

## Chapter 67

### BODY ART ESTABLISHMENTS (TATTOOING)

Established 9-28-09 (09-56)

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#### 67.01 DEFINITIONS.

The following words and phrases when used in this Chapter have the meanings as set out therein:

- a) **Body Art Establishment License** means the permission granted by the City Council to the operator of a Body Art Establishment providing body piercing, tattooing or other body art.
- b) **Body Art** means the practice of physical body adornment, including, but not limited to: body piercing, tattooing, cosmetic tattooing, branding and scarification. This definition does not include practices that are considered medical practices by the Illinois State Medical Board, such as implants under the skin, which are performed by a licensed medical practitioner. Nor does this definition include piercing of the non-cartilaginous portion or lobe of the ear with pre-sterilized, single-use stud and clasp ear piercing systems.
- c) **Body Artist** means a person over the age of twenty-one (21) years who performs body art procedures as an employee, owner or agent of a Body Art Establishment.
- c) **Body Art Establishment** means a body piercing operation, a tattooing operation, body modification establishment or a combination of all any or all of these operations in a multiple-type establishment, whether public, private or not-for-profit.
- d) **Body Art Establishment Operator** means an individual, partnership, corporation, limited

liability company, association or other entity engaged in the business of owning, managing or offering services of body art.

- e) **Tattooing** means any method of placing ink or other pigment into 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 term includes all forms of cosmetic tattooing.

#### **67.02 BODY ART ESTABLISHMENT LICENSE REQUIRED.**

It shall be unlawful to engage in the business of operating a Body Art Establishment within the City without first having secured a license therefore from the City Council under the provisions of this Chapter. Such license shall be prominently displayed so that it is clearly visible to members of the public upon entrance to the Body Art Establishment.

#### **67.03 QUALIFICATIONS FOR BODY ART ESTABLISHMENT LICENSE.**

- a) If an applicant for a Body Art Establishment license is a natural person, s/he shall be at least 21 years of age.
- b) If an applicant for a Body Art Establishment license is a corporation or a limited liability company, it shall:
  - 1. Be a domestic corporation or limited liability company; or
  - 2. Be a foreign corporation or limited liability company qualified and licensed to transact business in the State of Illinois.
- c) If an applicant for a Body Art Establishment license is a partnership, it shall:
  - 1. Be registered as such under applicable statutes; and
  - 2. Have principals or partners, each of whom is at least 21 years of age.
- d) All applicants for a Body Art Establishment shall also be eligible to hold a valid and current Certificate of Registration for Body Art Establishment from the State of Illinois during the term of their City license.
- e) The premises in which the Body Art Establishment is to be located shall not be located within one hundred feet (100') of any church, school, hospital, home for the aged or indigent persons or for veterans, their wives or children or any military or naval station.
- f) No more than two (2) body art establishments shall be located in the downtown business area of the City bounded by on the West by First Street, East by Seventh Street, North by Locust Street and South by Grove Street. Further, there shall be no less than five hundred feet (500'), measured from property line to property line, between any two establishments, wherever they may be located within the City.

#### **67.04 APPLICATION FOR BODY ART ESTABLISHMENT LICENSE.**

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An application for a Body Art Establishment license shall be filed with the City Clerk on forms provided by the City. The application shall be signed by the applicant, if a natural person; signed by the President or Vice-President, if the applicant is a corporation; signed by a member if the applicant is a limited liability company; signed by a partner if the applicant is a partnership; and the information shall be verified on the oath of the person signing the application. It shall be accompanied by a non-refundable application fee in the amount of Two Hundred Fifty Dollars (\$250.00).

The application shall include at least the following:

a) The name, age and address of the applicant in the case of an individual; in the case of a partnership, the persons entitled to share in the profits thereof, and in the case of a corporation or limited liability company, the name, address and telephone number of the registered agent, the date and state of incorporation or organization, the objects for which it was organized, the names and addresses of the officers and directors, and if a majority in interest of the stock or interest of such corporation or company is owned by one person or his nominees, the name and address of such person;

b) The trade name under which the applicant will provide service;

c) A statement of the types of service to be provided;

d) The length of time that said applicant has been in business of that character, or in the case of a corporation or limited liability company, the date on which its articles of incorporation or articles of organization were issued;

e) The name, address and telephone numbers of the body artists employed by the applicant who will be providing body art services;

f) The location and description of the premises or place of business which is to be operated under such license, accompanied by a scale (1:20) site plan of the interior and exterior of the premises;

g) A statement whether the applicant has made similar application for a similar other license on premises other than described in this application, including any other jurisdictions, the date(s) of such application and the disposition of such application;

h) A statement that the applicant has not been convicted, within the preceding seven (7) years, of a felony, any sex offense, any drug or narcotics offense, being the keeper of or is keeping a house of ill fame, battery, or other crimes opposed to honesty, decency and/or morality. An applicant is not required to disclose any conviction which has been expunged;

i) A statement that the applicant does beneficially own the premises for which a license is to be issued, accompanied by a copy of the deed showing title in the name of the applicant, or has a lease thereon, accompanied by a copy of a signed lease for the premises or other documentation showing the applicant has a leasehold interest in the premises;

j) A statement:

(a) That if a partnership, all members of the partnership shall be qualified to obtain a license;  
and,

(b) That if a corporation or limited liability company, any officer, manager, member or director thereof, or any member or stockholder or stockholders owning in the aggregate more than five per cent (5%) of the interest in or stock of such corporation or company, is eligible to receive a license pursuant to the laws of the State of Illinois and this municipality. All officers, managers, directors, members or any stockholder or stock-holders owning in the aggregate more than five percent (5%) of the stock or interest of such corporation or company, shall be listed by name, address and telephone number; and,

k) A statement that the applicant, any of its officers, directors, shareholders or members is not a defaulter in any financial obligation to the City, including but not limited to: the payment of any fines, fees, taxes, bills or assessments due to the City.

Every licensee shall be required to report changes in any of the items listed above during the course of the license year to the City Clerk in a prompt manner, but in no event more than fourteen (14) days after such change has occurred.

The application shall be accompanied by the following information:

1) A scale (1:20) site plan showing the interior of the premises in which the body art services will take place and identifying the source of hot and cold running water, other utilities and sharps container(s) to be used;

2) Certificate of public liability insurance, in a minimum amount of \$100,000.00 per incident and occurrence, which policy shall contain a provision requiring 30-day advance notice to the City of DeKalb of any cancellation or non-renewal;

3) A copy of the aftercare instructions to be provided by the person(s) who will perform the tattooing; and

4) Proof of completion of a bloodborne pathogen training program, compliant with the OSHA Bloodborne Pathogens requirement (29 CFR 1910.1030), for each of the body artists employed by the applicant.

Subsequent to the submission of a completed application, the applicant's premises shall be inspected by the City to verify information provided in the application and determine compliance with applicable property maintenance, zoning and building codes.

#### **67.05 PUBLIC HEARING ON APPLICATION FOR BODY ART ESTABLISHMENT LICENSE.**

Upon the filing of an application for a Body Art Establishment license, a public hearing shall be held at a regular City Council meeting within thirty (30) days of the filing of such application, where practicable. Due notice of such public hearing shall be given to the applicant and general public. As part of such hearing, the City shall submit a written report reflecting the applicant's compliance with the terms and provisions of this Chapter, as well as the premises' compliance with applicable property maintenance, zoning and building codes.

#### **67.06 ISSUANCE OF BODY ART ESTABLISHMENT LICENSE.**

Following the public hearing, if the City Council should find that a Body Art Establishment in the City is necessary and desirable, that the premises conform to the provisions of the codes and ordinances of the City, and that the applicant is fit, willing, able and qualified to perform such body art services and to conform to the provisions of this Chapter, the City Council shall create a Body Art Establishment

license for the applicant and direct the City Clerk to issue said Body Art Establishment license to the applicant for the premises identified in the application; otherwise, the application shall be denied. In the event there is a change of the location of the body art establishment, the licensee shall submit a new application for the new location, along with any required fees, and the application shall be processed as required by this Chapter.

In making the above findings, the City Council shall take into consideration the number of Body Art Establishments already in operation, whether existing Body Art Establishments are adequate to meet the public need, the proximity of any existing Body Art Establishments to the proposed location, the probable effect of the Body Art Establishment on neighboring businesses, the compliance of the proposed premises with City codes and ordinances and State law and regulations, and the character, experience and responsibility of the applicant.

The City Council may place such restrictions on the issuance of the Body Art Establishment license as it believes reasonably appropriate to the health, safety and general welfare of the City of DeKalb. Such restrictions may include, but are not limited to: the location of the Body Art Establishment; the hours of operation; the number of body artists permitted; and the body art procedures to be permitted.

#### **67.07 BODY ART ESTABLISHMENT LICENSE FEES; RENEWAL.**

a) No Body Art Establishment license shall be issued or continued in operation unless the holder thereof has supplied the City with a copy of the Licensee's current State of Illinois Certificate of Registration of a Body Art Establishment and has paid an annual license fee of One Hundred and No/100 Dollars (\$100.00) for the right to engage in said business. Said license fee shall be for the license year, which shall be January 1st to December 31st, and shall be in addition to any other license fees or charges established by a proper authority and applicable to said license holder.

b) Every licensee shall be required to complete a renewal application in substantially the same form as the application form set forth herein on an annual basis and shall submit the same to the City on or before December 15<sup>th</sup> of each year. Failure to submit a renewal application to the City on or before December 15<sup>th</sup> of each year shall result in the assessment of a first level administrative processing fee of Fifty and no/100 Dollars (\$50.00). Failure to submit a renewal application on or before December 30<sup>th</sup> of each year shall result in the assessment of a second level administrative processing fee of an additional One Hundred and no/100 Dollars (\$100.00). Failure to submit a renewal application on or before December 31<sup>st</sup> of each year shall result in an emergency suspension of the license by the City Manager or his designee and the assessment of a fine in the minimum amount of One Hundred Fifty and no/100 Dollars (\$150.00), plus any costs, in addition to those administrative processing fees set forth in this section. Said administrative processing fess shall be paid before a renewed license will be issued by the City. A hearing to reinstate said license shall be held within seven (7) business days of the date of such emergency suspension.

#### **67.08 TRANSFER OF BODY ART ESTABLISHMENT LICENSE.**

No Body Art Establishment license may be sold, assigned, mortgaged or otherwise transferred without the prior consent of the City Council.

#### **67.09 SUSPENSION AND REVOCATION OF BODY ART ESTABLISHMENT LICENSE.**

A Body Art Establishment license issued under the provisions of this Chapter may be revoked or suspended by the City Manager, or his designee, if the holder thereof has (a) violated any of the provisions of this Chapter, (b) discontinued operations for more than fourteen (14) consecutive days, (c) violated any ordinances of the City or DeKalb County or the laws of the United States or the State of Illinois, the violations of which reflect unfavorably on the fitness of the holder to offer body art services. Emergency suspension of the license shall occur in the event that the licensee fails to renew the license, in accordance with section 67.07b) of this Chapter, or in the event that the City Manager, or his designee, determines that the continued operation of the Body Art Establishment poses an immediate danger to the health, safety and general welfare of the citizens of the City of DeKalb.

With the exception of an emergency suspension provided for in this section, prior to suspension, the holder shall be given written notice of the violation, the proposed action to be taken and shall have an opportunity to be heard. Hearings shall be held within seven (7) business days of the notice of violation, when practicable. In the event of an emergency suspension, the holder shall be provided with a copy of the written order of suspension and shall be afforded the right to have a hearing to be held within seven (7) business days of the notice of emergency suspension.

A Body Art Establishment license may be revoked for serious or repeated violations of any of the requirements of this Chapter or the applicable ordinances, and/or codes of the City of DeKalb, or the laws and regulations of the County of DeKalb, the State of Illinois and/or the United States. Prior to revocation, the holder shall be given written notice of the violations, the proposed action to be taken and shall have an opportunity to be heard. Hearings shall be held within five (5) business days of the notice of violation, when practicable.

#### **67.10 REQUIREMENTS.**

The following are requirements of all Body Art Establishments:

a) Except as varied herein, all body art procedures shall take place in accordance with the requirements of the "Tattoo and Body Piercing Establishment Registration Act" (410 ILCS 54/1 *et seq.*), as may be amended from time to time and the provisions of the Illinois Administrative Code for Body Art (77 Ill.Admin.Code Ch.,1, Subch. m, Sec. 797.100, *et seq.*), as may be amended from time to time;

b) All tattooing shall be performed with sterile, single use equipment only;

c) Each person undergoing a body art procedure shall sign a consent, which shall also be signed by the person performing the procedure and a witness. The consent shall require disclosure of the person's date of birth and a review of identification verifying that date of birth, which form of identification shall be indicated on the consent. The consent shall also include a review of any medical conditions which could be adversely affected by the body art procedure or which may contraindicate the body art procedure. A copy of the consent shall be given to the person undergoing the body art procedure and the original shall be retained by the Body Art Establishment. The originals shall be produced to the City of DeKalb upon its request;

d) Each person undergoing a body art procedure shall be given a copy of aftercare instructions upon completion of the procedure;

e) Regulated waste shall be disposed of in a sharps container and in conformance with the OSHA Bloodborne Pathogens (29 CFR 191031030) requirements; and

f) All jewelry used in body art procedures shall be made only of the following materials: surgical implant-grade stainless steel; solid 14k or 18k white or yellow gold; niobium; titanium; platinum; or a dense, low-porosity plastic. All jewelry shall be free from nicks, scratches or irregular surfaces and shall be properly sterilized prior to use.

### **67.11 PROHIBITIONS.**

The following are prohibitions of all Body Art Establishments:

a) No persons under the age of eighteen (18) years shall be permitted to undergo a tattooing procedure. For any body art procedure other than tattooing, the parent or legal guardian shall sign a consent form in the presence of an operator/body artist. The consent form shall indicate that the parent or legal guardian has read and understood the State of Illinois disclosure warning statement and shall be maintained by the Licensee and exhibited upon demand of the City;

b) No Body Art Establishment shall permit or allow a body art procedure to be performed upon any person who appears to be under the influence of drugs or alcohol or who appears to be incoherent for any reason;

c) No body artist affected with infected wounds, open sores, boils, abrasions, keloids, weeping dermatological lesions or acute respiratory infection shall work in any area of a Body Art Establishment in which they come in contact with members of the public seeking a body art procedure or with the equipment, supplies, instruments or working surfaces of the Body Art Establishment;

d) No Body Art Establishment shall permit the performance of any body art procedure which utilizes the implantation of any object(s), such as ball bearings or beads, under the skin;

e) No Body Art Establishment shall permit or allow smoking, eating or drinking in the area of the premises in which body art procedures are performed. No alcoholic beverages shall be permitted upon the premises of the Body Art Establishment during business hours; and

f) No body artist may perform any body art procedure while under the influence of alcohol or non-medically prescribed drugs.

### **67.12 RIGHT TO INSPECT AND EXAMINE RECORDS.**

Subsequent to the initial inspection provided for in section 67.04 of this Chapter, the City may cause such inspections of the Body Art Establishment premises as may be necessary to ensure compliance with the terms and conditions of this Chapter and any and all other provisions of this Municipal Code, the ordinances of the City of DeKalb, the laws and regulations of the County of DeKalb, the State of Illinois and/or the United States. The Body Art Establishment shall permit City representatives to enter the premises at any reasonable time, which shall include the permitted hours of operation, for the purpose of making inspection of the premises and the records of the Body Art Establishment. The Body Art Establishment shall produce such records as may be required to provide proof of compliance with the terms and conditions of this Chapter, any and all other provisions of this Municipal Code, the ordinances of the City of DeKalb, the laws and regulations of the County of DeKalb, the State of Illinois and/or the

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United States, upon demand from the City or its inspectors.

**67.13 PENALTY.**

Any person violating any of the provisions of this Chapter shall be fined an amount not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00) per offense. Each day on which an offense occurs shall be considered a separate offense.