

AMENDING CHAPTER 67 "BODY ART ESTABLISHMENTS (TATTOOING)", SECTION 67.03 "QUALIFICATIONS FOR BODY ART ESTABLISHMENT LICENSE", SECTION 67.05 "PUBLIC HEARING ON APPLICATION FOR BODY ART ESTABLISHMENT LICENSE", AND SECTION 67.06 "ISSUANCE OF BODY ART ESTABLISHMENT LICENSE", OF THE CITY OF DEKALB, ILLINOIS MUNICIPAL CODE.

WHEREAS, the City of DeKalb (the "City") is a home rule unit of local government and may exercise any power and perform any function pertaining to its government and affairs pursuant to Article VII, Section 6, of the Illinois Constitution of 1970; and

WHEREAS, City staff recommends amending Chapter 67 "Body Art Establishments" of the City's Municipal Code as set forth in the attached and incorporated Exhibit A (the "Amendment"); and

WHEREAS, the City's corporate authorities find that it is in the City's best interests for the protection of the public health, morals and welfare to adopt the Amendment; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF DEKALB, ILLINOIS:

SECTION 1: The recitals to this Ordinance are true, material, adopted and incorporated as Section 1 to this Ordinance.

SECTION 2: The City's corporate authorities adopt the Amendment to Chapter 67 "Body Art Establishments" of the City's Municipal Code as set forth in the attached and incorporated Exhibit A.

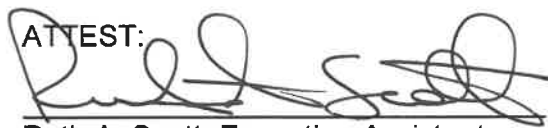
SECTION 3: This Ordinance and each of its terms shall be the effective legislative act of a home rule municipality without regard to whether such ordinance should (a) contain terms contrary to the provisions of current or subsequent non-preemptive state law, or (b) legislate in a manner or regarding a matter not delegated to municipalities by state law. It is the intent of the City's corporate authorities that to the extent that the terms of this Ordinance should be inconsistent with any non-preemptive state law, this Ordinance shall supersede state law in that regard within its jurisdiction.

SECTION 4: This Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a Regular meeting thereof held on the 8th day of April 2024 and approved by me as Mayor on the same day. First Reading passed on February 26, 2024, by a 5-3 roll call vote. Aye: Larson, Smith, Perkins, Walker, Barnes. Nay: Zasada, McAdams, Verbic. Second Reading passed on April 8, 2024, by a 7-0 roll call vote. Aye: Zasada, Larson, Smith, Perkins, Verbic, Walker, Barnes. Nay: None.




COHEN BARNES, Mayor

ATTEST:

Ruth A. Scott, Executive Assistant

CHAPTER 67
“BODY ART ESTABLISHMENTS (TATTOOING)”

ESTABLISHED: September 28, 2009 (Ordinance 2009-056)

LATEST REVISION: December 9, 2019 (Ordinance 2019-085)

SECTIONS:

67.01 DEFINITIONS.

67.02 BODY ART ESTABLISHMENT LICENSE REQUIRED.

67.03 QUALIFICATIONS FOR BODY ART ESTABLISHMENT LICENSE.

67.04 APPLICATION FOR BODY ART ESTABLISHMENT LICENSE.

~~67.05—PUBLIC HEARING ON APPLICATION FOR BODY ART ESTABLISHMENT LICENSE.~~

67.06 ISSUANCE OF BODY ART ESTABLISHMENT LICENSE.

67.07 BODY ART ESTABLISHMENT LICENSE FEES; RENEWAL.

67.08 TRANSFER OF BODY ART ESTABLISHMENT LICENSE.

67.09 SUSPENSION AND REVOCATION OF BODY ART ESTABLISHMENT LICENSE.

67.10 REQUIREMENTS.

67.11 PROHIBITIONS.

67.12 RIGHT TO INSPECT AND EXAMINE RECORDS.

67.13 PENALTY.

TABLE OF AMENDMENTS

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, microblading, 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, microblading, and scarification. This definition does not include any of the following: (1) the practice of electrology as defined in the Electrology Licensing Act, 225 ILCS 412/1, *et seq.*; (2) the practice of acupuncture as defined in the Acupuncture License Act, 225 ILCS 2/1, *et seq.*; and (3) the use, by a physician licensed to practice medicine in all its branches, of colors, dyes, or pigments for the purpose of obscuring scar tissue or imparting color to the skin for cosmetic, medical or figurative purposes.
- 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.
- d) Body Art Establishment means a body piercing operation, a tattooing operation, body modification establishment, a microblading establishment, or a combination of all any or all of these operations in a multiple-type establishment, whether public, private or not-for-profit.
- e) Body Art Establishment Operator means an individual, partnership, corporation, limited

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

- f) Microblading means a semi-permanent coloration of the skin or mucosa by placing ink or other pigment into the skin or mucosa by the aid of needles or any other instrument or process to simulate hair, skin, or make-up. "Microblading" may include but is not limited to: the application of fine deposits of cosmetic ink or tattoo pigments to skin or mucosa, a semi-permanent application of pigment to emulate the application of make-up, lip coloring, eye liner, or a process that provides a means to partially or fully camouflage missing eyebrow hair with the appearance of simulated hair using fine deposits of cosmetic tattoo pigments. "Microblading" may also be known as embroidery, microstroking, feather touch and hair-like strokes.
- g) 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, they 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 ~~three (3)~~ four (4) body art establishments shall be located in the downtown Central Business District 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. In the event that a body art establishment in the City's downtown Central Business District area fails to renew its

license or has its license suspended or revoked for a continuous period of at least 6 months, then the number of allowable body art establishments in the City's downtown Central Business District area shall be automatically reduced from four (4) to three (3) without any action required by the City Council. ~~Further, there shall be no less than five hundred feet (500'), measured from property line to property line, between any two body art establishments, wherever they may be located within the City.~~

- g) No Body Art Establishment shall be located within 125 from the property line of any other Body Art Establishment.

67.04 APPLICATION FOR BODY ART ESTABLISHMENT LICENSE.

An application for a Body Art Establishment license shall be filed with the City Manager ~~or designee~~ 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 provided in the application~~ shall be verified on the oath of the person signing the application.

The application 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 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 stockholders 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 Manager or designee 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 body artist performing the body art.
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.
5. The sterilization and operation procedures to be used by the body art establishment; and
6. Compliance with the sanitation and safety requirements of this Chapter and all applicable provisions of the City Code.

~~Subsequent to the submission of~~After submitting a completed application, the applicant's premises shall be inspected by the City to verify information provided in the application and

determine compliance with the City's Municipal Code. ~~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~~ Manager~~Council should~~ finds that a Body Art Establishment ~~in the City~~ is necessary and desirable, that the premises conforms 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 Manager or designee to~~ shall 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 Manager~~Council~~ may place such restrictions on the issuance of the Body Art Establishment license as the City Manager~~it~~ reasonably believes, in the exercise of discretion, ~~may protect the City's 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 licensee ~~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 15th of each year.

Failure to submit a renewal application to the City on or before December 15th 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 30th 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 31st of each year shall result in an emergency suspension of the license by the City Manager or 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 fees 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 approval of the City ~~Manager.~~ **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 designee~~ if the licensee has:

- (a) violated any of the provisions of this Chapter;
- (b) discontinued operations for more than fourteen (14) consecutive days; or
- (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 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 pursuant to the City's administrative hearing procedure provided by Chapter 17 of the City's Municipal Code. ~~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 pursuant to the City's administrative hearing procedure provided by Chapter 17 of the City's Municipal Code.

~~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.
- 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; and
- g) The body art establishment shall have the licensed premises supervised at all times when open for business by a manager who is on the site of the licensed premises. The body art establishment licensee, operator, or manager shall personally supervise the business, and shall not violate, or permit others to violate, any applicable provisions of this Chapter. The violation of any provisions by any agent or employee of the licensee shall constitute a violation of the licensee.

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.
- f) No body artist may perform any body art procedure while under the influence of alcohol or non-medically prescribed drugs; and
- g) No microblade procedure shall be performed on skin surfaces where sunburn, rash, acne, infection, open lesions, or other questionable skin lesions exists without medical clearance in the form of a written and signed statement by a physician.

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 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.

CHAPTER 67
“BODY ART ESTABLISHMENTS (TATTOOING)”
TABLE OF AMENDMENTS

The following table provides for the amendments made to this Municipal Code Chapter from its original effective date of September 28, 2009, via Ordinance 2009-056.

Effective Date	Ordinance No.	Description of Amendment
9/28/2009	2009-056	Amending Chapter 11 “Health” by Deleting Section 11.04 “Tattooing Prohibited” and Adding Chapter 67 “Tattooing”.
12/18/2018	2018-091	Amending Chapter 67 “Body Art Establishments (Tattooing)”, Section 67.03 “Qualifications for Body Art Establishment License”.
12/9/2019	2019-085	Amending Chapter 67 “Body Art Establishments (Tattooing)” as it Pertains to Microblading.