

2010 HILLSBOROUGH TOWNSHIP BOARD OF HEALTH
AMENDED ORDINANCE REGULATING BODY ART
AND EAR PIERCING FACILITY STANDARDS

WHEREAS, the Board of Health for the Township of Hillsborough adopted an Ordinance in 2010 regulating Body Art Facilities; and

WHEREAS, the Board of Health for the Township of Hillsborough has determined that certain amendments are necessary to update the ordinance to be consistent and in compliance with the New Jersey Administrative Code governing Body Art and Ear Piercing Facilities (N.J.A.C. 8:27-1 et seq.) and New Jersey law.

~~AN ORDINANCE ADOPTING, AMENDING AND SUPPLEMENTING A CODE CONCERNING "BODY ART PROCEDURES" (N.J.A.C. 8:27-1 et seq.), AND IN COMPLIANCE WITH NEW JERSEY STATUTES ANNOTATED.~~

NOW THEREFORE BE IT ORDAINED that Article 1, Chapter 351 of the Township of Hillsborough Municipal Codes is amended and supplemented by the Board of Health IN AND FOR THE TOWNSHIP OF HILLSBOROUGH, IN THE COUNTY OF SOMERSET, as follows:

1. This Ordinance amends and replaces the HILLSBOROUGH TOWNSHIP BOARD OF HEALTH ORDINANCE REGULATING BODY ART FACILITIES (2010).

~~2.~~ This Ordinance shall be known and cited by its title, to wit as the HILLSBOROUGH TOWNSHIP BOARD OF HEALTH ORDINANCE REGULATING BODY ART AND EAR PIERCING FACILITY STANDARDS FACILITIES (2010).

~~2. The Code hereby established by this Ordinance shall be known and cited as NEW JERSEY STATE SANITARY CODE CHAPTER XIII: BODY ART PROCEDURES N.J.A.C. 8:27-1 et seq.~~

3. The Board of Health for the Township of Hillsborough adopts the standards and procedures [as modified or supplemented herein] promulgated by the State of New Jersey Department of Health as set forth in the New Jersey Administrative Code, Chapter VIII: Body Art and Ear Piercing Facility Standards. The Code established by this Ordinance concerning body art procedures, commonly known as New Jersey State Sanitary Code Chapter VIII: Body Art Procedures [N.J.A.C. 8:27-1, et seq.], which was adopted by the State Department of Health pursuant to N.J.S.A. 26:1A-9, et seq., shall be known and cited as such, and the same is hereby established as amended herein, adopted and made an Ordinance of this Board pursuant to N.J.S.A. 26:3-66 et seq. and the statutes in such case made and provided a copy of this Code is annexed

~~hereto and made part hereof without the inclusion of the text thereof herein; three (3) certified true copies of said Code together with the amendments contained herein marked as aforesaid were, on the introduction of the Ordinance, placed on file in the Office of the Clerk of this Board where the same will remain on file for the use and examination of the public until final action is taken on this Ordinance, and if this Ordinance is adopted, will also remain on file in said office for such use and examination for so long as this Ordinance shall remain in full force and effect, and three (3) additional certified true copies of said Code, marked as aforesaid, and three (3) certified true copies of this Ordinance shall be place on file and shall remain on file in the Office of Hillsborough Township Board of Health and /or Office of the Clerk of the Township of Hillsborough, in the County of Somerset, having in charge the enforcement of this Ordinance and said Code for the use and examination of the public for so long as this Ordinance shall remain in full force and effect. This Ordinance and said Code may be printed in composite form for general use.~~

~~The following provisions shall be added to the within Ordinance:~~

4. DEFINITIONS:

- A. BODY ART - The practice of physical body adornment in permitted establishments by operators utilizing, but not limited to, tattooing, body piercing and permanent cosmetics.
- B. BODY ART ESTABLISHMENT - Any place or premises whether public or private, temporary or permanent in nature or location, where the practice of body art, whether or not for profit, is performed.
- C. BODY PIERCING - The puncturing or penetration of the skin of a person using presterilized single-use needles and the insertion of presterilized or disinfected jewelry or other adornment thereto in the opening. This includes piercing of the trailing edge of the ear.
- D. DEPARTMENT OF HEALTH - The Hillsborough Township Board of Health.
- E. EAR PIERCING - The puncturing of the ear lobe or trailing edge of the ear using a presterilized single-use stud-and-clasp ear piercing system following manufacturer's instructions.
- F. OPERATOR - The owner or owner's designee having ownership, control or custody of any place of business or employment and who manages the daily operations of the body art establishment.

- G. PERMANENT COSMETICS - The implanting of inert pigments, colors or dyes intradermally which results in permanent alteration of tissue to gain a cosmetic effect.
- H. PRACTITIONER - Any person who performs the act of tattooing, permanent cosmetics, body piercing or ear piercing.
- I. 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 permanent cosmetics.

5. LICENSE REQUIRED.

No person shall own, construct, expand, alter or operate a body art establishment without first having applied for and received a body art establishment license from the Department of Health. No person shall perform the act of tattooing, permanent cosmetics, body piercing or ear piercing without having applied for and received a practitioner license, except as otherwise permitted in this chapter. These licenses shall be renewed annually. Applications for licenses shall be made in writing, upon forms provided by the Hillsborough Township Department of Health, signed by the applicant in the presence of a designated Department of Health employee.

6. LICENSE DENIAL OR SUSPENSION.

- J. Applicants who are denied a license shall be notified in writing by the Department of Health. Said notice shall specify the reason for the denial and shall give the applicant an opportunity for a hearing with the Department of Health within 15 business days from the date of denial.
- K. Any license may be suspended at any time when, in the opinion of the Department of Health, such suspension is necessary to abate a present or impending danger to public health.

7. FEES AND REQUIREMENTS.

- L. The nonrefundable fee for licenses herein shall be as follows:
 - 1. Body art establishment license (includes plan review): \$300.
 - 2. Renewal of body art establishment license: \$100.
 - 3. Practitioner ~~license~~ fee for permanent establishment: \$25.

4. Temporary body art establishment ~~license/permit~~: \$50. Only one temporary establishment permit shall be issued per practitioner per event. Each practitioner shall be obligated to demonstrate their ability to be licensed pursuant to this Code and N.J.A.C.8:27-1.1 et seq.

B. A statement of approval from the Zoning Officer shall be required prior to the issuance of any body art establishment license, except for temporary body art establishment permits.

8. LICENSE TERM.

A new license issued under this chapter shall be valid from its date of issuance until December 31 of the same year. Thereafter, a renewal license shall be valid for one year from January 1 until December 31.

9. PROHIBITIONS.

Any body art establishment or practitioner licensed under this chapter shall adhere to the following prohibitions, which shall be displayed conspicuously in the body art establishment and readily observed by all clients.

- C. Implants under the skin shall not be performed in a body art establishment.
- D. Scarification such as branding and cutting shall not be performed in a body art establishment.
- E. No tattoo or body piercing procedure shall be performed upon a person under 18 years of age without the presence, written consent and proper identification of a parent or legal guardian. An emancipated minor providing legal proof of said emancipation shall be exempt from this subsection.
- F. No genital piercing shall be performed upon a person under 18 years of age regardless of parental consent.
- G. No person shall practice or attempt to practice body art in a nonlicensed establishment.
- H. A body art establishment shall at all times be under the direct supervision of an operator.
- I. No person shall advertise or purport to be a body art practitioner or ~~to~~ be engaged in the business of ~~a~~body art without first obtaining a body art establishment license from the Hillsborough Department of Health.

Commented [SB1]: The Admin Code refers to it as “permits” so modified throughout. Hopefully this language a little clearer about the intention of the Board of Health as discussed during 4/1 meeting.

J. No person shall practice body art procedures without obtaining the necessary training and certifications as required by law.

10. TEMPORARY ESTABLISHMENTS.

Temporary body art establishments shall be governed by all rules of permanent establishments as set forth in this chapter and applicable law. No person shall own or operate a temporary body art establishment without first having applied for and received a temporary body art establishment ~~permit~~license from the Hillsborough Department of Health in accordance with the following conditions:

A. The Hillsborough Department of Health shall establish procedures, including an application form, and time periods for submission, for temporary body art establishment permitting. In no event shall an applicant for a temporary body art permit submit an application later than 30 days prior to the event at which the temporary body art establishment will be located.

A.B. The application form shall be complete in all respects and shall be accompanied by the appropriate fees as provided for in Article 7 above, ~~in the form of check or money order~~ made payable to the Township of Hillsborough. ~~An application shall be submitted at least 30 days prior to an event for which body art will be practiced.~~

Commented [SB2]: Added payment form

B.C. Events shall only be for product demonstration, industry trade shows or educational reasons.

D. Events shall not exceed 14 calendar days without reapplication for a temporary ~~permit~~license.

E. ~~The permit for the temporary establishment shall not be transferable from one place, location or person to another.~~

F. ~~The permit for the temporary establishment shall be posted in a prominent and conspicuous area readily observable by patrons.~~

Commented [SB3]: Added language from Admin Code re temporary establishments

G. Failure to make timely and satisfactory application for a temporary body art establishment permit shall result in the application being disallowed and the practitioner being unable to attend the event.

11. INSURANCE.

Each practitioner shall maintain current professional malpractice liability insurance. A copy of said insurance shall be kept on file at the body art establishment and shall be made available for inspection by the Department of Health.

12. EXEMPTIONS.

The following shall be exempt from this chapter:

- A. Persons or businesses that pierce exclusively the ear lobe.
- B. Physicians authorized by the State Board of Medical Examiners to practice permanent cosmetics pursuant to N.J.S.A. 45:9-6.

13. PENALTIES.

In addition to any penalties that may be asserted pursuant to of N.J.A.C. 8:27-11.4, Aany person who violates any provision of this chapter or who refuses to comply with a lawful order or directive of the Hillsborough Department of Health shall be liable for a penalty of not less than \$200 nor more than ~~\$500~~,~~000~~ for each offense. Each offense shall be pursued in the Municipal Court of Hillsborough Township or any other court of competent jurisdiction. An penalty recovered shall be paid to the municipal treasury.

AND BE IT FURTHER ORDAINED:

1. Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance.
2. This ordinance shall take effect in thirty days after the date of the first publication [pursuant to N.J.S.A. 26:3-69].
- ~~3.~~ On passage, this Ordinance shall be codified.

Commented [SB4]: Added this as Director Spano stated that the State fees for penalties are higher than what is permitted by the Hillsborough Code. This Admin Code section states the penalties allowed for violation of the Code.

Any person who violates any provision of this chapter or an applicable provision of Subtitle 1 of Title 24, or Title 26, of the Revised Statutes, or who fails or refuses to comply with a lawful order or directive of the health authority, shall be liable for penalties and/or subject to injunctive action and other remedies as provided by applicable law, including, but not limited to, N.J.S.A. 24:2-2.1 et seq., 24:17-1 et seq., and 26:1A-10, 27, and 28.