

DEFEATED 10/8/13

**THE TOWNSHIP OF EWING
COUNTY OF MERCER, NEW JERSEY**

ORDINANCE NO. 13-40

1st Reading 9-24-13

Date to Mayor _____

2nd Reading &
Public Hearing 10-8-13

Date Returned _____

Date Adopted:

Date Resubmitted to Council _____

DEFEATED

Approved as to Form of Legality

Effective Date:

Township Attorney

**AN ORDINANCE PROVIDING FOR THE REGULATION AND LICENSING OF BODY
ART ESTABLISHMENTS WITHIN THE TOWNSHIP OF EWING**

First Reading

MEMBER	AYE	NAY	ABS	NV	RES	SEC
Baxter	X					
Keyes-Maloney	X				X	
Schroth	X					
Wollert	X					X
Hyser	X					

Second Reading

MEMBER	AYE	NAY	ABS	NV	RES	SEC
Baxter		X				
Keyes-Maloney		X				
Schroth	X				X	
Wollert		X				
Hyser	X					X

By _____ Date _____ Accepted _____ Rejected _____
Mayor

Reconsidered
By Council _____ Override Vote YEA _____ NAY _____

President of the Council

Municipal Clerk

ORDINANCE DEFEATED

THE TOWNSHIP OF EWING

ORDINANCE NO. 13-40

AN ORDINANCE PROVIDING FOR THE REGULATION AND LICENSING OF BODY ART ESTABLISHMENTS WITHIN THE TOWNSHIP OF EWING

Chapter 172, fees is hereby amended to include a new fee for the licensing of body art establishments, as follows:

§ 172-32 Body Art Establishment Licenses.

Body Art Establishment annual license fee : \$600.00.

Chapter 388, Violations and Penalties is hereby amended to provide penalties with respect to the licensing and operation of body art establishments, as follows:

§ 388-16 Violations and Penalties:

D. Any person who directly or indirectly acting as agent or otherwise who violates any provision of Chapter 418 Body Art Facilities shall be liable for a penalty not less than \$50 nor more than \$1,000, or as otherwise authorized under N.J.S.A. 26:1A-10 and all other applicable law and/or injunctive action as provided by law or both.

The Health Code of the Township of Ewing is hereby amended to provide for a new section 418, Body Art Facilities, as follows:

Part III: Health Legislation:

Chapter 418 Body Art Facilities

§ 418-1 Establishment of Code.

A code regulating body art facilities establishments and fixing penalties is hereby established under the Township’s general jurisdiction under N.J.S.A. 26:3-64 to adopt health ordinances for the control of disease and improvement of health of its citizens. The Township hereby accepts and adopts the New Jersey Administrative Code, N.J.A.C. 8:27-1 et seq., as the standard governing 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.

§ 418-2 Definitions.

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

Body art

The practice of physical body adornment in permitted establishments by operators utilizing, but not limited to, the following techniques: body piercing, tattooing; and permanent cosmetics. Body piercing includes piercing any portion of the ear with the exception of the ear lobe.

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.

Body art establishment license

A license issued to the owner of a body art establishment to operate a business under the provisions of this chapter.

Body piercing

Puncturing or penetration of the skin of a person using pre-sterilized single use needles and the insertion of pre-sterilized or disinfected jewelry or other adornment thereto in the opening.

Branding

Scarification through the application of a heated material (usually metal) to the skin, creating a serious burn which eventually results in a scar.

Cutting

A design cut into the skin or other soft tissue using a sharp blade, leaving a scar. Often the design is immediately rubbed with ink leaving a colored scar.

Ear piercing

The puncturing of the ear lobe and the trailing edge of the ear using a pre-sterilized, single use stud and clasp ear piercing system following manufacturer's instructions.

Implant

Any object implanted fully under the skin.

Jewelry

Any personal ornament inserted into a newly pierced area, and may be made of surgical implant grade stainless steel, solid 14 karat or 18 karat white or yellow gold, niobium, titanium, platinum, glass or a dense, low-porosity plastic.

Operator

Includes the owner or the owner's designee having ownership, control or custody of any place of business or employment and who manages the day-to-day operations of the body art establishment.

Permanent cosmetics

The implanting of inert pigments, colors, and/or dyes intradermally which results in permanent alteration of tissue to gain a cosmetic effect.

Person

One or more individuals, legal representatives, partnerships, joint ventures, associations, corporations (whether or not organized for profit), business trusts, or any organized group of persons.

Practitioner

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

Single use

Products, instruments or items that are intended for one-time use and are disposed of after each use, including, but not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, needles, scalpel blades, stencils, ink cups and protective gloves.

Sterilization

A process resulting in the destruction of all forms of microbial life, including highly resistant bacterial spores.

Tattooing

Any method of placing ink or other inert 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 establishment

An establishment that has been issued a permit by the Board of Health to operate for the purpose of performing body art procedures for not more than 14 calendar days in conjunction with a single event.

§ 418-3 Conformance with Regulations Required.

No person shall engage in the business of body art and body piercing, whether for compensation or not, operate any establishment where body piercing or body art is performed, whether for compensation or not, or body pierce or body art any person whether for compensation or not, without complying with the requirements of this chapter, pursuant to local rules and regulations, as well as the regulations of the State of New Jersey, including the New Jersey Administrative Code at N.J.A.C. 8:27-1.1 et seq.

§ 418-4 License to Operate.

- A. No person shall display a sign or in any way advertise or purport to be a body art practitioner or be engaged in the business of body art without first applying for and obtaining an annual body art establishment license from the Ewing Township Board of Health.
- B. The annual license shall be issued on January 1 of each calendar year. All licenses issued during the course of a year shall expire on December 31, regardless of the date issued. At least 30 days prior to expiration of a license, the licensee shall make an application for renewal with the Board of Health. Failure to file a timely renewal shall cause the establishment to be closed until the appropriate inspection can be made.
- C. Upon issuance, the said license shall not be transferable. Any change in ownership shall require submission of a new application with payment of fees. The license shall be posted in a conspicuous place near the public entrance of the establishment where it may be readily observed by all patrons.

§ 418-5 Application for License.

Any person desiring to construct, expand, alter, or operate a permanent cosmetic, tattooing, or ear or body piercing establishment shall apply in writing to the Board of Health for review and approval before such construction, expansion, alteration or operation is begun. The application shall comply with the requirements of the New Jersey Administrative Code at N.J.A.C. 8:27-2.1.

§ 418-6 License Fee.

Body Art Establishment Licenses shall be issued annually on January 1 upon payment of an annual license fee of \$600.00.

§ 418-7 Prohibitions.

- A. Implants under the skin shall not be performed in a body art establishment.
- B. Scarification such as branding and cutting shall not be performed in a body art establishment.
- C. No person shall perform any body piercing procedure up on a person under 18 years of age without the presence, written consent and proper identification of a parent or legal guardian.

- D. No person shall perform genital piercing upon a person under 18 years of age regardless of parental consent.
- E. No tattoo or permanent cosmetics shall be applied to any person under 18 years of age, without the presence, written consent, and proper identification of a parent or legal guardian.
- F. No person shall practice or attempt to practice body art in a non-licensed facility.
- G. All other prohibitions as provided under the New Jersey Administrative Code at N.J.A.C. 8:27-2.6.

§ 418-8 Physical Plant and Environment.

Each body art establishment shall comply with the physical plant and environment requirements of the New Jersey Administrative Code at N.J.A.C. 8:27, subchapter 3.

§ 418-9 Health Safety and Occupation Health.

Each body art establishment shall comply with the health, safety and occupation health requirements of the New Jersey Administrative Code at N.J.A.C. 8:27, subchapter 4.

§ 418-10 Sterilization and Disinfection.

Each body art establishment operator shall comply with the sterilization and disinfection requirements of the New Jersey Administrative Code at N.J.A.C. 8:27, subchapter 5.

§ 418-11 Body Piercing Qualifications.

With the initial application and any subsequent renewal applications for a license, the applicant shall furnish proof of each body piercing practitioner as being qualified under the requirements of the New Jersey Administrative Code at N.J.A.C. 8:27, subchapter 6.

§ 418-12 Tattooing Qualifications.

With the initial application and any subsequent renewal applications for a license, the applicant shall furnish proof of each tattooing practitioner as being qualified under the requirements of the New Jersey Administrative Code at N.J.A.C. 8:27, subchapter 7.

§ 418-13 Permanent Cosmetics Qualifications.

With the initial application and any subsequent renewal applications for a license, the applicant shall furnish proof of each permanent cosmetics practitioner as being qualified under the requirements of the New Jersey Administrative Code at N.J.A.C. 8:27, subchapter 8.

§ 418-14 Ear Piercing Qualifications.

With the initial application and any subsequent renewal applications for a license, the applicant shall furnish proof of each ear piercing practitioner as being qualified under the requirements of the New Jersey Administrative Code at N.J.A.C. 8:27, subchapter 9.

§ 418-15 Temporary Establishments.

Temporary establishments shall be governed by all the rules of a permanent establishment as set forth in this chapter and shall satisfy all requirements as set forth in the New Jersey Administrative Code at New Jersey Administrative Code at N.J.A.C. 8:27, subchapter 10.

§ 418-16 Inspections; right of entry.

The Board of Health, its agents and employees shall have the right to conduct periodic inspections, with or without notice, of any establishment engaged in body art procedures that are

governed by this chapter, or as otherwise provided under § 392-9, for the purpose of determining whether or not such establishment and the persons performing the art therein are in compliance with all applicable health provisions.

§ 418-17 Violations and Penalties.

Any person who directly or indirectly acting as agent or otherwise who violates any provision of this chapter shall be liable for a penalty not less than \$50 nor more than \$1,000, or as otherwise authorized under N.J.S.A. 26:1A-10 and all other applicable law and/or injunctive action as provided by law or both.

§ 418-18 Repealer.

All prior ordinances or parts of same inconsistent with any provisions of this chapter are hereby repealed to the extent of such inconsistency.

§ 418-19 Severability.

Should any section, clause, sentence, phrase or provision of this chapter be declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this chapter.

§ 418-20 When effective.

The provisions of this chapter shall take effect immediately upon final passage and publication in accordance with law. For purposes of licensing, this chapter shall become effective upon the next annual licensure deadline. Existing establishments shall become licensed in accordance with the timeframe set forth herein, but otherwise shall comply with all other requirements of this Chapter immediately upon its effective date.