

ORDINANCE NO. 9860 (N.S.)

AN ORDINANCE AMENDING CHAPTER 3 – TATTOO PARLORS AND  
MOBILE TATTOO VEHICLES - OF THE COUNTY CODE OF  
REGULATORY ORDINANCES

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. Purpose: This ordinance updates the County Code to catch up to changes in terminology for the "tattoo" or "body arts" industry and in Department of Environmental Health regulation of that industry. Businesses that formerly provided only tattoo services now typically also engage in other body arts services such as permanent make up applications. Substituting the term "body arts" for "tattoo" where relevant in the County Code will make it clear that the Department of Environmental Health has regulatory authority over the provision of other body arts services, not just tattooing. In addition, this ordinance authorizes the Department of Environmental Health to collect a cost-based fee for inspections at body arts temporary events and when a body arts facility needs to be re-inspected (e.g., to confirm that a violation has been corrected).

Section 2. Chapter 3, Article 1, of the San Diego County Code of Regulatory Ordinances, relating to definitions and general purpose, is hereby amended to read as follows:

**SEC. 66.301. STATEMENT OF PURPOSE.**

The purpose of this Chapter is to provide for the regulation of body arts facilities and mobile body arts vehicles operating in the unincorporated territory of the County of San Diego to prevent communicable disease which may be spread through improper body arts techniques.

**SEC. 66.302. DEFINITIONS.**

The following terms contained in this chapter shall have the following meaning:

- (a) APPROVED means acceptable to the Director of the Department of Environmental Health of the County of San Diego; or the County Health Officer if the Health Officer is specified.
- (b) ASEPTIC TECHNIQUE means practices which prevent and hinder the transmission of disease producing micro-organisms from one person or place to another person or place.
- (c) BIOHAZARDOUS WASTE means any of the following:
  - (1) Laboratory waste, including, but not limited to, specimen cultures from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biological agents, discarded live

and attenuated vaccines, and culture dishes and devices used to transfer, inoculate and mix cultures or material which may contain infectious agents and may pose a substantial threat to health.

- (2) Recognizable fluid blood elements and regulated body fluids, and containers and articles contaminated with blood elements or regulated body fluids that readily separate from the solid portion of the waste under ambient temperature and pressure. Regulated body fluids are cerebrospinal fluid, synovial fluids, pleural fluid, peritoneal fluid, pericardial fluid, and amniotic fluid.
  - (3) Sharps, which are objects or devices having acute rigid corners, edges, or protuberances capable of cutting or piercing, including, but not limited to hypodermic needles, blades and slides.
  - (4) Contaminated animal carcasses, body parts, excrement and bedding of animals including materials resulting from research, production of biologicals, or testing of pharmaceuticals which are suspected of being infected with a disease communicable to humans.
  - (5) Any specimens sent to a laboratory for microbiological analysis.
  - (6) Surgical specimens including human or animal parts or tissues removed surgically or by autopsy.
  - (7) Such other waste materials that result from the administration of medical care to a patient by health care providers and are found by the administering agency, the Department of Environmental Health, or the local Health Officer to pose a threat to human health or the environment. If there is a difference in opinion between the administering agency, the Department of Environmental Health, and/or the local Health Officer, the local Health Officer's view will prevail.
- (d) DEPARTMENT means The County of San Diego Department of Environmental Health.
  - (e) ENFORCEMENT OFFICER means the Director of the Department of Environmental Health or his/her assistant deputies, designees and/or employees.
  - (f) HEALTH OFFICER means the Health Officer of the County of San Diego or his/her designees.
  - (g) MOBILE BODY ARTS VEHICLE means a non-permanent, mobile body arts establishment, operating at locations remote from the permanent body arts facility, from which tattoo artists /body arts technicians do body arts for a fee or for other consideration.

- (h) PERMIT means an annual permit issued to a body arts facility, the tattoo artist/body arts technician or mobile body arts tattoo vehicle by the Director of the Department of Environmental Health. A permit also includes the permit issued for each body arts temporary event.
- (i) SINGLE SERVICE means one-time, one person use.
- (j) TATTOO ARTIST / BODY ARTS TECHNICIAN means a person who engages in tattooing, body arts or permanent cosmetics using tattooing/body arts techniques.
- (k) BODY ARTS FACILITY means any permanent premises where a tattoo artist body arts technician does tattooing/body arts for a fee or for other consideration.
- (l) TATTOOING/BODY ARTS means any method of placing designs, letters, scrolls, figures, symbols, or any other marks upon or under the skin with ink or colors, by the aid of needles or instruments.
- (m) NONPROFIT means any organization that has been recognized by the United States Internal Revenue Service as exempt from federal income tax.

Section 3. Chapter 3, Article 2, of the San Diego County Code of Regulatory Ordinances, relating to tattoo facilities, is hereby amended to read as follows:

## **ARTICLE 2.BODY ARTS FACILITIES**

### **SEC. 66.303. CUSTOMERS.**

- (a) No tattooing/body arts shall be done on skin surfaces which have rash, pimples, boils, infections or manifest any evidence of unhealthful conditions.
- (b) No tattoo/body arts shall be administered to any person under the age of eighteen (18) years of age.
- (c) No tattooing/body arts shall be performed on any person, who has given a history of jaundice or hepatitis infection within the previous thirty days.

### **SEC. 66.304. OPERATOR.**

- (a) The operator shall be free of communicable diseases and have no pustular skin lesions.
- (b) The operator shall not smoke during the tattoo/body arts operation.
- (c) The operator shall wear a clean, light-colored, short sleeved smock during the tattoo/body arts operation.
- (d) The operator shall wear disposable gloves during the tattooing/body arts operation.

**SEC. 66.305. ASEPTIC PROCEDURE -- TREATMENT OF SKIN.**

(a) Before working on a customer, the tattoo artists/body arts technician shall cleanse their hands and arms in the following manner:

- (1) Thoroughly scrub hands and fingernails with water, soap and a hand brush. The upper arms to the elbow shall be scrubbed with soap;
- (2) Rinse hands and upper arm with running water;
- (3) Rinse hands with an approved antiseptic solution such as seventy per cent alcohol; and
- (4) Hands and arms may be dried with clean, individual, single use towels;

(b) The area of the customer's skin to be tattooed shall be prepared by:

- (1) Washing with water and soap. A sterile hand brush, in conjunction with water and soap, shall be used to produce a clean skin area.
- (2) After washing of the skin surface, shaving shall be done with a new single service blade. The blade shall be discarded, in the proper manner, after use. Re-usable blade holders shall be sterilized in an autoclave after each use. If disposable blade holders are used, they may be used on one customer only and then shall be disposed in an approved manner.
- (3) Following shaving, the skin shall be prepared by thoroughly washing with soap, followed by gentle scrubbing of the skin with 70% isopropyl alcohol or Betadyne three times, using a separate sterile gauze pad each time.
- (4) Petroleum jelly to be used for stencils shall be dispensed from a disposable, single use collapsible tube or container, approved by the Health Officer or the Enforcement Officer, and shall be applied on the area to be tattooed with sterile gauze, sterile tongue blade or sterile applicator stick. The container shall be discarded following a single use.

(c) During the tattoo/body arts operation, dyes, inks and bodily fluids shall be removed with sterile material, and properly disposed of at the end of the tattoo/body arts operation.

(d) The tattooed skin surface shall be treated in the following manner:

- (1) The tattooed skin surface shall be washed with a sterile gauze saturated with 70% alcohol solution.
- (2) The tattooed skin surface shall be allowed to air dry.

(3) The tattooed skin surface may be treated with Bacitracin Ointment applied with a sterile applicator from single use tubes of ointment. Un-used portions of the ointment shall be discarded.

(4) The tattooed skin surface shall be loosely covered with a dry sterile gauze dressing with adhesive to permit free circulation of air.

**SEC. 66.306. STERILIZATION OF TATTOO/BODY ARTS PIGMENTS AND INSTRUMENTS.**

(a) All pigments, dyes and equipment shall be steam sterilized in an autoclave with at least fifteen (15) pounds pressure per square inch (251 degrees Fahrenheit) for at least fifteen minutes. Autoclaves shall not be overloaded. Equipment shall be loosely packed in the autoclave. There shall be sufficient equipment on hand in each establishment to handle 24 hours tattooing without having to re-sterilize.

(b) Instruments and equipment that shall be steam sterilized shall include, but not limited to:

Dyes, pigments	Needle tubes
Paper towels, napkins	Needles
Charcoal	Wiping cloths

(c) All equipment shall be thoroughly cleaned before being sterilized. Instruments shall be cleaned with soap or detergents by use of a brush. Interior of needle barrels shall be brushed. After cleaning, equipment shall be thoroughly rinsed under running fresh tap water.

(d) Each piece of equipment shall be individually wrapped with paper in an approved method for autoclaving. Metal foil may not be used. Tattooing needles shall be threaded through the metal tube that attaches to the tattooing vibrator and shall be placed in a glass (or plastic) test tube with a cotton plug for autoclaving. Gauze may be placed at bottom of test tube to prevent damage to needle tips. Wiping tissues shall be sterilized in a single pack to be used for one tattoo only and then be discarded.

(e) All packs shall be marked with temperature recording tape or labels.

(f) The packages in which equipment is sterilized shall be dated with date of autoclaving. Equipment shall not be used 30 days or more after autoclaving, without being re-sterilized.

(g) Dyes or inks shall be used from squeeze bottle containers in which the dyes or inks have been sterilized in an autoclave. Dye shall be kept in a sterile condition and the dye bottles filled with dye shall be autoclaved at least once a week or more often, if necessary, to keep the dye in a sterile condition. Re-filling of partially depleted squeeze bottle containers with dyes or inks shall necessitate subjecting the bottle and its contents to the sterilization procedure.

**SEC. 66.307. PREPARATION OF STENCILS.**

- (a) Re-usable stencils shall be sanitized by immersion in a chlorine solution containing no less than 100 parts per million (ppm) of chlorine (one ounce of household bleach (5.25%) with one quart of water). The sanitizing solution may not be used for more than thirty minutes after preparation.
- (b) The stencil shall be scrubbed with soap and a brush after use to remove all accumulations of carbon and Vaseline in the etched grooves of the stencil. The stencil shall be dried on a clean towel.
- (c) The dried stencil shall be sanitized by immersing in the chlorine solution, design side down for at least ten minutes.
- (d) The sanitized stencil shall be rinsed in tap water and may be air dried or blot dried with clean, sterile paper towels. The stencil shall be stored in a clean folder or envelope.
- (e) Prior to use, each pre-cleaned stencil shall be wiped with a piece of sterile gauze soaked in 70% isopropyl alcohol. The stencil shall be allowed to air dry while other preparatory steps are being taken.

#### **SEC. 66.308. USE OF DYES AND INKS.**

- (a) Dyes or inks shall be from an approved source of supply. The body arts facility permittee shall submit to the Enforcement Officer in writing, the source of the dyes and inks used in their establishment.
- (b) Dyes or inks to be immediately used in tattooing shall be dispensed from the sterile dye bottles into sterile paper cups. Upon completion of the tattooing, the paper cups and remaining dye shall be discarded in the appropriate manner. Any dye in which a needle was dipped shall not be used on another customer.
- (c) Styptics shall be single use only. Styptic material shall be dispensed only from single use containers, then discarded after use on one customer.

#### **SEC. 66.309. INFECTIONS.**

All infections resulting from the practice of tattooing/body arts shall be reported to the County Health Officer by the person owning or operating the body arts facility.

#### **SEC. 66.310. RECORDS.**

- (a) The permit holder shall maintain proper records of each customer. The records shall include the following information:
  - (1) The date when the tattoo/body arts was applied.
  - (2) The name, address and age of the customer.

- (3) The design of the tattoo/body arts and the location applied to the body.
- (4) The name of the tattoo artist/body arts technician.

(b) The information required in subsection (a) shall be permanently recorded, in ink or indelible pencil, in a bound book kept solely for this purpose. This book shall be available at reasonable hours for examination by the Enforcement Officer and shall be kept in the establishment for a minimum of six months.

#### **SEC. 66.311. BODY ARTS FACILITIES-- SANITATION REQUIREMENTS.**

(a) The premises of a body arts facility shall be maintained in a clean and sanitary manner at all times, free from vermin or rodent infestation and excessive dust and dirt.

(b) The walls and ceilings shall be easily cleanable, smooth surfaced and light-colored. All walls and ceilings shall be kept in a clean condition and in good repair.

(c) The floor surfaces shall be of smooth, non-absorbent material and constructed so as to be easily cleanable. The floors shall be kept in a clean condition and in good repair.

(d) Adequate lighting and ventilation shall be provided.

(e) Each body arts facility shall have a sink for the exclusive use of the tattoo artist/body arts technician for hand washing and preparing the customers for tattooing. The sink shall be supplied with hot and cold running water under pressure to a mixing type faucet, a soap dispenser with soap, and single use paper towels from a dispenser.

(f) Water closet and hand basin shall be available on the premises for use by customers and tattoo artists/body arts technician. The plumbing fixtures and toilet room shall be maintained in a sanitary condition and in good repair.

(g) All needles and instruments shall be stored in a manner so as to provide protection from contamination after sterilization. Adequate storage shall be provided for all needles and instruments.

(h) Operating tables shall be constructed of metal or white enamel or porcelain finish, or stainless steel. The operating tables shall be separated from observers and waiting customers by at least ten feet.

(i) No smoking shall be permitted in the tattooing/body arts area.

(j) Tattooing/Body Arts shall be the only activity conducted in a body arts facility.

(k) Adequate, approved containers shall be provided for the disposal of wastes.

(l) Instruments, dyes, inks, pigments, carbon, stencils and other paraphernalia used in the body arts facility shall be stored exclusively in approved closed cabinets.

(m) No animals shall be allowed in the body arts facility at any time.

#### **SEC. 66.312. DISPOSAL OF BIOHAZARDOUS WASTES.**

Potentially biohazardous waste materials generated by Body Arts Facilities and Mobile Body Arts Vehicles shall be disposed of in the following manner:

(a) Sharps, which are objects or devices having acute rigid corner, edges, or protuberances capable of cutting or piercing, including, but not limited to, hypodermic needles, tattoo needles, blades, and slides shall be disinfected and disposed of, by one of the following methods:

(1) By a cold disinfection method when used strictly in accordance to instructions, and which has been approved by the State Department of Health Services. The sharps disposed of in this manner may be disposed of via the municipal solid waste hauler. Prior to pick-up by the municipal solid waste hauler, the cold disinfection container shall be stored in a locked trash dumpster or a secured trash area to prevent tampering.

(2) By disposal via a Permitted Biohazardous Waste Hauler or a State of California Authorized Medical Waste Hauler, who possesses a permit from the appropriate regulatory agency.

(3) By autoclaving the sharps to be disposed of for at least thirty minutes at 15 (fifteen) pounds per square inch (psi) at a temperature of 251 degrees Fahrenheit, bound in packs with temperature sensitive indicating tape. Once sterilized, the sharps must be contained before disposal in the municipal landfill.

(4) Other disposal methods approved by the State Department of Health Services, the Enforcement Officer or the County Health Officer.

(b) Gauze, wipes, tissues, unused dyes and inks, and other non-sharp(s) used in a tattooing operation shall be contained and secured on site, to prevent unauthorized access. This material shall be disposed of, in the municipal landfill, by a licensed solid waste hauler (general trash hauler)

Section 4. Chapter 3, Article 3, of the San Diego County Code of Regulatory Ordinances, relating to mobile vehicles, is hereby amended to read as follows:

#### **ARTICLE 3. MOBILE BODY ARTS VEHICLES**

#### **SEC. 66.313. MOBILE BODY ARTS VEHICLES.**

In addition to complying with the requirements of Article 2, excepting for Section 66.311(f), Mobile Body Arts Vehicles and Tattoo Artists/Body Arts Technicians working from a Mobile Body Arts Vehicle shall also comply [with] all of the following requirements:

- (a) Mobile Body Arts Vehicles which do not have on board sterilization equipment shall have sufficient utensils and equipment on hand in each Mobile Body Arts Vehicle to handle one day's tattooing without having to re-sterilize.
- (b) Tattooing/body arts performed pursuant to this section shall be done only from an enclosed vehicle such as a trailer or mobile-home. No tattooing/body arts of the skin shall be performed outside of the enclosed vehicle.
- (c) No animals shall be allowed in the Mobile Body Arts Vehicle at any time.
- (d) The Mobile Body Arts Vehicle shall be used only for the purposes of tattooing/body arts.
- (e) The Mobile Body Arts Vehicle shall be equipped with a sink for the exclusive use of the tattoo artist/body arts technician for handwashing and preparing customers for tattooing. The sink shall be supplied with hot and cold running water under pressure to a mixing type faucet, a soap dispenser with soap and single use paper towels from a dispenser. An adequate supply of potable water shall be maintained for the Mobile Body Arts Vehicle at all times tattooing is being performed.
- (f) All liquid wastes shall be stored in an adequate storage tank with a capacity at least fifty per-cent greater than the capacity of the on-board potable water. Liquid wastes shall be disposed of at approved trailer dump sites.
- (g) The Mobile Body Arts Vehicle shall be maintained in a clean and sanitary condition free of vermin, at all times. Doors shall be self-closing and tight-fitting. Openable windows shall have tight-fitting screens.
- (h) There shall be approved restroom facilities within 200 feet of the Mobile Body Arts Vehicle.
- (i) There shall be adequate light and ventilation in each Mobile Body Arts Vehicle.
- (j) Mobile Body Arts Vehicles which are not associated with Body Arts Facilities operating in the County of San Diego shall maintain on-board steam sterilization equipment meeting the requirements of Section 66.306(a) of this chapter. All equipment requiring sterilization shall be sterilized using the on board sterilization equipment.

Section 5. Chapter 3, Article 1, of the San Diego County Code of Regulatory Ordinances, relating to enforcement, is hereby amended to read as follows:

#### **ARTICLE 4. ENFORCEMENT**

##### **SEC. 66.314. PLANS.**

Every person proposing to construct a Body Arts Facility or Mobile Body Arts Vehicle, shall file a copy of the plans thereof, with the appropriate plan review fee, prior to construction, with the Director of the Department of Environmental Health, for review and written approval prior to commencing the work and in advance of the issuance of any building, plumbing or electrical permit.

##### **SEC. 66.315. INSPECTION.**

It shall be unlawful for any person to engage in the business of operating a Body Arts Facility, or a Mobile Body Arts Vehicle without first applying for and receiving approval of a permit from the Director of the Department of Environmental Health. Tattoo Artists/Body Arts Technicians shall only operate from a permitted body arts facility or mobile body arts vehicle.

A supplemental inspection fee will be assessed to the body arts facility or body arts technician in the event of repeated noncompliance or for noncompliance at a body arts temporary event. This is the hourly Environmental Health Specialist rate as prescribed in Section 65.107.

##### **SEC. 66.316. PERMIT REQUIRED.**

It shall be unlawful for any person to engage in the business of operating a Body Arts Facility, or a Mobile Body Arts Vehicle without first applying for and receiving approval of a permit from the Director of the Department of Environmental Health.

##### **SEC. 66.317. APPLICATION FOR PERMIT.**

The permit required by this chapter shall be applied for and issued as prescribed in Title 6, Division 5 of this Code. Every person applying for a permit shall pay the annual permit fee set forth in Title 6, Division 5, Section 65.107 of this Code.

##### **SEC. 66.318. VIOLATION INFRACTION -- MISDEMEANOR.**

- (a) Except as provided in subsection (b), any person violating any provision of this chapter shall be deemed guilty of an infraction.
- (b) Any person convicted of a third or subsequent violation of this chapter within two years from the date of the first conviction shall be deemed guilty of a misdemeanor.

(c) Each day on which a violation occurs or continues shall constitute a separate offense.

Section 6. Effective Date. This Ordinance shall take effect and be in force thirty (30) days after the date of its passage, and before the expiration of fifteen (15) days after its passage, a summary shall be published once with the names of the members voting for and against the same in the San Diego Daily Transcript, a newspaper of general circulation published in the County of San Diego.

Section 7. Operative Date. This Ordinance shall be operative on July 1, 2007.

PASSED, APPROVED AND ADOPTED this 16<sup>th</sup> day of May 16, 2007.