tattoo studio has been inspected and meets all of the requirements of this chapter.

Department- The Department of Health of the Township of Fairfield or its duly authorized agent, officer or inspector.

License to Operate- A license issued to the owner of a tattoo studio to operate a business under the provisions of this chapter.
Owner- Any individual, firm, company, partnership, corporation or association that owns and/or operates an establishment where body art is performed.

Registration- A registration issued to a tattoo artist under the provisions of this chapter.

Body Art Practitioner- Any person that performs the act of tattooing, permanent cosmetics and/or ear and body piercing.

Tattoo or Tattooing- Any method of placing nontoxic inks or pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This includes all forms of permanent cosmetics.

Temporary Body Art Establishment- Any booth, building, room, shop, store, structure, or portion thereof, where body art procedures are temporarily performed during a trade show, product demonstration, educational seminar, or special event, for a period of time not more than fourteen (14) days.


This chapter shall govern all businesses that offer tattooing, permanent cosmetics, and ear and body piercing to the public with the exception of a physician who is authorized by the State Board of Medical Examiners to practice medicine, pursuant to N.J.S.A. 45:9-6 et seq. Under the authority of N.J.S.A. 26:1A-9, the provisions of this chapter are enforceable by the New Jersey State Department of Health and Senior Services and the Township of Fairfield Health Department.

§ 8-11.2. Adoption of Code

A code regulation body art establishments and fixing penalties is hereby established pursuant to N.J.S.A. 26:3-69.1 et seq. A copy of the code is annexed to this chapter and made part of it without the inclusion of text.

§ 8-11.3. Title

The code established and adopted by this chapter is described and commonly known as the “New Jersey State Sanitary Code, Chapter 8, Body Art Procedures N.J.A.C. 8:27-1 et seq.

§ 8-11.4. Registration required.

A. No body art establishment shall be permitted to open for operation until the Health Department has given formal approval by issuance of an appropriate license. All licenses shall expire on December 31 of each year.
(1) The license shall be displayed in a conspicuous place on the premises where it may readily be observed by all clients.

(2) No person shall operate a body art establishment whose license has been suspended.

(3) Proof of professional malpractice liability insurance for each practitioner shall be provided to the Health Department as part of the initial and renewal license application.

§ 8-11.5. Body Art Practitioner registration approval; fee.

A. Any person desiring to engage in body art shall submit an application to the Department of Health in the form prescribed by said Department.

B. A fee as provided in Chapter 8, Fees, shall be required for the initial application. A fee as provided in Chapter 8, Fees, shall be required of each new applicant, said fee shall be no more than $125.00.

C. All fees paid pursuant to this section are nonrefundable.


No person, partnership, firm or corporation shall operate a body art establishment unless such person, partnership, firm or corporation has registered such shop with the Department of Health and has received a certificate of inspection from said Department. No certificate of inspection shall be issued unless the establishment was inspected by the Department of Health and found to be in compliance with the requirements of this chapter. (N.J.A.C. 8:27-1)

§ 8-11.7. License to operate; fee.

A. Any person desiring to construct, expand, alter, or operate a body art establishment shall apply in writing to the Health Department for review and approval before such construction, expansion, alteration or operation is begun. Such application shall include the following information:

(1) The applicant's legal name, home address and telephone number, full business name, business address, post office address and telephone number. The application shall also include whether the applicant is an individual, partnership, firm or corporation. If the applicant is a partnership, the names and addresses of the partners shall be included on the application. If the applicant is a corporation, the names and addresses of all corporate officers shall be included on the application;
(2) Applications must be accompanied by a non-refundable license fee and an additional non-refundable fee for each artist performing procedures at the establishment specified on the application, as set forth in Chapter 8, Fees.

a. An application for a license renewal shall be accompanied by a fee, as set forth in Chapter 8, Fees. Any change of ownership shall require a new application and license with payment of fees therefore.

b. All licenses shall expire on the 31st day of December annually. In the event that renovations and/or alterations are made to the body art establishment, plans must be submitted to the Department of Health and the applicant will be required to comply with building and construction codes.

(3) A statement of approval from the municipal agency responsible for the administration of planning and zoning ordinances for the proposed construction or expansion of the body art establishment;

(4) A complete description of all services to be provided, the proposed hours of operation, the name of the operator and the names of all practitioners and their exact duties, a copy of the informed consent for each procedure;

(5) The names and addresses of all manufacturers of processing equipment, instruments, jewelry, and inks used for any and all body art procedures;

(6) A certificate of current professional malpractice liability insurance;

(7) All construction, expansion or alteration to the building, structures, and facilities used by the public shall comply with the Barrier Free Subcode, N.J.A.C. 5:23-7.1 et seq.; and

(8) All construction expansion or alteration, to the building, structures, and facilities shall be done in accordance with the requirements of the New Jersey Uniform Construction Code, N.J.A.C. 5:23-1.1.

B. Plans and specifications must accompany the application and shall illustrate the location of the proposed establishment and a floor plan of the establishment as it is proposed to be operated. An exact inventory of all processing equipment as it is to be used. Plans shall indicate the layout of the reception area, the procedure areas, the cleaning and sterilization area, the storage area and the toilet facilities, in accordance with the requirements set forth in N.J.A.C. 8:27-1.1 et seq.;
(1) All construction, expansion or alteration to the building, structures, and facilities used by the public shall comply with the Barrier Free Subcode, N.J.A.C. 5:23-7.1 et seq.; and

(2) All construction expansion or alteration, to the building, structures, and facilities shall be done in accordance with the requirements of the New Jersey Uniform Construction Code, N.J.A.C. 5:23-1.1.

§ 8-11.8. Revocation or suspension of license to operate.

In addition to any other penalty that may be imposed by § 8-11.9, after due notice and hearing before the Health Officer of the Township of Fairfield, the Department may suspend or revoke any body art practitioner registration, any license to operate a body art establishment issued pursuant to this chapter for violations of the provisions of the chapter.

§ 8-11.9. Sanitary requirements.

In order to qualify for a certificate of inspection there must be compliance with the following requirements:

A. The establishment shall be so located or constructed as to prevent the contamination of the work areas of the establishment by dust from the street or sidewalk.

B. The building and equipment shall be maintained in a state of good repair at all times. All parts of the establishment shall be kept neat, clean and free from litter and rubbish.

C. All walls, ceilings and floors shall be smooth, made of nonporous material and easily cleaned. Walls, ceilings and floors shall be kept clean and free from dust and debris. The floor shall be swept and wet mopped daily. Floors, walls or ceilings shall not be swept or cleaned while tattooing is in operation.

D. Adequate light and ventilation shall be provided.

E. At least one hand-sink with hot and cold running water under pressure, and equipped with wrist, foot, or sensor operated controls and supplied with liquid soap, disposable paper towels and refuse containers shall be readily accessible and provided for every two work stations within the body art establishment.

F. Adequate toilet, urinal and hand washing facilities shall be available on the establishment premises for the use of customers and body art practitioners. Toilets, urinals and hand washing facilities shall be maintained in a sanitary condition of all times.
G. Furniture in the procedure rooms shall be of non-porous materials and cleaned and sanitized after each use. The surface of all work tables shall be constructed of metal or other material which is smooth, light-colored, nonabsorbent, corrosive-resistant and easily cleanable and cleaned and sanitized after each use.

H. The body art establishment shall have a waiting area that is physically separated from workstations.

I. Proper closed cabinets for the exclusive storage of instruments, dyes, pigments, carbon stencils and other paraphernalia used in the studio shall be provided for each body art practitioner. Sharps containers shall be made available at each location.

J. The body art establishment shall have proper facilities for the disposition of waste materials. Written plans are to be submitted to the Health Department for proper disposal.

K. No smoking shall be permitted in any body art establishment.

L. The holder of any license to operate shall not allow a body art practitioner to perform in his/her body art establishment unless the body art practitioner is the holder of a valid registration as defined in this chapter.

M. The holder of a "license to operate" shall maintain proper records for each patron. A record of each patron shall include the date on which he/she had the body art performed, his/her name and his/her signature, address and age, the design of the body art and its location on his/her body, and the name of the body art practitioner who performed the service. These records shall be entered in ink or indelible pencil in a bound book kept solely for this purpose. This book shall be available at reasonable hours for examination by the Department of Health or any law enforcement officer and shall be preserved for at least three years from the date of the last entry therein.

N. Only body art shall be permitted in the body art establishment.

O. Only single use, all disposable equipment that comes into contact with clients' skin and bodily fluids shall be used. Single use items shall not be used on more than one client for any reason. This includes but is not limited to: Tubes, needles, cartridges, grips, clamps and markers.

P. Aluminum foil or plastic covers shall be used to protect items and surfaces that may become contaminated by blood or saliva during use and that are difficult or impossible to clean and disinfect. These coverings shall be removed, discarded, and replaced with clean material between clients.
Q. It shall be a violation of this chapter for anyone or any tattoo business to perform body art on an individual under 18 years of age without the presence, written consent, and proper identification of a parent or legal guardian. The operator shall be responsible for maintaining a copy of the birth certificate, original consent form and copies of all consent information for a period of three years. The operator shall obtain a copy of government issued photographic identification of all the individuals being tattooed and all records shall be available for inspection upon request.

R. Each person wishing to receive a tattoo must first apply to the operator, on a form approved by the Health Department. 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.

S. All records regarding tattoos are to be maintained for a minimum of three years. Information required for each applicant referred to in Sub-section R is to include the name, age, date of birth, address and telephone number of the applicant as well as the design and location of the tattoo.

T. All infections resulting from the practice of tattooing which become known to the operator shall be promptly reported to the Health Officer by the person owning or operating the tattoo establishment or by the tattoo artist.

§ 8-11.10. Minimum operating standards.

A. The body art practitioner will use standards of aseptic technique in tattooing, dressing and other operations that are approved by the Department of Health. He/she will use only such germicides and dressings as are approved by said Department. All instruments, needles, stencils, dyes, pigments, dressing materials, razors, and other equipment used by the body art practitioner while tattooing shall be sterile.

B. The following minimum standards shall be observed at all times.

(1) No person, except a duly licensed physician, shall practice body art in any place other than a body art establishment for which a certificate of inspection has been issued.

(2) It shall be unlawful to perform any body art procedure on an individual who is under the influence of intoxicating liquor or drugs.

(3) It shall be unlawful to perform any body art procedure on an individual under the age of 18 years without the notarized written consent of a parent(s) or legal guardian of such individual and copy certified birth certificate. Such written consent and birth certificate shall be kept on file as provided in this chapter.
(4) No person with any disease in a communicable form or suspected of having such disease shall engage in body art. Such diseases may include but shall not be limited to the common cold, influenza, tuberculosis, scabies, impetigo, syphilis, chickenpox, measles (rubeola), German measles (rubella), mumps, whooping cough, hepatitis, AIDS, infection on hands or arms, sore throat or jaundice of the skin or sclera. The Department of Health may require a certificate signed by a duly licensed physician stating that said person is free from communicable diseases before permission to resume operation is granted.

(5) Immediately after performing body art on a patron, the body art practitioner shall advise that patron in writing on the care of the procedure and shall instruct the patron to consult a physician at the first sign of infection of the body art.

(6) Each body art practitioner must maintain a high standard of personal cleanliness and must wear a clean outer garment.

(7) Before working on each patron, each body art practitioner shall thoroughly wash and scrub his/her hands with hot running water, an approved soap. When working on a patron each body art practitioner shall wear disposable non-latex gloves.

(8) That portion of the patron's skin to be tattooed shall be prepared by washing with hot water and approved soap; by shaving with a sterile safety razor and a single-service blade; and shaving shall be followed by a thorough cleansing with hot water and approved soap applied with a clean, disposable cotton gauze or paper towel.

(11) The stencils for transferring the design to the skin shall be disposable paper stencils. No plastic or reusable stencils shall be used.

(12) Single-service or individual portions of dyes or pigments in clean, sterilized, individual containers or single service containers must be used for each patron. After tattooing, the remaining unused dye or pigment in the single service or individual containers must be discarded. All dyes or pigments used in tattooing shall be approved by the Department of Health.

(16) Storage cabinets shall be maintained in a sanitary condition, and all instruments, dyes, pigments, stencils and other paraphernalia shall, when not being used, be kept in them in an orderly arrangement.

(17) Work tables shall be kept clean and orderly and shall have washable interiors.

(18) All rooms used for body art procedures shall be completely separated from any room used for human habitation, food service or other such activity which may cause potential contamination of work surfaces.
§ 8-11.11. Inspection.

A. The Health Department shall inspect every body art establishment as often as the Health Department deems necessary using an inspection report form.

(1) A representative of the Health Department shall provide proper identification.

(2) During all hours of operation, the operator shall permit access to all parts of the establishment and all pertinent records required for the inspection shall be made available to the Health Department representative for review.

(3) Results of the inspection shall be made available to the public upon request.

(5) Should an establishment be found to be in violation of N.J.A.C. 8:27-1.1 et seq. or other provisions of this chapter and the Health Department determines that a re-inspection is necessary, a re-inspection fee as set forth in Chapter 8, Fees., shall be required to be paid by the operator for every re-inspection performed until the violation(s) have been corrected within the time prescribed by the Health Department. The fee shall be paid within 10 days of the notification of the said re-inspection requirement.


Unless another penalty is specifically provided elsewhere in the Code or in law of the state or federal government, any person who violates any provision of this chapter, any other chapter of this Code or any other ordinance of the township shall, upon conviction, be punishable by a fine of no less than $50 (fifty) not more than $1,000 (one thousand) for each violation. Each day that such violation continues shall be deemed a separate offense.

a. Reasonable counsel fees incurred by the Health Department in the enforcement of this chapter shall be paid by the defendant. The amount of such reimbursable fees and costs shall be determined by the court hearing the matter.

§ 8-11.13. Prohibited Activities.

Temporary Body Art Establishments shall be prohibited.
SECTION 2. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. If any section, paragraph, subdivision, clause of provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to that section, paragraph, subdivision, clause or provision so adjudged, and the remainder of this ordinance shall be deemed to be valid and effective.

SECTION 4. This ordinance shall take effect immediately after final passage, approval and publication as required by law.

[Signature]
JAMES GASPARINI
Mayor

ATTEST:

[Signature]
DENISE D. CAFONE
Municipal Clerk

NOTICE

Notice is hereby given that the foregoing Ordinance was submitted in writing at a meeting of the Mayor and Council of the Township of Fairfield, County of Essex, State of New Jersey, held on November 27, 2017 introduced and read by title and passed first reading and that said Governing Body will further consider the same for second reading and final passage thereof at a meeting that is to be held on December 11, 2017 at 7:00 p.m.; at the Municipal Building, 230 Fairfield Road, Fairfield, New Jersey, at which time and place a public hearing will be held thereon by the Governing Body and all persons and citizens of interest shall have an opportunity to be heard concerning same.

[Signature]
DENISE D. CAFONE
Municipal Clerk
INTRODUCTION OF ORDINANCE
ORDINANCE #2017-20 ~ AN ORDINANCE AMENDING CHAPTER 8 OF THE CODE OF THE TOWNSHIP OF FAIRFIELD TO INCLUDE ARTICLE 11, ENTITLED “BODY ART ESTABLISHMENTS”

INTRODUCED BY: Councilman LaForgia
SECONDED BY: Councilman Morgan
PUBLISHED: November 30, 2017

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2ND READING AND PUBLIC HEARING: December 11, 2017

INTRODUCED BY: Council President McGlynn
SECONDED BY: Councilman Cifelli
PUBLISHED: December 14, 2017

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