

BODY ART ESTABLISHMENTS AND OPERATIONS

SEC. 1. PURPOSE; AUTHORITY; GENERAL PROVISIONS.

(a) The general purpose of these regulations is to regulate the application of body art within the confines of Laramie County Wyoming, excluding the area within the city limits of Cheyenne, Wyoming, and to provide for the health, safety, interest and general welfare of the citizens of Laramie County.

(b) Pursuant to the authority granted to the Cheyenne-Laramie County Board of Health by Wyo. Stat. §§ 35-1-303 and 35-1-106, the application of body art is governed by these regulations.

(c) The Cheyenne-Laramie County Board of Health is authorized to require supporting documentation with applications for a permit or license issued under these regulations. Prior to issuance of any permit or license, on-site inspections will be conducted on the proposed premises to be utilized for a body art establishment.

(i) Inspecting officials of the Health Department, including the health officer or his representative, are authorized to enter permitted, as well as un-permitted, body art establishments during regular business hours to make reasonable inspections to enforce compliance with the regulations and procedures set forth in these regulations.

SEC. 2. DEFINITIONS.

The following definitions will apply in the interpretation and enforcement of these regulations:

(a) "Applicant" means a person as defined in this section .

(b) "Body art" means the practice of physical body adornment utilizing, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding and scarification. This definition does not include practices that are defined as medical procedures by the Wyoming Board of Medicine, such as implants under the skin, which cannot be performed in a body art establishment. This definition does not include piercing of the outer perimeter or lobe of the ear using pre-sterilized single use stud and clasp ear piercing systems.

(c) "Body art establishment" means any place or premise, whether public or private, temporary or permanent in nature or location, where the practice of body art, whether or not for profit, is performed.

(d) "Body Artist" means an individual who performs or practices Body Art or Body Piercing on another individual.

(e) "Body piercing" means puncturing or penetrating the skin of a patron using sterilized single use needles and the insertion of sterilized jewelry or other adornment in the opening.

Puncturing the outer perimeter or lobe of the ear using a sterilized single use stud and clasp ear piercing system is not included in this definition.

(f) “Contaminated waste” means any liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; sharps and any wastes containing blood and other potentially infectious materials, as defined in 29 c.f.r. part 1910.1030 (latest edition), known as “occupational exposure to bloodborne pathogens.”

(g) “Health Officer” means the Health Officer of the Cheyenne-Laramie County Health Department or his or her representative.

(h) “Licensee” means any person owning or operating a body art establishment.

(i) “Licensing authority” means the Cheyenne-Laramie County Board of Health and/or its designee in the Cheyenne-Laramie County Health Department.

(j) “Patron” means any individual receiving body artist services under such circumstances that it is reasonably expected that the individual will pay money or give any other consideration for body art services.

(k) “Permittee” means a body artist performing body art or body piercing on another individual for or on behalf of a licensee and pursuant to a valid body artist permit issued by the Cheyenne-Laramie County Health Department.

(l) “Person” means an individual, corporation, firm, partnership, limited liability company, or other business entity, or the executor, administrator, trustee, receiver, assignee or personal representative thereof.

(m) “Sterilizer” means an autoclave that is designed and labeled by the manufacturer as a medical instrument sterilizer and is used for the destruction of microorganisms and their spores.

(n) “Tattoo, tattooed, tattooing” means any method of placing designs, letters, scrolls, figures, symbols, or any other marks upon or under the skin with ink or any other substance, resulting in the coloration of the skin by the aid of needles or any other instrument designed to touch or puncture the skin. This definition shall not apply to medical doctors or doctors of veterinary medicine in performance of their professional duties.

(o) “Temporary body art establishment” means any place or premise operating at a fixed or mobile location, where a licensee and permittee provides body art procedures for no more than fourteen (14) days consecutively in conjunction with a single event or activity.

SEC. 3. LICENSE AND PERMIT REQUIRED; FEES.

(a) It is unlawful for any person to operate a body art or temporary body art establishment for profit or for any form of consideration within Laramie County, outside the city limits of Cheyenne without first obtaining a license from the Cheyenne-Laramie County Health Department. Upon issuance, licenses must be posted and displayed in a conspicuous place at the licensed premises. Each application must be submitted on forms provided by the Cheyenne-Laramie County Health Department and contain the following information:

(i) If filing as an individual, applicant's full name, residential street address, mailing address, telephone number and date of birth.

(ii) If applicant is filing as a corporation, firm, partnership, limited liability company, or other form of business entity, names, residence addresses and dates of birth of each officer must be provided.

(iii) Street address, mailing address and telephone number where business will be conducted.

(iv) Disclosure concerning whether the applicant has ever had:

(1.) A Business license or permit denied, revoked or suspended and reason for the action.

(2.) Any conviction by the applicant, or any officer, stockholder, shareholder or partner if the applicant is a corporation, firm, partnership, limited liability company, or other business entity, for a crime other than a misdemeanor traffic offense.

(v) Names and residence addresses of each body artist who will be employed or who will be providing body art services through the proposed body art business establishment.

(vi) Description of any other business to be operated on the same or adjacent/adjoining premises to the body art business establishment.

(vii) Written blood borne pathogen exposure control plan pursuant to Section of this chapter.

(viii) Authorization for the Cheyenne-Laramie County Health Department, its agents and employees to seek any additional information relative to the application and to conduct an investigation into the truth of the statements set forth in the application and qualifications of the applicant.

(b) It is unlawful for any individual to practice body art on a patron for profit or for any form of consideration within Laramie County, outside the City limits of Cheyenne without first obtaining a body artist permit from the Cheyenne-Laramie County Health Department. Upon issuance, permits must be posted and displayed in a conspicuous place at the licensed body art business establishment premises. Each application must be submitted on forms provided by the Cheyenne-Laramie County Health Department and contain the following information:

(i) Applicants full and true name (and any other name(s) used by the applicant), residential street address, mailing address, telephone number and date of birth.

(ii) Name and Business address of licensed body art business establishment where applicant intends to provide body artist services.

(iii) Written proof of blood borne pathogen training dated not more than one year

from the date the application is submitted.

(iv) Affirmation that the applicant is currently free of any communicable disease.

(v) Disclosure concerning whether the applicant has ever had:

(1.) A business license or permit denied, revoked or suspended and reason for the action.

(2.) Any conviction for a crime other than a misdemeanor traffic offense.

(vi) Authorization for the Cheyenne-Laramie County Health Department, its agents and employees to seek any additional information relative to the application and to conduct an investigation into the truth of the statements set forth in the application and qualifications of the applicant.

(c) A body art establishment business license cannot be transferred in location.

(d) A body artist permit cannot be transferred in ownership.

(e) A licensee or permittee must comply with all the requirements of this chapter as well as any other applicable law, regulation or ordinance, whether state, local or federal and notify the Health Department within ten (10) days of any change in information submitted on an initial or renewal license or permit application.

(f) A licensee and or permittee must pay the applicable fees set for the issuance of the license and or permit and for their annual renewal. Said fees are to be set or amended by Cheyenne-Laramie County Board of Health.

(g) The Sheriff and Health Officer are authorized to request any supporting documentation affiliated with applications filed for a license or permit to assist with the review and recommendation process.

SEC. 4. Blood Borne Pathogen Universal Precautions.

(a) All body art establishment applicants must submit a written blood borne pathogen exposure control plan, as approved by the Health Officer.

(b) All body artists must: possess and demonstrate knowledge of universal precautions, disinfection and sterilization techniques, procedures for infection and exposure control, and the infectious waste management plan, as specified in the national environmental health association body art model code and guidelines or as approved by the Health Officer.

(i) A body artist's knowledge or universal precautions may be demonstrated through proof of successful completion of a written exam from a nationally recognized organization, or through a personal interview process conducted by the Health Officer. Yearly documented proof of blood borne pathogen training must be submitted with each annual permit renewal application.

(c) All body artist permittees must receive vaccination against hepatitis b (hbv) or provide a written statement to the licensee of the body art establishment stating

that he or she declines the vaccination.

SEC. 5. INVESTIGATION OF APPLICANT AND PREMISES.

Copies of the application for each body art establishment license and body artist permit, including renewal applications, will be referred to the Laramie County Sheriff and to the Health Officer. The Sheriff's Department will conduct a background investigation and recommend either approval or disapproval of the application. The health officer or his or her designee will inspect the proposed location to determine if it complies with the health and sanitary provisions of this chapter. A reasonable inspection and site plan review fee shall be required by the Health Officer.

SEC. 6. HEALTH AND SANITARY REQUIREMENTS.

Every person who operates a body art establishment and any individual performing body art shall comply with the following requirements:

(a) A body art establishment applying for a permit after adoption of these regulations shall submit a scale drawing and floor plan of the proposed body art establishment for a site plan review by the City of Cheyenne-Laramie County Board of Health as part of the permit application process.

(b) The room in which body art is done shall have an area of not less than 100 square feet. The walls, floors and ceilings shall have an impervious, smooth, washable surface, and shall be painted or finished in a light color. Carpeting is prohibited in body art area(s) and toilet room(s). All body art establishments shall be completely separated by solid partitions or walls extending from floor to ceiling from any room used for human habitation, food service or a room where food is prepared, a hair salon, retail sales, or other a space where activity occurs which may cause potential contamination of work surfaces.

(c) A toilet must be located in the establishment, and be accessible at all times that the body art establishment is open for business. The lavatories must be supplied with hot and cold running water, soap and single-use towels provided in approved dispensers, and shall be located in all toilet rooms.

(d) A separate, readily accessible handsink, with hot (minimum of 110° F.) and cold running water, under pressure, equipped with a mixing valve faucet assembly, supplied with liquid soap, and disposable towels must be provided for operations within the body art establishment. One handsink can serve no more than three body artists.

(e) All tables and other equipment must be constructed of easily cleanable material and must be painted or finished in a light color with a smooth, washable finish, and shall be separated from waiting customers or observers by a panel of at least four feet high.

(f) The entire premises and equipment must be maintained in a clean, sanitary condition, and in good repair.

(g) The body artist must scrub their hands thoroughly with soap and water before performing body art procedures; hands must be dried with individual, single-use towels.

(h) Safety razors with a new, single-service blade for each patron, or a straight-edge razor, may be used and shall be thoroughly cleaned and sterilized, as required by the health officer and these regulations, before use on each patron.

(i) The area on which body art will be applied must first be thoroughly scrubbed with an antiseptic soap for a minimum of two minutes, and an approved sterile preparation used. Contaminated waste materials must be deposited in an easily cleanable covered waste container provided in the area where body art is applied.

(j) Only petroleum jelly in collapsible metal or plastic tubes, or its equivalent as approved by the health officer, shall be used on the area on which body art will be applied, and it shall be applied with sterile gauze.

(k) The use of styptic pencils, alum blocks or other solid styptics to check the flow of blood is prohibited.

(l) Single-service or individual containers of dye or ink shall be used for each patron, and the containers shall be discarded immediately after completing work on a patron; and any dye in which the needles were dipped shall not be used on another patron. Excess dye or ink shall be removed from the skin with an individual, sterile sponge or a disposable paper tissue, which shall be used only on one patron and then immediately discarded. After completing work on any patron, the area shall be washed with sterile gauze, saturated with an antiseptic solution approved by the Health Officer. The area shall be allowed to dry.

(m) No body art artist may work on any patron under the age of 18 years (proof of age will be required of all patrons), unless the provisions of Wyo. Stat. § 14-3-107 have been met.

(n) All single use items cannot be used on more than one patron for any reason. After use, all single needles, razors and other sharps must be immediately disposed of in approved sharps containers. All products applied to the skin, including body art stencils, must be single use and disposable. Acetate stencils may be allowed for reuse if sanitation procedures as approved by the health officer are followed. Petroleum jellies, soaps and other products used in the application of stencils must be dispensed and applied on the affected area with sterile gauze or in a manner to prevent contamination of the original container and its contents. The gauze must be used only once and then discarded.

(o) Animals will not be allowed in the body art procedure areas, or the instrument cleaning, sterilization or storage areas. Fish aquariums and/or service animals are allowed in waiting rooms and non-procedural areas.

(p) The body art establishment shall be well ventilated and provided with an artificial light source equivalent to at least twenty (20) foot candles three (3) feet off the floor, except that

at one hundred (100) foot candles shall be provided at the level where the body art procedure is being performed and where instruments and sharps are assembled.

(q) In mobile body art establishments all liquid wastes shall be stored in an adequate storage tank with a capacity of at least twenty percent (20%) greater than the capacity of the on-board potable water supply. Liquid waste shall be disposed of at an approved wastewater disposal dump station.

® Unless approved by the Health Officer, a licensee shall not allow any body artist to provide services, nor shall any body artist provide body art services, if the body artist has any open wounds on their arms or face.

SEC.7. STORING OF INSTRUMENTS.

All clean and ready-to-use needles and instruments must be kept in a closed glass or metal case, or storage cabinet, while not in use. The cabinet must be maintained in a sanitary manner at all times.

SEC. 8. STERILIZATION OF INSTRUMENTS.

(a) A sterilizer shall be provided for sterilizing reusable needles, similar instruments and body jewelry before use on any patron. Sterilization of equipment shall be accomplished by exposure to live steam for at least 30 minutes at a minimum pressure of 15 pounds per square inch, temperature of 240° F. A copy of the manufacturer's recommended procedures for the operation of the sterilization unit must be available for inspection by the Health Officer. Sterilization equipment shall be operated in accord with the manufacturer's recommended procedures. Sterilization indicators shall be used and placed in the densest and largest pack in the sterilizer. No dry heat sterilizers may be used.

(b) Each holder of a license to operate a body art establishment must demonstrate that the sterilizer used is capable of attaining sterilization by monthly spore destruction tests. These tests will be verified through an independent laboratory. The license will not be issued or renewed until the Health Officer receives documentation of the sterilizer's ability to destroy spores. A failure to comply with this requirement may result in the revocation of the establishment's license. The test records must be retained by the licensee for a period of three years and be made available, upon request, to the Health Officer.

SEC. 9. USE OF INSTRUMENTS.

The needles and instruments required to be sterilized must be so used, handled and temporarily placed during the procedure so that they do not become contaminated.

SEC. 10. REPORTING OF COMMUNICABLE DISEASES.

All communicable diseases in patrons and employees which become known to the licensee or body artist must be immediately reported to the Health Officer by the licensee or

body artist.

SEC. 11. PIGMENTS, DYES, JEWELRY.

All pigments, dyes, colors, jewelry, body art ornaments, etc., used in any body art procedure must be sterile and free from bacteria, virus particles, and noxious agents and substances.

SEC. 12. BANDAGES AND SURGICAL DRESSINGS.

All bandages and surgical dressings used in connection with the application of body art must be sterile.

SEC. 13. CONTAMINATED WASTES.

The disposal of contaminated wastes will be as specified by the Health Officer.

SEC. 14. RECORDS.

Permanent records for each patron must be maintained by the licensee of the establishment. Before the body art operation begins, the patron must personally enter on a record form provided for the establishment, the date, his or her name, address, age, and his or her signature. Such record shall be maintained in the body art establishment and shall be available for examination by the Health Officer. Records must be retained by the licensee for a period of not less than two years. If there is a closure of a body art establishment, all such records must be provided to the health officer. Temporary body art establishments must provide a copy of all records to the Health Officer upon completion of the event or activity engaged in pursuant to the license issued. Temporary body art establishments must provide an accurate address enabling the Health Officer to contact the licensee or body artist for a period of one (1) year after the expiration of their license.

SEC. 15. INSPECTIONS.

The Health Officer may conduct periodic inspections of any body art establishment for the purpose of determining whether or not the establishment and the body artists performing the body art are in compliance with all applicable health provisions contained within this chapter and other laws. It is unlawful for any person, licensee, including their agents and employees, or permittee of a body art establishment to prevent or restrain the health officer from entering any establishment where body art is being performed for the purpose of inspecting the premises after proper identification is presented. Preventing or restraining entry by the Health Officer shall be grounds for revocation of the establishment's license or such other sanctions as may be appropriate.

Sec. 16 LICENSE, PERMIT RENEWAL PROCEDURES.

- (a) The following requirements and provisions apply to renewal applications for

licenses and permits issued under this chapter.

(1.) Any renewal application submitted by a licensee must include a list of all current body artists providing services for or on behalf of the licensee.

(2.) Any renewal application submitted by a permittee must include documented proof of blood borne pathogen training pursuant to section 4. (b) (1.) of this chapter.

(b) The Health Officer in conjunction with the findings of the Sheriff will approve or deny an application for renewal.

SEC. 17. CONFLICTS, EFFECT OF REGULATION

(a) Nothing in these regulations shall operate to abrogate or supersede any applicable existing or hereinafter promulgated rules, regulations, ordinances or laws. In the event of a conflict between these regulations and any other regulation, rule, ordinance or law, the more restrictive shall be applied.

(b) These regulations shall be considered to be the lawful orders of the Cheyenne-Laramie County Health Officer for purposes of enforcement.

SEC. 18. COMPLIANCE.

(a) Any person who violates the provisions of these regulations is guilty of a misdemeanor pursuant to W.S. § 35-1-106, 35-1-303. The Health Officer is authorized to sign and file complaints with the Laramie County Sheriff's Department against persons violating this chapter. Each day a violation continues is a separate offense.

(b) Any licensee or body artist holding a valid license or permit who violates the provisions of these regulations is subject to suspension or revocation proceedings against the operating license or permit:

(1) A license or permit issued pursuant to these regulations may be suspended or revoked for failure to comply with these regulations or any applicable state, local or federal law or regulation or for other good cause shown.

(2) The Health Officer or his or her designee may suspend a license or permit, or suspend a license or permit pending revocation after giving written notice as described in Section 18 (b)(5) of these regulations. The license or permit holder shall be given not less than ten (10) days written notice prior to the commencement of the suspension and not less than fifteen days (15) prior to the commencement of a revocation except in cases representing an immediate or substantial danger to public health, in which case a suspension or suspension pending revocation may be imposed immediately by the health officer.

(3) Final revocation of a license or permit shall take place only after a hearing, if requested by the permit holder, before the Cheyenne-Laramie County

Board of Health. The license or permit holder may request a hearing on the Health Officer's revocation of a license or permit by requesting a hearing, in writing, within ten (10) days of the receipt of the Health Officer's notice or in the event of an immediate suspension pending revocation, the date of its imposition. Failure to properly request such a hearing shall result in waiver of any right to such hearing and the imposition of the suspension or revocation imposed by the health officer. The license or permit holder shall be given not less than 30 days notice of the date of the hearing and may be represented at the hearing by counsel. Any hearing will be conducted in conformance with the Wyoming Administrative Procedure Act.

(4) A license or permit holder may request a hearing to contest the suspension of a license or permit before the Cheyenne-Laramie County Board of Health. Said hearing must be requested in writing, within ten (10) days of receipt of notice of said suspension from the Health Officer or in the event of an immediate suspension, the date of its imposition. Failure to properly request such a hearing shall result in the suspension of said license or permit under the terms imposed by the Health Officer at the expiration of the 10 day period. The license or permit holder shall be given not less than 30 days notice of the date of the hearing and may be represented at the hearing by counsel. Any hearing will be conducted in conformance with the Wyoming Administrative Procedure Act.

(5) Written notice of suspension or revocation, particularizing the violations shall be served upon the holder of the license or permit. Service of notice as required in this section shall be provided by mail at the last address reflected on the application for license or permit and in the case of an immediate suspension or revocation, by additionally posting the notice conspicuously on the entrance to the licensee's place of business.

(6) A license or permit holder whose license or permit has been revoked may not be considered for re-licensing or re-permitting for at least one year following the revocation date.

(c) The existence of these regulations in their entirety and the remedies enumerated in this section in particular, shall not be construed to exclude the ability of the Cheyenne-Laramie County Board of Health or Laramie County from proceeding through application of the Laramie County Nuisance Ordinances, Zoning Ordinances or through any other available legal means to abate, control or otherwise address any condition affecting the health, welfare and safety of the citizens of Laramie County.

SEC. 19 GENERAL LEGAL PROVISIONS

(a). Interpretation, Conflict and Separability: In interpretation and application the provisions of these regulations shall be held to be the *minimum* requirements for the promotion of the public health, safety and the general welfare.

(b). Conflicts: These regulations are not intended to interfere with, abrogate, modify, restrict or in any way annul or replace, unless otherwise expressly specified herein, any other

ordinance, rule or regulation, code, obligation under or provision of any law, statute, regulation, ordinance or code. Where any provisions of these regulations impose restrictions different from those imposed by any other provision of these regulations or any other ordinance, statute, law, regulation or code whichever provisions are more restrictive or impose higher standards shall control.

(c). Separability: If any part or provision of these regulations or application thereof to any person or circumstance is adjudged invalid in any court of competent jurisdiction, such judgement shall be confined in its operation to the part, provision or application directly involved in the controversy in which judgement shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The Cheyenne-Laramie County Board of Health hereby declares that it would have enacted the remainder of these regulations even without any such part, provision or application.

(d). Saving Provision: These regulations shall not be construed as abating any action now pending under, or by virtue of any prior existing regulation, ordinance, law, statute or code or as discontinuing abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any rights of the Cheyenne-Laramie County Board of Health under any section of any applicable ordinance, statute, law, regulation or code except as shall be expressly provided for in these regulations.

(e). Reservations and Repeal: Upon the adoption of these regulations, according to law, the Cheyenne-Laramie County Board of Health enacting regulations governing the application of Body Art Regulations adopted April 16, 2002 are repealed, except as to such sections expressly retained herein.

(f). Amendments: For the purpose of providing for the public health, safety and general welfare, the Cheyenne-Laramie County Board of Health may amend, modify or add to the provisions of these regulations. Public hearings on all such amendments shall be held by the Cheyenne-Laramie County Board of Health on all proposed amendments as prescribed by law.

(g). Authority: These regulations are enacted pursuant to the powers delegated to the Cheyenne-Laramie County Board of Health in accordance with Wyoming Statutes §§ 35-1-101 et seq.

(h). Incorporation: These regulations specifically incorporate and adopt the rules and regulations, enforcement powers and penalties pursuant to Wyoming Statute § 35-1-101 et seq.

(i). Sovereign Immunity: By the issuance of these regulations or in taking action with regard to their provisions the Cheyenne-Laramie County Board of Health does not waive its Governmental Immunity and it fully retains all immunities and defenses provided by law with regard to any action based on these regulations. Nor does the Cheyenne-Laramie County Board of Health surrender its sovereign immunity under contract, tort or any other applicable theory of law by issuing or taking action in regard to these regulations.

**RESOLUTION OF THE CHEYENNE-LARAMIE COUNTY BOARD OF HEALTH
ENACTING REGULATIONS GOVERNING THE APPLICATION OF BODY ART AND
REPEALING PREVIOUSLY ESTABLISHED REGULATIONS GOVERNING SAME**

Signature page and attestation

PRESENTED, READ AND ADOPTED this 20th day of April, 2010.

CHEYENNE-LARAMIE COUNTY BOARD OF HEALTH

Christina Bartholomew
Chris Bartholomew, Chairman

ATTEST:

Sheri Zakis
Sheri Zakis, Clerk to the Board

Reviewed and approved as to form:

Mark Woss, deputy
Mark Woss, Deputy Laramie County Attorney