

***ORDINANCE NUMBER 152, 2008**

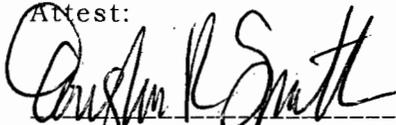
Amending Ordinance 126, 2006, "Department of Public Health Establishment of License Fee and Regulation of Body Art Establishments"

BE IT ENACTED by the County Council of the County of Erie pursuant to Article II, Sections 1C (1) and 3B (2) (e) of the Erie County Home Rule Charter and 16 PA Stat. ss.12001 et seq. that this amendment to Ordinance Number 126, 2006 "Department of Public Health Establishment of License Fee and Regulation of Body Art Establishments" is hereby approved as outlined on the attached Exhibit A.

This ordinance shall be effective immediately upon adoption.

COUNTY COUNCIL OF THE
COUNTY OF ERIE, PENNSYLVANIA

Attest:

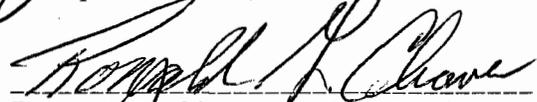


Douglas R. Smith
County Clerk

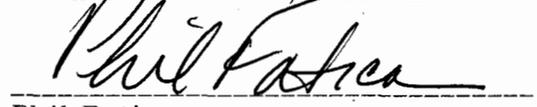
Date: September 2, 2008



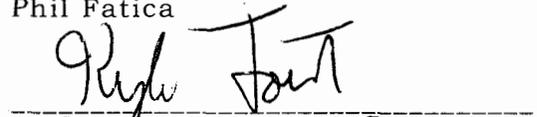
Joseph F. Giles, Chairman



Ronald G. Cleaver, Vice Chairman

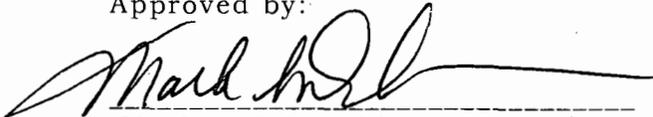


Phil Fatica



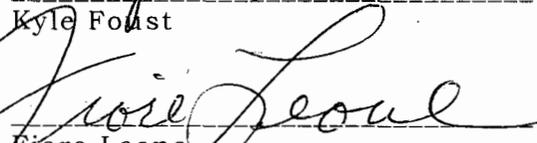
Kyle Foust

Approved by:



Mark A. DiVecchio
County Executive

Date: 9/4/08



Fiore Leone

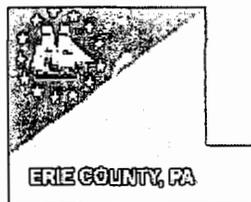


Carol J. Loll



David E. Mitchell

*Amended by Ord. 33, 2016



ERIE COUNTY
DEPARTMENT OF HEALTH

**REGULATIONS GOVERNING OPERATION AND
CONDUCT OF BODY ART ESTABLISHMENTS**

July 2008

1. Definitions

- (a) Body Art – The practice of physical body adornment utilizing the following techniques: body piercing, tattooing, **strike branding** and cosmetic tattooing.
- (b) Body Piercing – The process of penetrating the skin or mucous membrane for the purpose of insertion of any object, including but not limited to jewelry for cosmetic purposes. The piercing of ears shall be excluded from the requirements of this ordinance.
- (c) Body Art Establishment – Any room or space where body piercing tattooing or cosmetic tattooing is practiced or conducted, including temporary body art establishments.
- (d) Body Art Operator – Any person who actually performs the work of body art.
- (e) Cosmetic Tattooing – The application of permanent makeup by micropigmentation including, but not limited to, eyeliner, lipliner, lipstick, and eyebrow enhancement.
- (f) Department – The Erie County Department of Health, the Director of the said Department, or any authorized representative thereof.
- (g) Equipment – All machinery, including fixtures, containers, vessels, tools, implements, furniture, display and storage areas, sinks, and other apparatus used in connection with tattooing and piercing operations.
- (h) Establishment – Any place or premise, whether public or private, where any person conducts any enterprise, occupation, vocation or business, whether or not for profit and whether temporarily or permanently located.
- (i) Facility Manager – Any person who controls, operates, conducts or manages any body art establishment, whether actually performing body art or not.
- (j) Hot Water – Water which is at a temperature of not less than 110°F nor greater than 125°F.
- (k) Infection – The entry and multiplication of any pathogen in the body of a human or animal.
- (l) Infectious Disease – A disease of humans or animals resulting from a transmissible infection, whether or not patent, apparent, inapparent, latent, clinical or subclinical.

- (m) Infectious Waste – Waste generated in the treatment or service of a human which falls under one or more of the following categories:
 - (1) Pathological wastes – Human pathological wastes, including tissues that are removed during medical procedures. The term does not include hair, nails or extracted teeth.
 - (2) Human blood and body fluid waste including liquid waste, human blood, blood products, items contaminated with blood or dried human blood.
 - (3) Used Sharps – Needles, scalpel blades, suture needles, broken or unbroken glass or plasticware, disposable razors, scalpel blades, and other sharp objects that have cut or pierced the skin or have been in contact with infectious agents.
- (n) Municipal Waste – Garbage, refuse, industrial lunchroom or office waste and other material, including solid, liquid, semisolid or contained gaseous material resulting from operation of residential, municipal, commercial or institutional establishments and from community activities.
- (o) Sterilization – Process of destruction of all forms of life by physical or chemical means.
- (p) **Strike Branding – Applying strips of heated stainless steel to the skin to create a permanent scar in a designated pattern.**
- (q) Tattoo – The indelible mark, figure or decorative design introduced by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin of a human being.
- (r) Tattooing – The process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin so as to form indelible marks for cosmetic, medical or figurative purposes.
- (s) Temporary Body Art Establishments – A body art establishment that operates at a fixed location in conjunction with a single event or celebration.

2. **Body Art Establishment Certificate of Registration**

- (a) No person, firm, partnership, joint venture, association, business trust, corporation or any organized group of persons may operate a body art establishment unless it has received a body art establishment certificate of registration from the Department.
- (b) Any person operating a body art establishment shall obtain a certificate of registration from the Department annually.

- (c) The applicant shall pay per the fee schedule approved by the Department for each body art establishment certificate.
- (d) A certificate for a body art establishment shall not be transferable from one place or person to another.
- (e) A certificate shall automatically expire on December 31st of each year unless renewed by the Department upon the request of the licensee and payment of the fee.
- (f) A current body art establishment certificate of registration shall be posted in a prominent and conspicuous area where it may be readily observed by patrons.

3. Body Art Operator Requirements

No person shall practice body art within the County of Erie without first providing documentation to the Department that they have attended a bloodborne pathogen course approved by the Department.

No person affected with any boils, infected wounds, open sores, acute respiratory infection or other communicable disease or condition, nausea, vomiting, diarrhea shall work in any area of a body art establishment in any capacity in which there is a likelihood of contaminating tattoo or body piercing equipment, supplies or work surfaces.

Prior to starting each body art procedure or handling the supplies for the procedure, the operator is to wash their hands, forearms and nails thoroughly with an antiseptic liquid soap or its equivalent. The operator's hands and forearms shall be dried with individual, single-use towels. Disposable single service surgical gloves shall be worn for any procedure involving contact with a customer's skin, hair, or other body tissue. If the operator or client is allergic to latex, they should use powderless or hypoallergenic gloves. Protective gloves shall be disposed of and hands shall be thoroughly washed after the procedure has been completed.

4. Criteria for Operating a Facility

Each facility manager shall:

- (1) Post the valid body art establishment certificate of registration.
- (2) Comply with all the requirements of this regulation.
- (3) Allow the Department representative to inspect the facility when it is open for business.
- (4) Notify the Department in writing by mail or in person within 5 calendar days of closure of the facility. If the same owner reopens the facility while the license is still current, the facility operator is to inform the Department prior to resuming business.

- (5) Require that all body art operators in his employ receive bloodborne pathogen training that meets the requirements of the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) Occupational Exposure to Bloodborne Pathogen Standard, 29 CFR 1910.1030, including OSHA instruction CPL 2-2.44C, or later editions.

5. Facility Requirements

All body art establishments shall be completely separated from any room used for human habitation, a food establishment or room where food is prepared, retail sales, or other such activity which may cause potential contamination of work surfaces.

Toilet and lavatory facilities shall be adequate, conveniently located and available during working hours for all persons working in the establishment.

A hand wash sink with hot and cold running water shall be conveniently accessible and shall be for the use of the body art practitioner for hand washing and preparing the customer. The sink shall be equipped with approved germicidal soap solution provided by means of a pump dispenser, and individual disposable or autoclavable hand brushes and fingernail files for each operator. C-fold paper or other approved individual hand wiping towels are to be available at all times for operator use.

Hair particles, paper, tissues, cottons, and other waste materials shall be kept stored in tightly covered waste containers. Refuse containers in areas where services are provided to patrons shall be emptied and cleaned at least daily. All refuse containers shall be cleanable and kept clean. All waste materials are to be removed from the premises at least weekly.

Used bandages, gauze, gloves or other disposable items which are or may be contaminated with blood or dried blood are to be placed in closable, leak-proof color-coded or labeled containers built to contain all contents during handling, storing, transporting, or shipping. These containers are to be sterilized in an autoclave prior to disposal or transported and processed by an infectious waste transporter and disposal site approved by the PA Department of Environmental Protection. Where on-site autoclaving is utilized, autoclavable plastic bags are to be used for containerization of the waste.

Needles or any other sharp objects which may have come into contact with blood or blood products are to be placed in a closable, puncture-resistant, container specifically designed for that purpose which is leak-proof on the sides and bottom and labeled or color coded to identify the contents as a biohazard. These containers are to be sterilized in an autoclave prior to disposal or transported and processed by an infectious waste transporter and disposal site approved by the PA Department of Environmental Protection.

6. Practices and Procedures for Body Art Establishments

Instrument Cleaning, Sterilization, Storage and Handling

(a) Cleaning and preparation of instruments for sterilization

After each tattooing operation, the tubes and needle bars shall be placed in an ultrasonic-type machine to remove any foreign material. A high quality detergent material which shall be changed daily and is suitable for an ultrasonic machine is to be used.

(b) Sterilization

Each body art establishment shall be equipped with an autoclave which is a design, style or model that has received clearance by the U.S. Food and Drug Administration for conformance with section 510 (k) of the Federal Food, Drug and Cosmetic Act.

After each use and before use on another customer, all needle bars, grips and tubes and needles shall be processed by the following procedure: cleaned, packaged in a self-sealing autoclave bag which is dated with an expiration date not to exceed six (6) months, and arranged in an autoclave which is operated in strict accordance with the manufacturer's recommendations. As the operation time of the autoclave may vary with the type of instrument, the packaging of that item and the arrangement of items in the autoclave, it is critical that the manufacturer's operation manual be followed. This will assure that each item placed in the autoclave achieves the proper temperature for sterilization. Temperature sensitive autoclave tape, autoclave bags with a chemical color indicator on the bag or any other temperature sensitive medium approved for autoclaves by the Department must be applied to each load every time the autoclave is used.

In addition to the above procedure, once a month a biological indicator (such as *Bacillus stearothermophilus*) must be included at the center of a package to confirm that the autoclave is providing sterilization. Documentation of autoclave performance shall be maintained as a record of the facility.

(c) Storage

Sterile instruments must be stored in a condition so as to maintain their sterility. All sterile and ready to use needles and instruments in their autoclaved bag or container, or in the manufacturer's original packaging shall be kept in an easily cleanable, dry enclosed glass, plastic or metal case, cabinet or drawer while not in use. Such enclosure shall be maintained in a sanitary manner at all times. Sterile instruments may not be used if the package has been breached or after the expiration date without first repackaging and resterilizing.

(d) Handling

The needles and instruments shall be used, handled, and temporarily placed during tattooing so that they are not contaminated.

(e) Cleaning of Other Instruments and Articles

Articles that do not penetrate the skin, but are used on customers, including containers used for the storage of items and the collection of dirty instruments, must be thoroughly cleaned before and after each use. Instruments which can be damaged by water, are to be thoroughly wiped with clean cotton wool or a cotton pad saturated with 70% isopropyl alcohol, allowed to air dry and stored in a clean, enclosed container or manner to prevent recontamination.

(f) Use of Dyes, Inks and Pigments

All dyes, inks and pigments shall be from a source of supply which complies with applicable U. S. Food and Drug Administration regulations when available. Dyes, inks and pigments are to be used in accordance with the manufacturer's directions and are not to be adulterated with any substance not recommended by the manufacturer.

Immediately before applying a tattoo, the quantity of dye, ink or pigment to be used for the tattoo shall be transferred from the supply bottles and placed into sterile, single-use paper cups or plastic caps. Upon completion of the tattoo, these single use cups or caps and their contents shall be discarded.

Excess dye, ink or pigment shall be removed from the skin with a single service wiping tissue or sterile gauze which shall be discarded after use on each customer. Enough wipes to be used on one customer should be kept in the working area and any not used should be immediately discarded.

(g) Inspection, Shaving and Preparation of The Skin

- (1) No body art shall be done on skin surfaces which have any rash, pimples, boils, infections or any other evidence of an unhealthy condition.
- (2) If the skin is to be shaved, it must first be washed with soap and warm water. Single use disposable safety razors for each patron shall be used for preparation of the areas to be tattooed.
- (3) After shaving, the area shall be prepared by washing with soap and warm water and gently scrubbed with a sterile gauze pad soaked in a germicidal preparation.
- (4) The use of styptic pencils, alum blocks or other solid styptic to check the flow of blood is prohibited.

(h) Concluding Procedure

After completing work on any person, the area shall be washed with a sterile gauze saturated with an approved antiseptic solution or a 70% alcohol solution. The area shall be allowed to air dry and an antibacterial cream or lotion from a single-use dispenser is to be applied using sterile gauze. A dressing shall then be affixed over the area using either a non-stick bandage (telfa) or a sterile gauze attached with adhesive tape. Where adhesive tape is used, the client is to be advised as to the procedure for its removal.

(i) Linens

If reusable cloth items are used in the care and treatment of the client, they shall be changed after each use. The used linens shall be placed in a closed or covered container and laundered on a weekly basis or more frequently depending upon storage capacity and degree of contamination of the linen. Used linens shall be laundered either by a commercial laundering or by a noncommercial laundering process. The laundered linens shall be stored in a clean, enclosed storage area until needed for immediate use.

7. Notifications and Prohibitions

Notifications

Verbal and written instructions for the care of the site shall be provided to each customer by the facility prior to the initiation of the procedure. The after care instructions for body piercing shall be appropriate for the area being pierced. The written instructions shall advise the customer to consult a physician at the first sign of infection and contain the name, address and phone number of the establishment. The after care instructions shall be made available to the Department upon request.

If a body art operator has reasonable cause to suspect that body art is being performed in Erie County by an unregistered establishment, they are encouraged to refer the incident to the Erie County Department of Health and provide any reasonable assistance or information.

The Department's guidelines for choosing a body art establishment are to be made available to all patrons prior to the beginning of any procedure (Appendix A).

Prohibitions

Tattooing, body piercing or **strike branding** on any body part of a person under the age of eighteen (18) is not to be performed without the written consent of the parent or legal guardian of such minor. This consent is to be given in person to the body art practitioner

or responsible person at the facility by the parent or legal guardian at the time the procedure is to commence. The operator is required to see photographic identification of the adult as well as confirm that the adult is the parent or legal guardian of the minor. The parent or guardian of a minor must be present during any tattooing or body piercing procedure on the minor as required in 18 Pa. C.S.A. 6311.

It is prohibited to perform any form of body art on a person who, in the opinion of the operator, is inebriated or appears to be under the influence of alcohol or drugs which alter cognitive function.

It is prohibited to for an operator to perform any form of body art while under the influence of alcohol or drugs which would alter cognitive function.

8. Exemptions

Medical practitioners licensed by the Commonwealth of Pennsylvania who utilize tattooing or body piercing procedures as part of patient treatment are exempt from these regulations.

Individuals who pierce only ear lobes or the upper ear leading edge are exempt from these regulations.

9. Severability

If any provision or application of any provision of this regulation is held invalid, that invalidity shall not affect other provisions or applications of this regulation.

10. Suspension and Revocation of Certificate of Registration

A body art establishment certificate of registration may be suspended or revoked by the Erie County Department of Health upon the occurrence of any violations of this Ordinance.

A facility manager whose establishment certificate of registration is suspended or revoked may file a request for a hearing with the Department within 10 days of the suspension or revocation. The request shall be in writing.

11. Penalty

(a) Summary Offenses

Any person who violates any of the provisions of this regulation of the Erie County Department of Health, or who interferes with the Department in the discharge of its official duties, shall, for the first offense, upon conviction thereof in a summary proceeding before any magisterial district judge, be sentenced to pay the costs of prosecution and a fine of not less than thirty dollars (\$30) nor more than three hundred dollars (\$300), and, in default thereof, to undergo imprisonment of not less than ten (10) days nor more than thirty (30) days.

(b) Misdemeanors

Any person who violates any of the provisions of this regulation of the Erie County Department of Health, or who interferes with the Department in the discharge of its official duties, convicted of a second or subsequent offense, shall be guilty of a misdemeanor and shall, upon conviction thereof, be sentenced to pay a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), or to undergo imprisonment not exceeding one (1) year, or both.

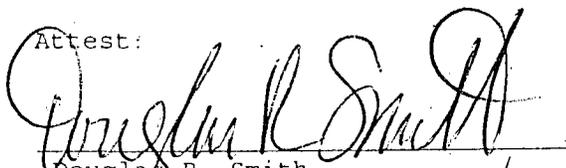
ORDINANCE NUMBER 126, 2006

2006 Department of Public Health Establishment of License Fee and
Regulation of Body Art Establishments

BE IT ENACTED by the County Council of the County of Erie, pursuant to Article II, Sections 1C(1), 3B 2(e), of the Erie County Home Rule Charter, Ordinance 24, 2006, and 16 PA Stat. §12001 et seq., that this 2006 Erie County Department of Public Health establishment of a licensing fee and a body of regulations contained herein as Exhibit A is hereby approved.

This ordinance shall be effective immediately upon adoption.

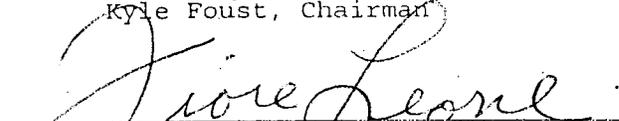
Attest:


Douglas R. Smith
County Clerk

Date: September 19, 2006

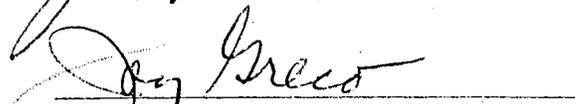
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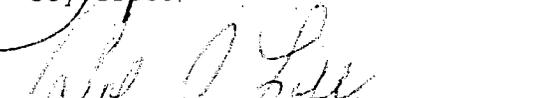

Kyle Foust, Chairman

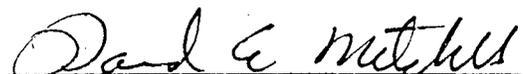

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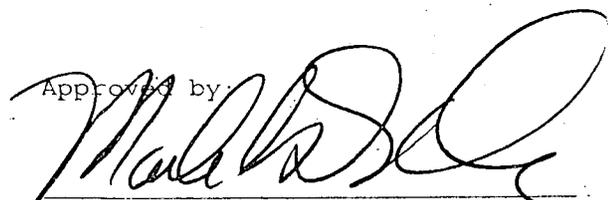

Joseph F. Giles


Joy Greco


Carol J. Loll


David E. Mitchell

Approved by:


Mark A. DiVecchio
County Executive

Date: 9.27.06

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