

2023-17

Adopted July 3, 2023

An Ordinance of the Borough of Dunellen Adding a New Chapter 110 to the Borough Code Entitled “Barbershops, Beauty Parlors and Nail Salons.”

Section 110-1. Short title.

Section 110-2. Definitions.

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

BARBER — Any person who is licensed to engage in any of the practices encompassed in barbering.

BARBERING — Anyone or combination of the following practices when done on the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments and when done for payment either directly or indirectly or when done without payment for the general public:

- A. Shaving or trimming of the beard, mustache or other facial hair;
- B. Shampooing, cutting, arranging, relaxing or styling of the hair;
- C. Singeing or dyeing of the hair;
- D. Applying cosmetic preparations, antiseptics, tonics, lotions or creams to the hair, scalp, face or neck;
- E. Massaging, cleansing or stimulating the face, neck or scalp with or without cosmetic preparations, either by hand, mechanical or electrical appliances: or
- F. Cutting, fitting, coloring or styling of hairpieces or wigs, to the extent that the services are performed while the wig is being worn by a person.

BARBERSHOP — Any establishment engaged in the practice of barbering for the public.

DESIGNEE — Any person designated by the Health Officer to act for him/her in the performance of his/her duties.

DISINFECTANT — An Environmental Protection Agency (EPA) or New Jersey Department of Environmental Protection registered product with demonstrated bactericidal, virucidal and fungicidal activity used in accordance with manufacturer's instruction.

HAIRDRESSER/COSMETICIAN or COSMETOLOGIST-HAIRSTYLIST — Any person who is licensed to engage in the practices encompassed in cosmetology and hairstyling.

HAIRDRESSING AND COSMETOLOGY — Anyone or combination of the practices as outlined in N.J.S.A. 45:5B-3(j) when done on the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments and when done for payment either directly or indirectly or when done without payment for the general public.

HAIRDRESSING OR COSMETOLOGY SHOP/SALON — Any establishment engaged in the practice of hairdressing, cosmetology, or barbering for the public.

HEALTH OFFICER — The Health Officer of the Borough of Dunellen or his/her duly authorized representative.

NAIL SALON/SHOP — Any establishment engaged in the practice of cutting, shaping, polishing or enhancing the appearance of the nails of the hands or feet, including, but not limited to the application and removal of sculptured or artificial nails.

NAIL TECHNICIAN — A person who, for compensation, cuts, shapes, polishes or enhances the appearance of the nails of the hands or feet, including but not limited to the application and removal of sculptured or artificial nails.

OPERATOR — A person who owns, leases, or manages a shop/salon, or any licensed person performing barbering, hairdressing, cosmetology, manicuring or waxing.

OWNER — A person who owns a shop/salon establishment and is responsible for upholding the regulations of this chapter in all areas of the establishment.

PERSON — An individual, firm, partnership, company, corporation, trustee, association or any public or private entity.

PERSON IN CHARGE — The individual present in a barbershop or hairdressing and/or cosmetology salon/shop or nail salon/shop that is the apparent supervisor of the barbershop or hairdressing and/or cosmetology shop/salon or nail salon/shop at the time of inspection. If no individual claims to be a supervisor, then any employee present is deemed to be the person in charge for the purposes of this chapter.

SANITARY CONDITIONS — Safe and clean shop/salon conditions that prevent the spread of communicable diseases and protect the public's health and welfare.

WAXING — The temporary removal of superfluous hair from the hair follicle on any area of the human body through the use of a physical (wax) depilatory or by tweezing.

WORKING AREA — A separate room with more than one workstation, or a private room set aside to serve one customer at a time.

WORKSTATION — A chair, countertop and floor space set aside for the purpose of serving a customer, including floor space for the operator to stand while serving the customer.

Section 110-3. License required; requirements for issuance.

- A. No person shall maintain or operate any barbershop, hairdressing, cosmetology salon/shop or nail salon/shop without having a valid license issued by the Municipal Clerk's Office after inspection by the Health Officer. Only a person who complies with the requirements of this chapter shall be entitled to receive or retain such a license.
- B. Every barbershop, hairdressing, cosmetology salon/shop or nail salon/shop must comply with local planning and zoning regulations and all other applicable ordinances before being issued a license.
- C. All licenses are valid for one year or a portion thereof and are renewable on January 1st of each year.
- D. The application fee for a license, new or renewal, shall be \$75 each for a one-year period beginning January 1st and ending the last day of December. License application fees are nonrefundable. All licenses issued during the course of the year shall expire on the last day of the following December. All applications for the renewal of licenses and the fees thereof must be received by the Clerk's Office no later than December 1st of the year in which the current license shall expire.
- E. No license shall be issued or renewed until a completed application has been submitted, the license fee has been paid and the applicant's barbershop or hairdressing and/or cosmetology salon/shop or nail salon/shop meets the requirements set forth in this chapter and all other applicable state and local regulations.
- F. Licenses shall be valid until the last day of December of each year as noted on the license unless suspended by the Health Officer or until such time as the facility changes owners, closes or goes out of business.

- G. Licenses shall not be transferable from person to person or from location to location. Any planned change in ownership of a facility must be reported promptly to the Municipal Clerk's Office and such changes must be approved by the Municipal Clerk and Health Officer prior to the issuance of an operating license.
- H. Licenses must be displayed in a prominent location within the establishment where patrons can observe it.
- I. All applications for the renewal of licenses and the fees thereof that are not received by December 31 of the year following that during which the current license expires shall be subject to a late fee of \$75.00 per month or part thereof.

Section 110-4. Annual inspections.

- A. The Health Officer shall promulgate such rules and procedures as are necessary to ensure compliance with this chapter.
- B. At least once a year, the Health Officer or his/her designee shall inspect each barbershop, hairdressing and/or cosmetology shop/salon and nail salon/shop and shall make as many additional inspections as are necessary for the enforcement of this chapter.
- C. The Health Officer or his/her designee, after proper identification, shall be permitted to enter, during normal operating hours, any portion of any barbershop or hairdressing and/or cosmetology shop/salon or nail salon/shop for the purpose of making inspections to determine compliance with this chapter.
- D. In the event that the Health Officer or his/her designee finds unsanitary conditions in the operation of a barbershop or hairdressing and/or cosmetology shop/salon or nail salon/shop, or if a violation or multiple violations occur, the Health Officer or his/her designee may immediately issue a written notice to the license holder, or person in charge, citing such conditions, specifying the corrective action to be taken and time frame within which such action shall be taken. If corrective action is not made in the allotted time, the licensee may be fined or his or her license suspended.

Section 110-5. Sanitation.

- A. General cleanliness. Each shop/salon shall be maintained to provide a safe and sanitary environment. All facilities shall be kept clean, sanitary and in good repair.
- B. Disinfection of reusable equipment:
 - (1) After each use on a patron, any tool or part thereof which comes into contact with the head, face, neck, hands or feet of the patron, such as razors, scissors, tweezers, combs and parts of vibrating trimmers, shall be thoroughly cleaned and disinfected.
 - (2) After each use on a patron, all electrical and nonelectrical instruments shall be thoroughly cleaned to remove foreign matter, treated with an approved disinfectant and stored in a protected manner until next use.
 - (3) Disinfectants shall be changed in accordance with the manufacturer's instructions to ensure complete disinfection. No sediment from the item being disinfected shall be allowed to remain in the bottom of the disinfection container.
- C. Disposable and single-use equipment:
 - (1) Disposable or single-use articles shall be disposed of in a waste receptacle after use on each patron unless stored in a separate closed clean container labeled with the patron's name and used only on that patron.

- (2) All disposable or single-use articles that come into contact with blood and/or body fluids shall be enclosed in sealable plastic bags prior to being placed in the waste receptacle.
- (3) All sharp or pointed articles shall be disposed of in a punctureproof container.

D. Sanitation of foot spas and water baths:

- (1) An antimicrobial additive shall be placed in each foot spa or water bath during use.
- (2) After each patron, the shop/salon shall drain all water and debris, properly disinfect and dry the foot spa or water bath.
- (3) At the end of each day, the shop/salon shall remove and immerse any filter in disinfectant and flush the foot spa or water bath with low-sudsing soap and water, and then disinfect and air dry the foot spa or water bath.

E. Towels:

- (1) Clean, properly laundered or disposable towels shall be used for each patron.
- (2) All linens and towels shall be deposited in a covered cleanable receptacle after use by a patron.
- (3) Clean towels and linens shall be stored off the floor in a clean, protected location.

F. Cosmetics:

- (1) When only a portion of a cream, liquid, powder or other cosmetic preparation is to be removed from the container, it shall be removed in such a way as not to contaminate the remaining portion.
- (2) Multi-use of cosmetic applicators is prohibited. This includes the use of lipsticks, powder puffs, makeup brushes and sponges which are not disposable.
- (3) Lotions and powders shall be dispensed from a sanitary self-dispensing container.

G. Operators:

- (1) Operators shall thoroughly wash their hands with soap and water immediately after using the toilet, eating or smoking. Before serving each customer, operators shall thoroughly wash their hands with soap or hand disinfectant.
- (2) No operator shall remove warts or moles or treat any disease of a patron, nor perform any medical procedure such as an injection, nor dispense any medical device.
- (3) All operators shall have an exclusion policy for people with a communicable disease that may be transmitted through the services of a barber, hairdresser, cosmetologist, or nail technician.
- (4) No individual shall perform procedures requiring licensure by the New Jersey State Board of Cosmetology without possessing such a valid license.
- (5) No individual shall perform procedures requiring licensure by the New Jersey State Board of Cosmetology without having such license visible and present on site.

H. Water and plumbing:

- (1) Every shop/salon must have an approved water supply with sufficient hot and cold running water under pressure.

- (2) All plumbing fixtures must be protected against back-siphonage or backflow.
- (3) Plumbing fixtures shall be clean and free from defects.

I. Toilet and sink facilities:

- (1) Each shop/salon shall provide adequate toilet and hand-washing facilities for patrons and employees.
- (2) Toilet and hand-washing facilities shall be in working condition at all times and kept clean and sanitary.
- (3) Each hand-washing sink shall have a soap dispenser and disposable towels or an air dryer for hand drying.
- (4) Handwashing signs stating "Wash Hands Before Resuming Work" or words of similar meaning shall be posted conspicuously in all toilet rooms and at each separate lavatory facility in the establishment.

J. Lighting and ventilation:

- (1) Lighting shall be sufficient to provide adequate illumination in the work area.
- (2) The shop/salon shall be properly and adequately ventilated to remove excess heat, vapors, and odors.
- (3) Windows and doors shall be effectively screened against insects, rodents and other vermin. Insect and vermin entry must be otherwise precluded at all times.

K. Floors, walls and ceilings: Floors, walls and ceilings shall be kept clean and in good repair.

Section 110-6. Suspension of license.

- A. Failure to comply with the provisions of this chapter and applicable state regulations shall be grounds for suspension of any license issued under the provisions of this chapter.
- B. The Health Officer may suspend, without warning, prior notice or hearing, any license to operate a barbershop or hairdressing and/or cosmetology shop/salon or nail salon/shop if the operation constitutes an imminent hazard to public health, including, but not limited to, any one of the following:
 - (1) There is an outbreak of an infectious, pathogenic or toxic agent capable of being transmitted to consumers.
 - (2) There is an absence of potable water, supplied under pressure, in a quantity which, in the opinion of the Health Officer, is capable of meeting the needs of the facility.
 - (3) There is a sewage backup into the facility.
 - (4) An unlicensed individual is performing procedures requiring licensure by the New Jersey State Board of Cosmetology.
- C. Suspension shall be effective immediately upon delivery of the written order to the license holder or person in charge of the facility by the Health Officer or his/her designee. When a license is suspended, all barbershop, hairdressing and/or cosmetology shop or nail salon/shop operations shall cease immediately and shall not resume until written approval to resume has been issued by the Health Officer. The Health Officer or his/her designee shall remove a suspended license from the premises.
- D. When a license is to be suspended, the holder of a license, or the person in charge, shall be notified in writing of the suspension, and an opportunity for a hearing will be provided if a written request for hearing is filed with the Health Officer by the holder of the license within two business days of receipt. If no written request

for a hearing is filed within two business days of receipt of notice, the suspension is sustained. The Health Officer may end the suspension at any time by giving written notice to the license holder if reasons for suspension no longer exist.

- E. Upon receiving a request for a hearing, the Health Officer shall schedule a hearing with the Municipal Clerk not later than 10 business days from the date of actual receipt of the request to afford the owner the opportunity to present evidence and argument on all facts or issues involved and to examine the merits of such suspension.
- F. The Municipal Clerk shall examine the merits of such suspension and render a decision in writing to vacate, modify, or affirm such suspension within 10 business days of the date of the hearing held under this section.
- G. Whenever a license has been suspended, the holder of the suspended license may make written request for license reinstatement. Within 10 business days following receipt of a written request, including a statement signed by the applicant that, in his or her opinion, the conditions causing the suspension have been corrected, the Health Officer or his/her designee shall make a reinspection. If the Health Officer or his/her designee determines that the applicant has complied with the requirements of this chapter, the license shall be reinstated and returned to the license holder.

Section 110-7. Variations.

No variation from any of the provisions of this chapter shall be permitted except as elsewhere provided herein.

Section 110-8. Review by Municipal Clerk.

Any person aggrieved by any administrative decision of the Health Officer pursuant to this chapter, including the denial of a license, the refusal to renew a license, or the suspension of a license, shall have an absolute right to appeal such decision to the Municipal Clerk. For such appeal, the Health Officer shall present evidence supporting the decision made by the Health Officer, and the aggrieved party shall present evidence opposing the decision of the Health Officer. After hearing all the evidence presented to it, the Municipal Clerk shall then affirm, reverse or modify the decision of the Health Officer. On all appeals, the decision of the Municipal Clerk shall be final.

Section 110-9. Violations and penalties.

- A. Whenever additional inspections are necessitated by reason of classification of a barbershop, beauty parlor or nail salon as unsatisfactory (beyond one initial inspection), the license holder shall reimburse the Borough for the cost of each such inspection.
- B. There shall be a fee of \$35.00 for each inspection as set forth in Subsection A.
- C. For any violation of any provision of this chapter, the following shall apply:
 - (1) For any violation of any provision of this chapter, the Health Officer or his/her designee or any other law enforcement officer shall issue a summons and complaint, in usual form, returnable in the Municipal Court of the Borough of Dunellen or such other court as may be permitted by law.
 - (2) Upon conviction, any person who violates any provision of this chapter shall be subject to a fine of not less than \$50 nor more than \$1,000 for the first offense, and a fine of not less than \$50 nor more than \$1,000 and imprisonment for 90 days for the second and subsequent offenses, or the maximum penalties otherwise permitted by law.
 - (3) In addition to any other penalties imposed, upon conviction, any person who violates any provision of this chapter may have its license suspended.

- D. Each day (consisting of a twenty-four-hour period beginning at 12:01 a.m.) during which a continuing violation of this chapter subsists shall constitute a separate violation and shall incur the penalties set forth herein, at the discretion of the Health Officer or his/her designee.