ORDINANCE NO. 2023-8

AN ORDINANCE OF THE BOROUGH OF KEYPORT, COUNTY OF MONMOUTH, NEW JERSEY, AMENDING SECTIONS OF CHAPTER XXIII ENTITLED "BOARD OF HEALTH REGULATIONS" OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF KEYPORT

WHEREAS, the Borough of Keyport (the "Borough") is a public body corporate and politic of the State of New Jersey; and

WHEREAS, Chapter XXIII of the Revised General Ordinances of the Borough of Keyport ("the Borough") regulates, among other things, tattooing and body piercing operations within the Borough of Keyport; and,

WHEREAS, the Mayor and Council of the Borough of Keyport have determined that it is in the public interest of the Borough to revise Section 8 of Chapter XXIII to incorporate standards related to "body art" operations within the Borough of Keyport;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council that Chapter XIV of the Revised General Ordinances of the Borough of Keyport be and hereby is amended as follows:

Section 1. The aforementioned recitals are incorporated herein as though fully set forth at length.

Section 2. The Council hereby amends Section 8 of Chapter XXIII of the Revised General Ordinance of the Borough of Keyport to read as follows:

(note to codifier: Existing text not appearing herein has been deleted solely for brevity and additions are underlined and deletions are denoted by strikethrough)

§ 23-8. TATTOOING, BODY ART, AND BODY PIERCING.

§ 23-8.1. Definitions.

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

BODY ART - "Body art" means the practice of physical body adornment using the following techniques, but does not include ear piercing: 1. Body piercing; 2. Tattooing; and 3. Microblading/Permanent cosmetics/Micropigmentation.

BODY ART ESTABLISHMENT or BODY ART BUSINESS – A business engaged in the operation of body art as defined by this section (i.e., body piercing, tattooing, microblading, permanent cosmetics, micropigmentation).

BODY PIERCER — One who engages in body piercing.

BODY PIERCING — Refers to the piercing of any portion of the human body for placement of any type of jewelry or any other ornamentation, other than ear lobe piercing.

CERTIFICATE OF INSPECTION — 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 section.

ESTABLISHMENT — The premises wherein tattooing or body piercing is performed.

HEALTH OFFICER — The Keyport Borough Health Officer or his authorized representative.

MICROBLADING - Microblading is the practice of using a hand-held instrument, tipped with a grouping or configuration of needles, utilized for penetrating into the lower epidermal layers and/or dermis, so that pigments are introduced and implanted into the lower epidermal layers and/or dermis. "Permanent cosmetics," "permanent makeup" and "micropigmentation" is considered microblading by law.

OPERATOR — Any 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 the art of tattooing on the person of another.

PERMANENT COSMETICS or MICROPIGMENTATION - "Permanent cosmetics" or "micropigmentation" means the intradermal implanting of inert pigments, colors, and/or dyes, which results in permanent alteration of tissue to gain a cosmetic effect, and includes the form of micropigmentation known as "microblading."

PERSON — Any individual, corporation, partnership, sole proprietorship or other form of business entity which is created pursuant to Title 14 of the New Jersey Statutes. The term shall also include the term "operator" as defined above.

SANITIZE — Effective bactericidal treatment of clean surfaces of equipment and utensils by a process which has been approved by the State Department of Health as being effective in destroying microorganisms, including pathogens.

SINGLE USE — 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.

STERILIZATION — Destruction of all forms of microbiotic life, including spores.

TATTOO ARTIST — One who engages in tattooing.

TATTOO, TATTOOED, or TATTOOING — Refers to any method of placing designs, letters, scrolls, figures, symbols or any marks under the skin with ink or any other substance resulting in the coloration of the skin, by the aid of needles or any other instruments designed to puncture the skin.

§ 23-8.2. Licensing regulations for Body Art Establishment.

a. It shall be unlawful for any person to engage in the business of operating a body art establishment as defined by this section ~~where tattooing or body piercing is performed~~ without first obtaining a license from the Borough of Keyport to engage in such business in accordance with the provisions hereof. All body art establishments/businesses must maintain the appropriate permits and/or certifications required by State law to operate a body art establishment prior to seeking approval from the Borough of Keyport.

b. An application for an initial license shall be made to the Health Officer of the Borough accompanied by a fee in the amount of $300.

1. Application for licenses under this section shall be made to the Keyport Board of Health Secretary, in writing, upon such printed forms as the Borough shall prescribe and prepare. Such forms may be obtained from the Board of Health Secretary and shall be signed by the applicant and shall contain the following information:

(a) If an individual, the full name, age, sex, and residence address at the time of application.

(b) The location of the establishment for which a license is sought and the date upon which the Construction Official has approved that location for same.

(c) If a corporation, the full corporate name, the date and the state of incorporation, address of the place or places of business, the name and address of the registered agent and the name, address and age of any principal owning more than 10% of the stock.

(d) If a partnership, the information required by paragraph b,1(a) above for each partner and the name under which the business is being conducted.

(e) The educational and/or business experience of the applicant in the business or occupation for which the license is sought.

(f) The length of time that the applicant has been engaged in such business or occupation.

(g) Whether the applicant carries public liability insurance, and if so, the amount of said coverage and the company providing such liability insurance.

(h) Whether the applicant has ever been convicted of any criminal violation, the date, nature and disposition of such criminal charges, summons, complaint or indictment.

(i) Name, address and age of every person to be initially employed to conduct the service. This shall be a continuing obligation for licensees to update the list of employees.

2. An after care plan for each body art establishment ~~site tattooed or pierced~~ shall be developed by the operator and submitted to the Health Officer at the time of the license application.

3. Investigation and Issuance. Upon receipt of an application, the Board of Health Secretary will cause to be conducted an inquiry by the Police Department, Construction Official and any other department or agency of the Borough of Keyport or State of New Jersey to verify the information contained in the application. Such inquiry shall be designed to include the reputation, business responsibility, reliability, criminal background and motor vehicle license abstracts of the applicant and all persons having management or supervision. It shall further include an inquiry or investigation of the proposed location and items proposed to be sold or used in the business or enterprise of tattooing or body piercing.

4. The Health Officer or the Governing Body may deny an application where the investigation or inquiry demonstrates that:

(a) The information set forth in the application is incomplete or fraudulent;

(b) 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;

(c) The applicant has within 12 months of the application been convicted of the habitual use of drugs or intoxicating liquors;

(d) 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 Keyport.

5. License renewal; additional regulations.

(a) No license or renewal thereof granted under the provisions of this section shall be assignable or transferable. Any change of ownership shall require a new application and license with payment of fees.

(b) The renewal license fee for engaging in the business of operating an establishment subject to this section within the Borough of Keyport shall be $150. All licenses shall expire on the last day of May of each calendar year. All applications for renewal must be presented to the Board of Health Secretary in writing on forms prescribed by the Borough, prior to May 15 of each year.

(c) All establishments existing at the time of the enactment of this section will be considered renewal applications provided that they apply for renewal of said license within one month after the effective date of this section. That application shall include submission of information pursuant with paragraph b,1 and b,2. Establishments failing to apply within the specified time period will be considered new applicants and will be subject to the provision of paragraph b. of this subsection.

(d) All applicants shall comply with the provisions of this section, as well as all other applicable codes, regulations or laws. In addition, for all new construction or renovations of the tattoo or body piercing establishment, plans shall be submitted to and approved by the Health Officer.

(e) In the event that an applicant fails to qualify for a license under this section, the fee herein shall not be refunded.

(f) The license issued pursuant to this section shall be posted conspicuously in the place of business or location named therein.

(g) All establishments shall manage contaminated (body fluids) contact waste materials as medical waste pursuant to N.J.A.C. 7:26-3A.8. All establishments shall be licensed with the State of New Jersey as a medical waste generator, pursuant to N.J.A.C. 7:26-3A.8 prior to approval from the Borough.

(h) The number of licenses issued by the Borough of Keyport pursuant with this section shall be five ~~three~~. No person shall hold more than one license nor have any interest directly or indirectly in any other tattoo or body piercing establishment.

§ 23-8.3. General provisions.

a. Age. Body art procedures on a person under 18 years of age shall not be performed without the written consent of the parent or legal guardian of such minor, which shall be ~~It shall be a violation of this section for anyone or any tattoo, or body piercing business to tattoo or body pierce any individual under 18 years of age without authorization signed by the parent or legal guardian witnessed and~~ attested to before a notary public. The operator shall be responsible for maintaining the original consent form and copies of all consent information for a period of two years beyond the recipient's 21st birthday. The operator shall obtain a copy of a photo ID of such individual being tattooed and/or pierced.

b. Each person wishing to receive a body art procedure ~~tattoo or body piercing~~ must first apply to the operator on a form approved by the Health Officer. If the applicant is suspected to be under the influence of alcohol, drugs or any other behavior modifying substance, the operator must refuse the applicant.

c. All records regarding any and all body art procedures ~~tattoos or body piercing~~ are to be maintained for a minimum of two years. Information required for each applicant referred to in paragraph b. is to include the name, age, date of birth, address and telephone number of the applicant as well as the name of the person who did the tattoo or body piercing, the design, location, ink lot number(s), if available and the date of the tattoo or type of body piercing done. All such records shall be open to the Health Officer upon demand.

d. At the time any body art business or ~~tattoo and/or body piercing~~ establishment shall cease doing business in the Borough of Keyport or changes its name or undergoes a change in management or ownership, all records described in paragraphs a., b., and c. above shall be turned over to the Board of Health Secretary.

§ 23-8.5. Regulation of Body Art Business or Establishment ~~tattoo or body piercing parlors~~.

a. Body Art ~~Tattoo~~ Artist ~~or Body Piercer~~.

1. The parlor shall comply with the most current version of Centers for Disease and Prevention Publication, "Enforcement Procedure for Occupational Exposure to Hepatitis B Virus (HVB) and Human Immunodeficiency Virus (HIV), OSHA instruction CPL-2.2.44A, August 1988 or revised or late editions." (Bloodborne Pathogen regulations)

2. All body art ~~tattoo~~ artists ~~and body piercers~~ shall provide proof of a negative Mantoux test, or medical clearance in the event of a positive Mantoux test. This documentation shall be maintained by the parlor and available for review during inspections of the establishment.

3. Before working on each patron, each body art ~~tattoo~~ artists ~~and body piercers~~ shall scrub and wash his hands thoroughly with hot water and antiseptic soap using his individual hand brush. Fingernails shall be kept clean and short.

4. Disposable vinyl or latex gloves shall be worn by the body art ~~tattoo~~ artists ~~and body piercers~~ during ~~tattoo~~ preparation for all body art procedures and application to prevent

contact with blood or body fluids except for clients with a sensitivity to latex, other methods acceptable to the Health Department shall be employed. Universal precautions described by the Centers for Disease Control and Prevention (CDC) shall be followed. All materials shall be disposed of in accordance with this subsection 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.

5. Immediately after performing an act of body art on ~~tattooing or body piercing~~ a patron, body art ~~tattoo~~ artists ~~and body piercers~~ shall advise the patron on the care of the body art ~~tattoo or body piercing~~ in a written form and shall instruct the patron to consult a physician at the first sign of infection of the tattoo or body piercing. Printed instructions regarding these points shall be given to each patron and submitted to the Health Officer for review at the time of the initial license application and in the event that changes and/ or modifications are made to this form.

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

b. Skin Preparation.

1. All body art procedures must only ~~Tattooing or body piercing shall~~ be done only on normal, healthy skin surface that is free of moles or infection.

2. Only safety razors with disposable blades shall be used for the skin preparation. Blades shall be disposed of according to paragraph e. of this subsection after each use and new blades shall be used for each patron.

3. Following shaving, the area shall be thoroughly cleansed and scrubbed with bacterial soap, and warm water. Before placing the design or body piercing on the patron's skin, the area shall be treated with 70% alcohol and allowed to air dry. Piercing of mucous membranes (i.e. oral, nasal, vaginal, etc.) shall be treated with an industry appropriate and medically indicated antiseptic solution prior to the procedure.

4. Only petroleum jelly (U.S.P. or National Formulary) or antiseptic ointment shall be applied to the tattoo area prior to tattooing or body piercing. The ointment shall be applied in a sanitary manner, disposing of the utensil after spreading. Collapsible tubes of ointment or jelly may also be used.

c. Body Art, Tattooing or Body Piercing.

1. The use of single service hectographic stencils shall be required for applying any body art ~~a tattoo outline~~ to the skin. Multi-use stencils shall be prohibited.

2. Only non-toxic dyes or pigments may be used. Premixed 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 Health Officer 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.

4. The completed body art and/or tattoo shall be washed with sterile gauze. The area shall be allowed to air dry and antiseptic ointment shall be applied and spread with sterile gauze and sterile dressing attached.

5. Upon completion of piercing of the mucous membranes the area shall be disinfected with the industry-appropriate and medically indicated solutions.

d. Needles and Instruments.

1. Only single service sterilized needles and needle bars shall be used for each patron.

2. If solder is used in manufacturing needles, needle bars or needle tubes, it must be free of lead.

3. Any needle that penetrates the skin of the ~~tattoo~~ body art artist ~~or body piercer~~ shall be immediately disposed of in accordance with paragraph e. of this subsection.

4. Needle tubes shall be soaked with soapy water, then scrubbed with a clean brush, then rinsed clean. Needle tubes shall be sterilized in accordance with paragraph d., stored in sterile bags and maintained in a dry, closed area.

5. Each item to be sterilized shall be individually wrapped using chemical indicator bags or chemical indicator strips. Sterilization shall be by steam sterilization. The sterilizer shall be well maintained with a tight fitting gasket and clean interior. The manufacturer's operating instructions and sterilization specifications shall be at hand. The sterilizer shall conform to the manufacturer's specifications with regard to temperature, pressure and time of sterilization cycle. Proper functioning of sterilization cycles shall be verified by the use of biologic indicators (i.e. spore tests) at a frequency recommended by the manufacturer, but shall be

§ 23-8.6. Penalty provisions.

The penalty sections of the Board of Health Regulations and Ordinances codified in Chapter XXIII are hereby amended to conform to the provisions of Section 1-5 of the Revised General Ordinances of the Borough of Keyport, except to the extent that Section 1-5 may be in conflict with the statutes or regulations authorizing municipal regulation of the goods, businesses, machines, tools, implements, premises, institutions, occupations or activities so regulated.

Section 3. All ordinances or parts thereof inconsistent with the provisions of this ordinance are hereby repealed above.

Section 4. Each section, subsection, sentence, clause and phrase of this ordinance is declared to be an independent section, subsection, sentence, clause and phrase and the finding or holding of any such portion of this ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this ordinance.

Section 5. The Borough Clerk is hereby directed, upon adoption of the ordinance after public hearing thereon, to publish notice of the passage thereof.

Section 6. This ordinance shall be in full force and effect from and after its adoption and publication as required by law.

Introduced: August 1, 2023
Public Hearing: August 15, 2023
Adopted: August 15, 2023

Michele Clark

Michele Clark, RMC
Clerk, Borough of Keyport

Rose P. Araneo

Mayor Rose Araneo
Borough of Keyport