

## 14.22 TATTOO AND BODY PIERCING ESTABLISHMENTS.

- (1) **State Regulations Adopted.** §252.23 to 252.245 of the Wisconsin Statutes and Wisconsin Administrative Code HFS Chapter 173 as amended from time to time are adopted by reference and incorporated herein. Subject to §252.245(6), Wis. Stats., the Village intending that certain provisions herein be stricter than the aforesaid statutes and code, should any term or provision of this section conflict with the aforesaid statutes or code, the provisions of the latter shall prevail.
- (2) **Licenses.**
  - (a) No tattoo or body piercing establishment shall be operated or maintained in the Village without first obtaining a license from the Village.
  - (b) Any operator desiring to operate more than one (1) tattoo or body piercing establishment in the Village must have a license for each such establishment, except that a combination tattoo/body piercing establishment license may be issued for one (1) location.
  - (c) It shall be unlawful for any tattooist, body piercer, or operator to knowingly perform any service directly related to the operation of a tattoo or body piercing establishment which does not have a valid license pursuant to this section.
- (3) **Application for License.**
  - (a) Any person, partnership, corporation, or entity desiring to secure a license for a tattoo establishment, body piercing establishment, or combination tattoo/body piercing establishment shall make application to the State of Wisconsin Department of Health and Family Services.
  - (b) The application shall be on a form provided by the Health Department and shall provide the following information:
    1. The name(s) (including aliases), addresses, and dates of birth of the applicant, any partner or limited partner in a partnership application, any shareholder holding more than 10% of the stock of a corporate applicant, and each corporate officer and director.
    2. Written proof that each person required to be identified in subsection (3)(b)1. is at least 18 years of age.
    3. The address of the establishment to be licensed.
    4. Whether the applicant or any person required to be identified in subsection (3)(b)1. is currently operating or has previously operated, in this or any other municipality or state, under a tattoo or body piercing establishment license, whether the applicant or person required to be named in subsection (3)(b)1. has ever had such a license or permit suspended or revoked, the reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
    5. If the applicant is a corporation, the name of the corporation, the date and state of incorporation, and the name and address of the registered agent.

6. Proof of ownership, lease, or other legally enforceable right to possess, use, and control premises where the licensed establishment is to be located.
      - (c) Failure or refusal of the applicant to completely and truthfully provide responses to the application questions, to give any information relevant to the investigation of the application, or refusal to appear at any reasonable time and place for examination regarding said application shall constitute an admission by the applicant that the applicant is ineligible for such license and shall be grounds for denial thereof.
- (4) **Investigation.** Upon receipt of an application and fee, the Village Clerk shall refer the application to the Health Department, Police Department, Fire Department, and Building Inspection Department. The Health Department and each other department, except the Police Department, shall make an investigation of the premises to ensure that it complies with applicable state and local laws. The Police Department shall make an investigation of the statements made in the application. Each department shall notify the Village Clerk as to the results of its investigation.
- (5) **Standards for Granting of a License.** The Village Board or its designee may grant a license if all of the following conditions are met:
  - (a) That the business operation as proposed by the applicant will comply with the provisions of this section and all other applicable rules, regulations, ordinances, and State law.
  - (b) That, subject to §111.321, 111.322, and 111.335, Wis. Stats., the applicant, or any of the officers, directors, or persons holding more than 10% of the corporation stock or any of the partners have not, within the five (5) years immediately preceding the date of the application been convicted of violating this ordinance, or of any other offense substantially related to tattooing or body piercing.
  - (c) That the applicant, if an individual, partners, or the officers, directors, or persons holding more than 10% of the corporate stock if the applicant is a corporation, are at least 18 years of age on the date of application.
  - (d) That the applicant has not knowingly made any false, misleading, or fraudulent statement of fact or omission in the license application or other information required in conjunction therewith.
  - (e) That the applicant, if a corporation, is licensed to do business and is in good standing in the State of Wisconsin.
  - (f) That the applicant has substantially complied with all building, zoning, plumbing, electrical, fire, and health codes.
- (6) **Fees.** The following fees shall be assessed all applicants:
  - (a) A nonrefundable license fee of \$100.00, plus the State of Wisconsin administrative fee shall be submitted with the application for a tattoo establishment license.

- (b) A nonrefundable license fee of \$100.00, plus the State of Wisconsin administrative fee shall be submitted with the application for a body piercing establishment license.
  - (c) A nonrefundable license fee of \$150.00, plus the State of Wisconsin administrative fee shall be submitted with the application for a combination tattoo/body piercing establishment license.
  - (d) A one-time \$100.00 pre-inspection fee for each original tattoo, body piercing, or tattoo/body piercing establishment license.
- (7) **License Year.**
- (a) All licenses granted under this chapter shall expire on June 30 and must be renewed.
  - (b) There shall be no proration of license fees.
  - (c) An annual nonrefundable renewal fee in the amount of \$100.00 as well as any and all State of Wisconsin administrative fees shall be paid by the renewal applicant.
  - (d) Application for renewal shall be made no later than June 1.
- (8) **Sterilization Procedures, Sharps, and Infectious Waste Disposal and Care Instructions.**
- (a) Each operator shall submit written procedures to the Hales Corners Health Department setting forth each step to be taken by a tattooist, body piercer, or other employee in sterilizing equipment that is not single use.
  - (b) Each operator shall submit written procedures to the Hales Corners Health Department setting forth each step to be taken by a tattooist or body piercer in cleaning, preparing, and applying antiseptic to the skin of the patron.
  - (c) Each operator shall submit to the Hales Corners Health Department written care instructions which shall be required to be provided to each patron after completion of the tattoo or body piercing procedure.
  - (d) Each operator shall submit written proof to the Hales Corners Health Department of the establishment's ability to properly dispose of sharps and infectious waste as provided in Wisconsin Administrative Code §NR 526.
  - (e) Each operator shall require employees to sign a statement acknowledging awareness of the written procedures set forth in this subsection and an agreement to comply with these procedures and shall submit a copy of that acknowledgement and agreement to the Hales Corners Health Department.
- (9) **Insurance.** All tattoo and body piercing establishment licensees shall submit to the Hales Corners Health Department proof of workers' compensation and comprehensive general liability insurance in minimum amounts of \$500,000 per occurrence and \$1 million aggregate, covering all potential personal injury to patrons and all operations and procedures conducted on the licensed premises, including, but not limited to the tattooing and piercing of a person's skin and any complications arising therefrom. All licensees shall also deliver a certificate of

insurance to the Village requiring 30 days prior notice to the Village of any change or cancellation of the policy. Such insurance shall be maintained at all times the tattoo or body piercing establishment is open for business.

- (10) **Display of License.** No tattooist or body piercer may perform tattooing or body piercing procedures unless a current and valid license issued by the Village is posted in the establishment in a public and conspicuous place. Such license shall be displayed to any member of the Hales Corners Health Department, Hales Corners Police Department, or Department of Health and Family Services employee upon request. Any person performing such procedures shall also maintain any non-establishment personal license in their possession at all times for such display, accordingly.
- (11) **Hours of Operation.** Tattoo or body piercing establishments shall be allowed to be open only between the hours of 8:00 a.m. and 10:00 p.m. Monday through Saturday and 10:00 a.m. and 6:00 p.m. on Sunday.
- (12) **Temporary Establishments.** No temporary establishment may be operated in the Village of Hales Corners without first obtaining a license from the Village. A temporary tattoo or body piercing establishment shall comply with all regulations for regular establishments as well as those set forth in Wisconsin Administrative Code HFS 173.11.
- (13) **Single Use Needles for Tattooing.** Tattoo needles shall be disposable, sterile, and for single patron use only.
- (14) **Piercing Gun Use.** No body piercer may use a piercing gun or similar device for body piercing a patron unless such piercing gun is disposable, sterile, and for single patron use only or is sterilized between each use as set forth in Wisconsin Administrative Code HFS 173.03(20).
- (15) **24-Hour Waiting Period for Tattoos and Body Piercings.** Due to the permanent nature of tattoos and body piercing, no tattooist, tattoo establishment, body piercer, or body piercing establishment may apply a tattoo or perform body piercing to a patron until 24 hours have passed since the patron first requested the tattoo or body piercing. The patron's record shall note that the patron was advised of the 24-hour waiting period in writing, with the patron's signed acknowledgement thereon. No tattooist, tattoo establishment, body piercer, or body piercing establishment may bind or attempt to bind a patron to committing to obtaining a tattoo or body piercing or paying for such services by signing the 24-hour waiting period acknowledgement.
- (16) **Lead in Solder Prohibited.** No tattooist shall use and no tattoo establishment shall suffer or permit the use of solder which contains lead to be used to fasten needles.

- (17) **Aprons.** All tattooists and body piercers shall wear single use aprons which shall be disposed of after completing the procedure on a patron.
- (18) **Prohibited Practices.** It shall be unlawful to do any of the following:
- (a) Use, cause, or promote the use of false, misleading, or deceptive advertising, promotional literature, warranty, label, or insignia.
  - (b) Knowingly deceive a patron or the public by acting in a manner so as to mislead the patron or the public as to the person's professional or license status.
  - (c) Knowingly employ, directly or indirectly, any suspended, revoked, or unlicensed person to perform tattooing or body piercing.
  - (d) Knowingly permit another person to use the license issued under this section.
  - (e) Practice tattooing or body piercing under a false, misleading, or deceptive name.
  - (f) To sexually harass, as the term "sexual harassment" is defined in §111.32(13), Wis. Stats., a patron.
- (19) **Loitering Prohibited.** No operator or employee of a tattoo or body piercing establishment shall allow, suffer, or permit loitering on the business premises. For purposes of this section, "business premises" shall include the licensed premises, property owned or leased by the tattoo or body piercing establishment and contiguous with the licensed premises, and parking lots, alleys, and sidewalks contiguous with the licensed premises.
- (20) **Implanting, Branding, and Scarification Prohibited.**
- (a) Definitions. As used in this section:
    1. "Branding" means the burning of skin with a hot tool, cauterizing laser, or dry ice, so that a mark is imbedded in the deep tissues.
    2. "Implantation" means the insertion of an object under the skin, so that it remains under the skin, in whole or in part, after the procedure. This definition shall not apply to the post used in body piercing to keep the perforation from closing.
    3. "Scarification" means the cutting of the skin so that when it heals, scar tissue remains.
  - (b) No person shall intentionally engage in the practice of implanting, branding, or scarification in the Village of Hales Corners, except as set forth herein.
  - (c) Exceptions. The prohibition set forth in subsection (b) shall not apply to Wisconsin licensed physicians, or procedures or orders delegated by a licensed Wisconsin physician.
- (21) **Responsibility of the Operator.** Every act or omission by an employee constituting a violation of the provisions of this ordinance shall in addition be deemed the act or omission of the operator and the operator shall be liable for all

purposes for such act or omission in the same manner as if the operator committed the act or caused the omission.

(22) **Enforcement and Inspection.**

- (a) The Hales Corners Police Department and Hales Corners Health Department shall have the authority to enter any tattoo or body piercing establishment at all reasonable times to inspect the premises and enforce this ordinance. The Health Department shall inspect each tattoo and body piercing establishment at least twice annually to ensure compliance with the provisions of this ordinance.
- (b) If upon inspection of a tattoo or body piercing establishment, the authorized employee or agent of the department finds that the tattoo or body piercing establishment is not planned, equipped, or operated as required by this chapter, the employee or agent shall notify the operator in writing. The notice shall include an order that directs the operator to make specified changes that will bring the establishment into compliance with standards established in this chapter and that stipulates the time period within which compliance is to take place.

(23) **Suspension, Revocation, and Non-renewal.**

- (a) A license issued pursuant to the provisions of this section is subject to suspension, revocation, or non-renewal by written order of the Village Board or its designee. Any person aggrieved by such order may request a hearing to challenge the order. A request for a hearing under this subsection shall be submitted to the Village Board within 15 days of issuance of the order. The hearing shall be held before the Village Board. Procedures for the hearing shall be in accordance with Wis. Stats., §68.11 and 68.12 and the decision shall be appealable by either party under procedures set forth at Wis. Stats., §68.13.
- (b) The Village Board or its designee may suspend, revoke, or refuse to renew a tattoo or body piercing license for any of the following reasons:
  - 1. Violation of this section or any other ordinance, administrative rule, or statute related to the practice of tattooing or body piercing.
  - 2. Failure to correct violations noted in an order issued under subsection (23)(b) by the expiration of the time period stated in the order or any reasonable extension of that time period.
  - 3. Knowingly misrepresenting, misstating, or failing to disclose information requested on the application form(s) or requested by the License Committee.
  - 4. Using, causing, or promoting the use of false, misleading, or deceptive advertising; promotional literature; warranty; label; or insignia.
  - 5. Knowingly deceiving a patron or the public by acting in a manner as to mislead the patron or the public as to the person's professional or license status.

6. Knowingly employing, directly or indirectly, any suspended, revoked, or unlicensed person to perform tattooing or body piercing.
  7. Knowingly permitting another person to use the license issued under this section.
  8. Practicing tattooing or body piercing under a false, misleading, or deceptive name.
  9. "Sexual harassment", as that term as defined in §111.32(13), Wis. Stats., of a patron.
- (c) An operator whose license has been revoked or not renewed shall not be eligible for licensure under this ordinance for a period of one (1) year from the date the revocation or non-renewal takes effect.
- (d) Except for emergency suspensions for the public health and safety, a suspension shall be not for less than 10 days nor more than 90 days.

(24) **Summary Suspension.**

- (a) The provisions of subsection (23) notwithstanding, whenever the Health Officer or designee has reasonable cause to believe that the sanitary condition, operation, method of operation of the premises, or equipment used on the premises creates an immediate danger to health or safety or whenever the Health Officer or designee has reasonable cause to believe that the insurance required in subsection (9) has been changed or canceled so as not to provide the required insurance, the Health Officer or designee may issue a temporary order suspending the operation of a tattoo or body piercing establishment.
- (b) The order may be made orally but must be followed within 24 hours by a written order personally delivered to the licensed establishment.
- (c) The order may require cessation of all operations authorized by the license or prohibit a particular operation or condition which creates the immediate danger.
- (d) The order shall be effective for up to 14 days unless sooner rescinded, but may be extended for one (1) additional 14-day period if the condition still exists or to complete analysis of samples or specimens.
- (e) No person may operate a tattoo or body piercing establishment or operate as a tattooist or body piercer at an establishment that has been suspended pursuant to this subsection.
- (f) Any order issued under this section shall be accompanied by a notice of hearing as required by Wis. Stats., §66.124(3) and 68.11(1). The hearing must be held within 15 days of the service of the notice unless both parties agree to a later date. A final decision must be issued within 10 days of the hearing. The hearing shall be held before the Village Board.

(25) **Penalties and Prosecution.** Any person, partnership, entity, or corporation who is found to have violated any provision of this ordinance shall forfeit the sum of not less than \$50.00 nor more than \$500.00, together with the costs of prosecution, and in default of payment of such forfeiture and costs, by

imprisonment in the Milwaukee County House of Correction until the forfeiture and costs are paid, but not in excess of the number of days set forth in §800.095(4), Wis. Stats. Each violation of this ordinance shall be considered a separate offense, and each and every day an offense continues shall be considered a separate offense. Notwithstanding the above minimum forfeiture of \$50.00 and specifically pertaining only to a violation of this ordinance in the Village by a “practitioner”, as defined in HFS 173.03(16), the minimum forfeiture for a first offense shall be \$100.00, for a second offense shall be \$250.00, and for a third offense shall be \$500.00. In addition to the monetary penalty imposed, violation of this section may further result in the suspension, revocation, or non-renewal of any license issued under this section and may also be enforced by way of all other legal and equitable actions and remedies available under law.