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ORDINANCE NO. 15714

AN ORDINANCE AMENDING TITLE 5 (BUSINESS TAXES, LICENSES AND REGULATIONS), CHAPTER 5.96 (TATTOOERS), IN ITS ENTIRETY AND TO CREATE A NEW CHAPTER 5.96 (TATTOOING AND BODY PIERCING LICENSES). THE PENALTY BEING AS PROVIDED HEREIN.

WHEREAS, the State of Texas Legislature has modified the regulations governing the operation of Tattooing and Body Piercing Studios, and

WHEREAS, the El Paso City-County Board of Health has recommended the revision of the local ordinance governing the operation and work of Tattooers, and

WHEREAS, the Building Permits and Inspections Department and the El Paso City-County Board of Health have favorably recommended amending the regulations governing the licensing of Tattoo and Body Piercing Artists and Studios in Title 5 of the El Paso Municipal Code; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. **That Title 5 (Business Taxes, Licenses and Regulations), Chapter 5.96 (Tattooers) of the El Paso Municipal code be amended in its entirety and is superseded by the following new Chapter 5.96 (Tattooing and Body Piercing Licenses) which shall read as follows:**

CHAPTER 5.96

TATTOOING AND BODY PIERCING LICENSES

Article I. General Provisions

Section 5.96.010 Compliance required
Section 5.96.020 Definitions

Article II. Licenses

Section 5.96.030 Required
Section 5.96.040 License Application
Section 5.96.050 Application processing
Section 5.96.060 License Transfer.
Section 5.96.070 License Denial, Suspension and Revocation
Section 5.96.130 Appeals
Section 5.96.140 Fees

Article III. Enforcement

Section 5.96.150 Enforcement authority
Section 5.96.160 Violations and penalties

ARTICLE I. GENERAL PROVISIONS

Section 5.96.010 Compliance Required

A person shall not conduct, operate or maintain a studio unless the person holds a license issued by the Texas Department of Health. In addition, a license must be approved by the El Paso City-County Health and Environmental District and issued by the Director of the Building Permits and Inspections Department if it is determined that the studio complies with the El Paso zoning codes and all construction and health requirements as set forth in Title 18 (Building and Construction) and Title 9 (Health and Safety) of the El Paso Municipal Code.

Section 5.96.020 Definitions

A. Artist – A person who performs tattooing, intradermal cosmetics, and/or certain body piercing, and who is responsible for complying with the provisions of this Chapter.

B. Board - El Paso City-County Board of Health.

C. Body Piercer – A person who performs body piercing and who is responsible for adherence to the provisions of this Chapter; hereafter referred to as artist.

D. Booth – An area in the studio or temporary location where tattooing and/or body piercing is performed.

E. District – The El Paso City-County Health and Environmental District.

F. Health Authority –The Director of the El Paso City-County Health and Environmental District or designee.

G. Operator- Business manager, property owner or other individual who is in charge of the day to day operation or maintenance of the studio and is the person responsible to ensure that the studio complies with state and local operation and maintenance standards.

H. Person - Any person, firm, partnership, association, corporation, company or organization of any kind.

I. Studio - A permanent, nondwelling building or portion of a building, designated by a license holder and located in accordance with applicable local zoning codes where body piercing, tattooing or intradermal cosmetic application is performed, completely separated from living quarters; hereafter referred to as studio.

J. Tattooer--A person who performs tattooing or applies intradermal cosmetics and who is responsible for adherence to the provisions of these sections; hereafter referred to as artist.

K. Temporary location – A fixed location at which an individual operator/artist performs tattooing and/or body piercing for a specified length of time of not more than seven days in conjunction with a single event or celebration, where the primary function of the event is tattooing and/or body piercing.

L. Temporary permit – A permit that allows the holder to conduct tattooing and/or body piercing for a specified length of time not more than seven days at a temporary location.

ARTICLE II. LICENSES

Section 5.96.030 Required

A. No person/artist shall engage in the practice of tattooing or body piercing without first having obtained and paid for a valid license or temporary permit from the Building Permits and Inspections Director, and complying with the requirements of Chapter 9.32 of this Code. An artist must obtain a license from the Building Permits and Inspections Department within five working days of the initial inspection.

B. All licenses or permits shall be displayed in a prominent place in the studio or temporary location for inspection by any authorized City official.

C. The license requirements of this Chapter do not apply to persons who engage only in the following:

1. A studio or temporary location located within a medical facility which is licensed under another law, or an office or clinic of a person licensed by the Texas State Board of Medical Examiners; or
2. A person who performs only ear lobe piercing; or
3. A facility in which only ear lobe piercing is performed.

Section 5.96.040 License Application

Each artist seeking to perform tattooing and/or body piercing shall submit a signed, verified application annually, with the appropriate application fee(s), to the Building Permits and Inspections Director. Applications shall be on forms obtained from the Building Permits and Inspections Department and shall contain, as a minimum, the following information:

A. Name of owner of studio and artist, if different from owner.

B. Address of owner of studio and artist, if different from owner.

C. Address of studio.

D. Indication if existing studio (in operation for the preceding 12 months) or new studio.

E. Any other information as required by the application.

Section 5.96.050 Application processing

A. Upon approval of the Health Authority, and compliance of the applicant with Chapter 9.32 of this Code, the license shall be issued and valid for 365 days. Said license must be renewed before the 31st day of August of each year.

B. In the event either the Director of the Building Permits and Inspections Department or the Health Authority denies the application, the applicant shall be notified in writing as

to the reason(s) for the denial, as set forth in Section 5.96.070 of this Chapter.

Section 5.96.060 License Transfer

A. Licenses shall be valid only at the location(s) at which the artist was employed at the time the license was issued. Any change in location of employment shall require a new license application.

B. Licenses may not be transferred to a third party for any use or benefit.

Section 5.96.070 License Denial, Suspension and Revocation

The Director of the Building Permits and Inspections Department and/or the Health Authority may deny an application for license/temporary permit or may suspend or revoke any license/temporary permit granted hereunder by serving applicant or license holder with written notice by hand-delivery or certified mail, return-receipt requested, if:

A. The applicant is found to be in violation of this Chapter or found, in the opinion of the Health Authority, to pose a significant health risk to the public for failure to met the minimum health standards set forth in Title 9 (Health & Safety) of this Code

B. The Health Authority shall issue the written notice of denial, suspension or revocation of a license or temporary permit to the owner and/or artist of the studio or temporary location and shall contain, as a minimum, the following:

1. State the name and address of the studio or temporary location and name of the artist, and
2. State the license is denied, suspended or revoked, and
3. Indicate the reason(s) for the denial, suspension or revocation, and
4. Order the studio, booth or temporary location closed, and
5. A statement prohibiting the further use of the studio or booth, and
6. Recommended corrective measures to bring the studio, booth, temporary location or artist into compliance with the requirements of this Chapter and Title 9 of this Code, and
7. Establish a reasonable time limit for the completion of the corrective measures, and
8. State the license, if suspended, is subject to revocation for failure to complete the corrective measures within the allotted time, and
9. State that the denial, suspension or revocation may be appealed to the Board of Health under the provisions set forth in Section 5.69.080 of this Chapter.

C. The Health Authority shall post a sign at any location where a license or permit has been suspended or revoked pursuant to this Chapter or Title 9 (Health & Safety) of this Code. Said sign shall contain the following statement:

TATTOO AND BODY PIERCING STUDIO/BOOTH CLOSED BY ORDER OF THE EL PASO CITY-COUNTY HEALTH & ENVIRONMENTAL DISTRICT. VIOLATORS OF THIS ORDER ARE SUBJECT TO PROSECUTION PURSUANT TO TITLE 5, TITLE 9 AND ANY OTHER APPLICABLE PROVISIONS OF THE EL PASO MUNICIPAL CODE.

Section 5.96.080 Appeals

A. The applicant or license holder who has been served with a denial, suspension or revocation notice, may appeal the decision to the Board by written request within five working days following issuance of the notice.

B. The applicant or license holder is entitled to a hearing before the Board within forty-five (45) days after the notice of appeal is received. Failure to provide a hearing within the time period, unless otherwise agreed to by the parties, shall invalidate the denial, suspension or revocation.

C. If no written request for a hearing is filed within five working days following issuance of notice of denial, suspension or revocation, the action becomes final.

D. The Board shall conduct the hearing provided for in this section at a time and place designated by the Board. The Board shall prepare a written report stating its final decision and said decision will be based on evidence provided at the hearing. The applicant or license holder must be present at the time of the hearing. The Board will keep a copy of the written report of the final decision and the applicant or license holder will be provided a copy within thirty working days.

Section 5.96.090 Fees

The following are the fees enacted relative to the applications for licenses issued for tattooing and/or body piercing. The owner, operator or artist shall pay such fees to the City for the services provided in accordance with this Chapter.

A. Initial fee for tattooing only - one hundred and twenty five dollars ($125.00).

B. Renewal fee for tattooing only – one hundred dollars ($100.00).

C. Initial fee for tattooing and body piercing at the same location- two hundred dollars ($200.00).

D. Renewal fee for tattooing and body piercing at the same location – one hundred and seventy five dollars ($175.00).

E. Initial fee for body piercing only – one hundred dollars ($100.00).

F. Renewal fee for body piercing only – seventy-five dollars ($75.00).

G. Temporary permit for tattooing only (not to exceed seven consecutive days) – one (1) to fifty(50) permits at same location, forty dollars ($40.00) each permit; fifty-one (51) to one hundred 100) permits at same location, thirty-five dollars ($35.00) each permit; over one hundred (100) permits at same location, twenty-five dollars ($25.00) each permit.

H. Temporary permit for body piercing only (not to exceed seven consecutive days) – fifty dollars ($50.00).

I. Temporary permit for tattooing and body piercing (not to exceed seven consecutive days) – seventy-five dollars ($75.00).

J. Blood borne Pathogens and Aseptic Techniques Class – twenty-five dollars ($2500).

K. Replacement fee for lost or damaged identification tag – ten dollars ($10.00).

ARTICLE III. ENFORCEMENT

Section 5.96.100 Enforcement authority

The Health Authority and the Building Permits and Inspections Director and their designees shall be authorized to administer and enforce the provisions of this Chapter and Chapter 9.32.

Section 5.96.110 Violations and penalties

Any person violating any provision of this chapter may be cited for a Class C misdemeanor, which is punishable by a fine not to exceed Two Thousand Dollars ($2,000). If the violation continues, each day constitutes a separate offense.

2. Except as amended herein, Title 5 (BUSINESS TAXES, LICENSES & REGULATIONS) of the El Paso Municipal Code shall remain in full force and effect.

PASSED AND APPROVED this 23rd day of March, 2004.

CITY OF EL PASO

Joe Wardy
Mayor

ATTEST:

Richarda D. Momsen
City Clerk

APPROVED AS TO FORM:

Teresa Garcia,
Assistant City Attorney

APPROVED AS TO CONTENT:

Jorge C. Magana, M.D., F.A.A.P., Director
City-County Health & Environmental District

BOARD OF HEALTH:

John Tune, M.D.
Chairperson

APPROVED AS TO CONTENT:

R. Alan Shubert, Director
Building Permitting & Inspections Dept.