

**FOR THE PURPOSE OF THE REGULATION OF
BODY ART STUDIOS AND TATTOO AND BODY PIERCING ARTISTS**

WHEREAS, the County Commissioners of Calvert County, Maryland are authorized and empowered to adopt local provisions for the regulation of Body Art Studios and Tattoo and Body Piercing Artists pursuant to *Article 25*, Section 256 of the Maryland Annotated Code; and

WHEREAS, the Health Officer of Calvert County has advised the County Commissioners of Calvert County, having convened as the Calvert County Board of Health, that it is in the best interest of the citizens of Calvert County to establish public health standards for the conduct of body art procedures, to regulate the establishment and practice of body arts services and to provide for the enforcement of these standards and regulations by inspection, and permitting for body art establishments; to provide for suspension and revocation of permits; and to provide for misdemeanor and civil infraction penalties for violations of certain requirements and prohibitions of this ordinance;

WHEREAS, a public hearing regarding this recommendation was duly advertised and a public hearing was conducted on July 16, 2013, at which time the Board of County Commissioners received public comment;

WHEREAS, upon due consideration of the comments of the public and staff and in furtherance of the public health, safety and welfare, the Board of County Commissioners finds that it is in the best interest of the public health, safety and welfare of the citizens of Calvert County, Maryland to adopt the recommendation of the Health Officer as set forth below.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Calvert County, Maryland, having convened as the Calvert County Board of Health, that the following regulation of Body Art Studios, Body Artists and Tattoo Artists are hereby approved, adopted and enacted:

- I. Purpose.** The purpose of this Ordinance is to establish reasonable standards for individuals performing tattoo and Body Piercing procedures and for the facilities in which the procedures are provided. Such standards should insure the health and safety of all individuals performing and receiving these services.
- II. Exemptions.**
- (1) These regulations do not apply to a licensed physician or a technician acting under the direct supervision of a licensed physician.
 - (2) These regulations do not include piercing of an earlobe using a properly disinfected ear-piercing gun and single-use sterile studs and clutches.

III. Definitions.

Unless otherwise defined by specific sections as used in these rules and regulations the term:

- (1) "Antibacterial Solution" means any EPA-approved solution used to reduce pathogenic bacterial count on and approved for use upon human skin and includes all products labeled accordingly.
- (2) "Body Art Studio" means any permanent building or structure on a permanent foundation, holding a valid business license and permit from the Department, wherein a tattoo or Body Piercing Artist performs tattooing or Body Piercing. This shall not include tattoo removal.
- (3) "Body Piercing" means puncturing or penetrating the skin or mucosa utilizing a single use sterile needle or other sterile instrument for the purpose of inserting jewelry or other adornment into the body for non-medical purposes.
- (4) "Body Modification" means any object inserted under the skin that is not defined by "Body Piercing".
- (5) "Body Adornment" means Body Piercing, Body Modification, and/or a Tattoo.
- (6) "Body Piercing Artist" means any person who performs Body Piercing.
- (7) "Department" means the Calvert County Health Department.
- (8) "Owner" means the person(s), partnership, the corporation, the association, or group of persons who maintain and control the Body Art Studio and who are legally responsible for the operation of the studio.
- (9) "OSHA" means Occupational Safety and Health Administration.
- (10) "Permanent Makeup" means adornment of the body (i.e. eyebrows, lining of eye lids, etc.) by placing ink or other 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.
- (11) "Permit" means the authorization granted by the Department to the Owner to operate a Body Art Studio.
- (12) "Sanitary" means clean and free of agents of infection or disease.
- (13) "Sanitized" means effective antibacterial treatment by a process that provides sufficient concentration of chemicals for enough time to reduce the bacteria count including pathogens to a safe level on equipment.
- (14) "Sterilization" means holding a reusable instrument in an autoclave in accordance with FDA requirements.

(15) "Tattoo" means to mark or color the skin by pricking in, piercing, or implanting indelible pigments or dyes under the skin. Including "Permanent Makeup."

(16) "Tattoo Artist" means any person who performs tattooing.

IV. Owner.

- (1) The Owner shall be responsible for compliance with this Ordinance and all applicable administrative rules and regulations of the Department.
- (2) The Owner shall certify in its application the name(s) and exact duties of employees/artists who have been designated as being responsible for carrying out the rules and policies adopted by the Owner. The following information shall be included: date of birth; gender; home address; home/work phone numbers; and identification photos of all operators/technicians.
- (3) Prior to being granted a permit each Body Art Studio shall develop a written statement of policies and procedures outlining the responsibilities of management.
- (4) No person under the age of eighteen (18) shall be tattooed or pierced, unless accompanied by a parent or legal guardian who provides written consent. Notwithstanding the foregoing, a licensed physician or osteopath or a technician acting under the direct supervision of such licensed physician or osteopath shall be authorized to do tattoos or piercings.
- (5) Tattoo and Body Piercing Artists shall not be under the influence of alcohol and/or drugs while performing tattoo or body-piercing procedures.
- (6) Tattoo and Body Piercing Artists shall refuse services to any person, who in the opinion of the tattoo or Body Piercing Artists, is under the influence of alcohol or drugs.
- (7) No animals, except for service animals accompanying disabled persons, shall be allowed in the Body Art Studio.

V. Minimum Floor Plan Requirements.

- (1) The Body Art Studio shall be constructed, arranged, and maintained as to provide adequately for the health and safety of its customers.
- (2) The Body Art Studio shall be constructed in a manner to allow the customer receiving the tattoo or Body Piercing adequate privacy from observers. The work area shall be separate from the waiting area, and shall be separated by a fixed and solid door, wall, or partition from any other area, including, without limitation, the waiting area.

- (3) Body Art Studios must have adequate ventilation. Each facility shall have a system of adequate ventilation in accordance with the applicable provisions of the Calvert County building code.
- (4) Walls and ceilings of Body Art Studios must be painted or covered in a manner which would allow for easy and effective cleaning. Paint or covering must be light in color.
- (5) Floors of the work area of a Body Art Studio may not be carpeted. Surfaces shall be of a nonabsorbent material that would allow for effective cleaning by conventional methods.
- (6) A clean and sanitary toilet and hand washing facility shall be made accessible to customers; however, it shall be separate from the work area.
- (7) The work area shall be equipped with at least one sink and basin providing hot and cold running potable water for the use of the artists for washing their hands and preparing customers for tattooing/piercing. This area shall be provided with soap, and single use towels or air blower for each artist.
- (8) The facility shall be equipped with at least one utility sink, providing hot and cold running water for use in cleaning reusable receptacles and the facility.
- (9) The work area shall be provided with adequate lighting. Artificial light sources shall be provided equivalent to at least 20 foot candles three (3) feet off the floor.
- (10) The work area shall not be used as a corridor for access to other rooms.
- (11) The Body Art Studio shall not be allowed to occur in automobiles, mobile, transitory or other non-fixed facilities. Such non-fixed facilities include, but are not limited to, mobile homes, tents, recreational vehicles, and trailers.
- (12) Body art studios shall not be allowed in facilities used for human habitation, any food service establishment, hotel room or similar areas.

VI. Furnishings and Fixtures.

- (1) Furnishings of a Body Art Studio shall be maintained in good condition, intact, and functional. Furnishings shall be covered in a material that is easily cleanable and non-absorbent. The Body Art Studio shall be kept clean, neat, and free of litter and rubbish.
- (2) Cabinets for the storage of instruments, dyes, pigments, single use articles, carbon, and stencils shall be provided for each tattoo artist and shall be maintained in a sanitary manner which protects them from contamination.
- (3) Work tables and chairs shall be provided for each Tattoo/Body Piercing Artist.

- (a) Surfaces of all worktables and chairs shall be constructed of material, which is smooth, nonabsorbent, corrosive resistant, and easily sanitized.
- (b) Work tables and chairs shall be sanitized with an EPA-approved solution after each procedure.

VII. Supplies.

- (1) Bulk single use articles shall be commercially packaged and handled to protect them from contamination. These articles shall be stored in an area separate from the toilet and utility facilities.
- (2) All materials applied to the human skin shall be from single use containers and shall be disposed of after each use.

VIII. Dyes and Pigments.

- (1) All dyes and pigments used in tattooing shall be from an FDA-approved source specifically providing dyes and/or pigments for the tattooing of human skin.
- (2) In preparing dyes or pigments to be used by a tattoo artist, only nontoxic, sterile materials shall be used. Single-use or individual portions of dyes or pigments in clean, sterilized individual containers or single-use containers shall be used for each patron.
- (3) After tattooing, the remaining unused dye or pigment in the single-use or individual containers shall be discarded along with the container.

IX. Piercing Jewelry.

- (1) Client and Body Piercing Artist should have appropriate size and quality jewelry chosen before the procedure begins.
- (2) Jewelry should be used in piercing shall consist of an approved material suitable for permanent surgical implant, such as, high quality surgical stainless steel (316LVM series), niobium, titanium, platinum or a dense low porosity plastic material such as Tygon or PTFE. Copies of the jewelry manufacturer's documentation, which verify compliance with standards, must be available for inspection on request of the Department. Solid 14 karat, or high, white or yellow, nickel-free, gold may be used. Purity verification must also be available for inspection on request of the Health Officer. Appropriate jewelry has no damaged surfaces.
- (3) Ear studs or other jewelry designed for earlobe piercing are not appropriate jewelry for other body parts and must not be used by Body Piercing Artist.

X. Sanitation.

- (1) Prior to the start of the Tattoo/Body Piercing procedure the artist should inspect his/her hands for hangnails, small cuts, sores, and abrasions. If a cut, sore, or abrasion is detected, a bandage should be applied for added protection before gloving. Trim fingernails to insure that gloves are not punctured.
- (2) All jewelry such as watches, rings, etc. should be removed prior to the start of any procedure.
- (3) Before working on each client, the fingernails and hands of the Tattoo/Body Piercing Artist shall be thoroughly washed and scrubbed with warm water, and soap. The hands should then be dried by either an air blower or by single use towels prior to beginning work on each client or when interrupted in the process. Alternatively, the Artist may thoroughly wash and scrub as noted above at the beginning of each shift, followed by the use of an FDA-approved hand sanitizer at the beginning of each customer contact.
- (4) Single use disposable latex or approved non-latex examination gloves shall be worn during the tattooing process. Gloves shall be changed and properly disposed of each time there is an interruption in the application of the tattoo, the gloves become torn or punctured, or whenever their ability to function is compromised.
- (5) Each artist shall wear a clean outer garment, apron or smock, or use other protective barriers as needed. These items shall be changed after each client.
- (6) Tattoo and Body Piercing Artists who are experiencing symptoms of illness such as diarrhea, vomiting, fever, rash, or skin infections shall refrain from tattooing and Body Piercing activities.
- (7) Adequate numbers of sterilized needles and tubes must be on hand for each artist for the entire day and night operation.
- (8) Only single-use disposable razors shall be used to shave the area to be tattooed.
- (9) Smoking and consumption of food or drink is prohibited in Body Art Studio.
- (10) Universal precautions are to be followed per OSHA standards and guidelines.

XI. Sterilization.

- (1) If non-disposable equipment is used, an operational sterilizer (autoclave) shall be provided in each Body Art Studio.
- (2) Used non-disposable instruments shall be kept in a separate puncture resistant container until cleaned in hot water and soap, and then sterilized by autoclaving.

- (3) The following procedures should be followed during the sterilization process:
 - (a) Prior to being placed in the autoclave all equipment shall be bagged, labeled, dated and sealed.
 - (b) Each autoclave bag may hold no more than one tube and bar.
 - (c) Autoclave shall be operated according to manufacturer's instructions and shall be made available for inspection.
 - (d) Spore indicators shall be used a minimum of at least once a month and the results must be kept at location for a minimum of three years.
 - (e) Certification of proper autoclave function shall be performed by a certified laboratory at least every six months.
- (4) For shaving, safety razors with a new, single-service blade for each customer or patron shall be used.

XII. Tattoo Preparation.

- (1) Before placing the tattoo design on the client's skin, the Tattoo Artist shall treat the skin area with soap.
- (2) If an acetate stencil is used by a Tattoo Artist for transferring the design to the skin, it shall be thoroughly cleaned and rinsed in a germicidal solution for at least twenty (20) minutes and then dried with sterile gauze or dried in the air on a sanitized surface after each use.
- (3) If a paper stencil is used by a Tattoo Artist for transferring the design to the skin, it shall be single use and disposable.
- (4) All cords or hoses must be covered utilizing a disposable single-use sheath or covering.

XIII. Body Piercing Artist.

Body Piercing Artist shall:

- (1) Set up equipment in front of client.
- (2) Open sealed autoclave bags containing sterile equipment in front of client, and discard the autoclave bag.
- (3) Disinfect all jewelry contaminated with only airborne pathogens (not previously worn or contaminated) with a non-hazardous hard surface disinfectant approved by the EPA. All jewelry contaminated or potentially contaminated with blood borne pathogens (previously worn by another person) should be autoclaved, stored in sterile indicator bags, sealed and dated.

- (4) All needles used in piercing shall be sterile, used only on one person, at one sitting, for a single piercing, and immediately dispose of in a medical sharps container.
- (5) Pre-sterilize all forceps, tubes, etc. in sealed, dated, sterile indicator bags. These items are to be used on one person, in one sitting. After one such use, they must be autoclaved and stored in sterile indicator bags, sealed and dated.

XIV. After Tattoo/Body Piercing Application.

After Tattoo/Body Piercing application:

- (1) The completed work shall be washed with a single-use towel saturated with a cleansing solution.
- (2) After the area has dried, apply a layer of antibacterial ointment from a single use dispenser or applicator.
- (3) A bandage or cover shall then be applied to the tattoo using sealed pads.
- (4) Verbal and written instructions, approved by the Department for the care of the body art procedure site, shall be provided to each client by the tattoo or Body Piercing Artist upon completion of the procedure. The written instructions shall advise the client to consult a physician at the first sign of infection and contain the name, address and phone number of the establishment. These documents shall be signed and dated by both parties, with a copy given to the client and the tattoo or Body Piercing Artist retaining the original with all other required records. The facility shall also post in public view the name, address and phone number of the Department and the procedure for filing a complaint. The Notice for Filing a Complaint shall be included in the establishment Application Packet.

XV. Disinfection of Workplace.

Each Body Art Studio must be kept in a clean and sanitary condition. The owner must develop and implement a cleaning schedule that includes appropriate methods of decontamination and tasks or procedures to be performed. This written schedule must be based on the location within the studio, the type of surfaces to be cleaned, type of possible contamination present, the tasks or procedures to be performed, and their location within the Body Art Studio. The following procedures should be adhered to:

- (1) Clean and sanitize all equipment and work surfaces with an EPA-approved sanitizer after completion of Tattoo/Body Piercing procedures and at the end of work shift when surfaces have become contaminated since the last cleaning.
- (2) Remove and replace protective coverings such as plastic wrap and aluminum foil after each tattoo procedure.

- (3) Inspect and sanitize, on a daily basis, reusable receptacles such as bins, pails, and cans that have likelihood for becoming contaminated. When contamination is visible, clean and sanitize those receptacles immediately, or as soon as practicable.
- (4) All clean, sterilized and ready-to-use needles and instruments shall be kept in a closed glass or metal case or storage cabinet while not in use. Such cabinet shall be maintained in a sanitary manner at all times.
- (5) The instruments required to be sterilized shall be so used, handled and temporarily placed during tattooing so that they will not be contaminated.

XVI. Disposal of Waste.

- (1) Needles, razors, or other sharp instruments used during Tattoo/Body Piercing procedures, shall be placed in an approved puncture resistant, closed containers immediately after use.
- (2) Needles shall not be purposely bent or broken, or otherwise manipulated by hand.
- (3) Containers of sharp waste shall be sent to a facility where they are either incinerated or otherwise rendered non-hazardous in compliance with 29 CFR Part 1920.1030, Occupational Exposure to Blood Borne Pathogens.
- (4) Contaminated waste which may release liquid blood or body fluids when compressed or may release dried blood or body fluids when handled must be placed in an approved "red" bag, which is marked with the International Biohazard Symbol. It must then be disposed of in compliance with 29 Code of Federal Regulations Part 1910.1030, known as "Occupational Exposure to Blood-Borne Pathogens."
- (5) Waste containers shall be kept closed when not in use.
- (6) Disposable waste shall be handled, stored, and disposed of to minimize direct exposure of personnel to waste materials.
- (7) At least one covered waste receptacle shall be provided in each operator area and each toilet room. Receptacles in the operator area shall be emptied daily and solid waste shall be removed from the premises. All refuse containers shall be lidded, cleanable and kept clean.

XVII. Personnel.

- (1) Persons performing the tattoo or Body Piercing operation shall obtain current certification in first aid and proof of attendance at a Blood-Borne Pathogen training program (or equivalent), approved by the Occupational Health and Safety Administration. Training/courses provided by professional body art organizations/associations or by equipment manufacturers may also be submitted for consideration.

- (2) If the artist is currently in business at the time of application for permit, the above certification must be obtained within sixty (60) days from the date the permit is issued.
- (3) The Owner of a Body Art Studio must maintain a file on all persons who perform tattoo or Body Piercing procedures at that Body Art Studio, which will be available for inspection by the Department and includes the following:
 - (a) Report of Hepatitis B Vaccination, Hepatitis B antibody testing results or Statement of Contraindication to Hepatitis B vaccine.
 - (b) Evidence of CPR, first aid certification and completed training in Disease Prevention/ Blood-Borne Pathogens.
 - (c) Record of date of birth; gender; home address; home/work phone numbers; and identification photos.

XVIII. Client Files.

- (1) For each client, all Tattoo and Body Piercing Artists shall maintain proper records of identification, tattoos and piercings administered, informed consent, and care instructions for a minimum of three (3) years.
- (2) Records of each client shall be prepared prior to the procedure being performed and shall reflect the client's name and signature, address, proof of age, date tattooed/ pierced, lot number of inks used, design, its location and name of the artist.
- (3) A statement of informed consent by the individual receiving the tattoo or piercing or the parent or legal guardian, when appropriate, must be maintained on file.
- (4) A statement by the client attesting that he/she is not under the influence of alcohol or drugs shall be on file.
- (5) A copy of procedures signed by the client advising them of proper subsequent care of the tattoo or piercing shall be maintained on file.
- (6) A copy of instructions signed by the client informing them on the risks involved and possible complications that might result from the tattoo or Body Piercing procedure must be maintained on file.

XIX. Body Art Studio Application for Permit.

- (1) The Owner of each Body Art Studio shall submit to the Department an application for a permit to operate under the rules and regulations. No studio shall be operated and no tattooing or Body Piercing performed without such a permit, which is current under these rules and regulations.

- (2) The application for permit shall be made on forms provided by the Department. Each application for a permit shall be accompanied by a floor sketch of the studio showing windows, doors, room measurements, chairs, tables and equipment placement for clients and/or staff. For existing establishment, an application must be received by the Department within 60 days upon adoption of this ordinance.
- (3) The permit fee shall be Two Hundred Dollars (\$200.00) for the initial application that is valid through December 31 of the year in which the application was made. Permits must be renewed annually for the fee of One Hundred Sixty Dollars (\$160.00) and shall expire on December 31 of the year in which the application for renewal was made.
- (4) A listing of the names of all staff including the owner who will be working in the studio shall be included with the application for a permit. This listing shall include the full name of each staff person.
- (5) The ownership of the Body Art Studio shall be fully disclosed in its application for a permit.
- (6) Though an Owner may hold more than one permit, each Body Art Studio must have a valid permit.
- (7) Zoning and other local requirements regarding proper location and establishment of Body Art Studio shall be addressed by the applicant with the responsible local officials.

XX. Body Art Studio Permit.

- (1) The Owner of each Body Art Studio shall obtain a valid permit from the Department prior to beginning operation. To be eligible for a permit the studio must be in compliance with these rules and regulations.
- (2) The permit shall be displayed in a conspicuous place on the premises.
- (3) Permits are not transferable from one studio to another. transfer includes the change of 5% or more of the ownership interests in any person or entity holding an interest in the Body Art Studio.
- (4) A permit shall no longer be valid and shall be returned to the Department when the studio ceases to operate, has moved to another location, the ownership changes, or the permit is suspended or revoked.
- (5) A Body Art Studio which fails to comply with these rules and regulations shall be subject to the sanctions available to the Health Department pursuant to the Maryland Annotated Code, including, but not limited to, denial or revocation of its permit by the Department.

XXI. Inspections.

- (1) The studio and its records shall be available for review and inspection by properly identified representatives of the Department.
- (2) A copy of the inspection report shall be displayed in a conspicuous place on the premises and also shall be available for public inspection at the appropriate Department wherein the studio is located.
- (3) During operating hours, the Department shall have access to the facility and the records for the purpose of enforcement of this ordinance and the COMAR 10.06.01.

XXII. Enforcement and Penalties.

- (1) Enforcement of these Rules and Regulations shall be in accordance with law.
- (2) No studio shall operate without a permit. Failure or refusal to file an application for a permit shall constitute a violation of the law. Any person who operates a Body Art Studio without a permit shall be issued an order to cease and desist operation.
- (3) In addition to the revocation and suspension of any license, any person violating any provision of this ordinance shall be fined not less than \$500.00 nor more than \$1000.00 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.
- (4) The Department may refuse to grant a permit for the operation of any Body Art Studio that does not fulfill the minimum requirements of these rules and regulations. The Department may revoke a permit, which has been issued, and invoke other sanctions if a studio violates any of these rules and regulations.
- (5) The Department is empowered to institute appropriate proceedings in a court of competent jurisdiction for the purpose of enjoining violation of any applicable provision of this Ordinance.

BE IT FURTHER ORDAINED by the Board of County Commissioners of Calvert County, Maryland that, in the event any portion of this Ordinance is found to be unconstitutional, illegal, null or void, by a court of competent jurisdiction, it is the intent of the Board of County Commissioners to sever only the invalid portion or provision, and that the remainder of the Ordinance shall be enforceable and valid, unless deletion of the invalid portion would defeat the clear purpose of the Ordinance, or unless deletion of the valid portion would produce a result inconsistent with the purpose and intent of the Board of County Commissioners in enacting this Ordinance.

BE IT FURTHER ORDAINED by the Board of County Commissioners of Calvert County, Maryland that the foregoing recitals are hereby incorporated and adopted as if fully set forth.

BE IT FURTHER ORDAINED, that, this Ordinance shall be adopted and effective upon recordation.

DONE, this 16th day of July, 2013, by the Board of County Commissioners of Calvert County, Maryland, sitting in regular session.

Aye: 5
Nay: 0
Absent/Abstain: 0

ATTEST:

BOARD OF COUNTY COMMISSIONERS OF CALVERT COUNTY, MARYLAND

Maureen L. Frederick
Maureen Frederick, Clerk

Pat Nutter
Pat Nutter, President

Steven R. Weems
Steven R. Weems, Vice President

Approved for legal sufficiency on June 28, 2013 by:

Gerald W. Clark
Gerald W. Clark

John B. Norris
John B. Norris, County Attorney

Susan Shaw
Susan Shaw

Evan K. Slaughenroth Jr.
Evan K. Slaughenroth Jr.

Received for Record July 17 2013
at 9:50 o'clock A.M. Same day
recorded in Liber KPS No. 43
3 COUNTY COMMISSIONERS
AND RESOLUTION.

Gary P. Smith