

## **CHAPTER XVIII: Regulations of Tattooing and Body Piercing Artists, Operators and Establishments (Adopted 04/24/2008)**

### **PURPOSE**

The act of tattooing is an invasive procedure which punctures the skin and injects a dye into the tissue just below the skin. Body piercing is similarly an invasive procedure. The skin is the body's primary barrier to infectious agents and any procedure which compromises the integrity of this barrier increases the possibility of infection. In this age, with some diseases causing serious health problems, it is imperative to regulate the artist, and the facility and equipment used in these procedures. Therefore, the purpose of this Code is to assure that the conditions in the facility provide a safe and sanitary environment, and that the person applying a tattoo or performing a body piercing has a basic knowledge and practice of aseptic techniques. Tattooing and body piercing outside the provisions of the regulations in this code are strictly prohibited.

### **SECTION 1. Definitions**

For the purpose of this Code, the following words and phrases when used herein shall be construed as follows:

- (a) Tattoo — The word “tattoo” shall mean to mark or color a person’s skin by pricking in coloring matter so as to form indelible marks or figures or by the production of scars.
- (b) Body Piercing - The words “body piercing” shall mean cutting or passing through skin and/or flesh with a sharp instrument, or penetrating a part of the body, except for the ear, for the purpose of applying jewelry to various parts of the body by means of a piercing device.
- (c) Tattoo/Body Piercing Establishment — The words “tattoo/body piercing establishment” shall mean any room or space where tattooing and/or body piercing is practiced or where the business of tattooing and/or body piercing is conducted or any part thereof.
- (d) Tattoo/Body Piercing Operator — The words “tattoo/body piercing operator” shall mean any person who controls, owns, operates, conducts or manages any tattoo/body piercing establishment, whether actually performing the work of tattooing and/or body piercing or not.
- (e) Tattoo/Body Piercing Artist — The words “tattoo/body piercing artist” shall mean any person who actually performs the work of tattooing and/or body piercing.
- (f) Piercing Device - The words “piercing device” shall mean any device used for the piercing of the skin for the purpose of applying jewelry.
- (g) Permanent Makeup — The words “permanent makeup” shall mean marking or coloring the skin by pricking in coloring matter so as to form indelible marks. For the purpose of this Code, whenever the word “tattoo” is used, it shall also apply to permanent makeup.
- (h) Permanent Makeup Establishment — The words “permanent makeup establishment” shall mean any room or space where permanent makeup is applied or any part thereof. For the purpose of this Code, whenever the words “tattoo/body piercing establishment” are used, they shall also apply to permanent makeup establishments.

- (i) Permanent Makeup Operator — The words “permanent makeup operator” shall mean any person who controls, operates, owns, conducts, or manages any establishment where permanent makeup is applied, whether actually applying the permanent makeup or not. For the purpose of this Code, whenever the words “tattoo/body piercing operator” are used, they shall also apply to permanent makeup operator.
- (j) Permanent Makeup Tattooist — The words “permanent makeup tattooist” shall mean any person who actually performs the work of applying permanent makeup. For the purpose of this Code, whenever the words “tattoo/body piercing artist” are used, they shall also apply to permanent makeup tattooist.
- (k) Health Officer — The words “Health Officer” shall mean the Public Health Director of the Niagara County Department of Health or his/her duly authorized representative(s).
- (l) Minor — The word “minor” shall mean any person under the age of eighteen (18) years.
- (m) Patron - The word “patron” shall mean any person who requests a tattoo and/or body piercing at a tattoo/body piercing establishment.
- (n) Equipment - The word “equipment” shall mean any and all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks, and all other apparatus and appurtenances used in connection with the operation of a tattoo establishment.
- (o) Work Area - The words “work area” shall mean any area or room used for the purpose of performing tattooing and/or body piercing.
- (p) Handwashing Facilities – The words “handwashing facilities” shall mean a lavatory equipped with hot and cold running water under pressure, used solely for washing hands, arms or other portions of the body.

**SECTION 2. Artist Certification**                      *(Amended 08/25/2016)*

- (a) No person except a duly licensed physician shall engage in the practice of tattooing and/or body piercing or act as a tattoo/body piercing artist unless he/she has a certificate issued by the Health Officer.
- (b) No tattoo/body piercing operator shall allow a tattoo/body piercing artist to perform tattooing/body piercing in his/her tattoo/body piercing establishment unless the tattoo/body piercing artist is the holder of a valid certificate issued under this Code.
- (c) Any person desiring to engage in tattooing/body piercing or act as a tattoo/body piercing artist shall submit an application for certification to the Health Officer in the form prescribed by the Health Officer which will include a statement that the applicant has received a copy of this Code and has a working knowledge of its content.
- (d) The certificate holder, prior to the issuance of said certificate, shall be required to show evidence of knowledge of the provisions of this Code including an adequate knowledge of bacteriology and aseptic technique to assure that infection and contagious disease shall not be spread by tattooing and/or body piercing practices. A written test and/or interview shall be administered by the Niagara County Department of Health to determine satisfactory knowledge and technique for

each artist seeking certification.

- (e) The certification shall be renewed every two years and shall be valid countywide.
- (f) An applicable Artist fee is assessed as directed by Chapter XIV: Fees and Revenue.

**SECTION 3. Tattoo/Body Piercing Establishment Permit**     *(Amended 08/25/2016)*

- (a) No person shall operate a tattoo/body piercing establishment unless he/she has registered such tattoo/body piercing establishment with the Health Officer and has received a permit from the Health Officer.
- (b) No permit shall be issued or renewed unless the tattoo/body piercing establishment has been inspected and found to be in compliance with the provisions of this Code.
- (c) The permit must be prominently posted in the public area of the facility.
- (d) The permit shall be renewed every two years.
- (e) An applicable Tattoo/Body Piercing Establishment fee is assessed as directed by Chapter XIV: Fees and Revenue.

**SECTION 4. General Physical Environment**

- (a) The tattoo/body piercing establishment shall conform to applicable local, State and national codes.
- (b) There shall be sufficient toilet and handwashing facilities accessible to patrons in the tattoo/body piercing establishment.
- (c) The tattoo/body piercing establishment and equipment shall be maintained in a state of good repair at all times. All parts of the tattoo/body piercing establishment and its premises shall be kept clean, neat and free of rubbish.
- (d) The floor of the work area in the tattoo/body piercing establishment shall be of impervious material and kept in a reasonably sanitary condition. The walls of the work area shall be light colored. Floors, walls, or ceilings shall not be swept or cleaned while tattooing/body piercing is in operation.
- (e) There shall be provisions made by the tattoo/body piercing operator for the proper and safe disposal of all types of hazardous biological waste products. Any material contaminated with blood must be handled, stored, and disposed of in accordance with Federal, State and Local Laws and acceptable to the Health Officer.
- (f) Tattoo/body piercing establishments shall have work areas that are separate and apart from the rest of the establishment. These areas shall not be used as corridors for access to other areas. Patrons shall be tattooed/pierced in said work areas only. For a residence to receive a permit to operate as a tattoo/body piercing establishment, work areas must be dedicated for that use only. No other activities may take place in the work areas. Work areas must comply with all other requirements of this Code.
- (g) Each work area shall have handwashing facilities equipped with hot (at least 120 degrees

Fahrenheit) and cold running water. At least fifty (50) foot-candles of light must be available.

- (h) Each handwashing facility is to be provided with hand cleaning soap, detergent or other surfactant cleaning compound used for personal cleaning. Bar soap is prohibited. Individual single service towels or warm air blowers are to be provided. Common towels are prohibited. Conveniently located waste receptacles are to be provided.
- (i) Handwashing facilities, hand washing devices and related equipment are to be kept clean and in good repair. Employees must wash hands thoroughly after using the toilet, sneezing, coughing, eating, drinking or otherwise soiling their hands before returning to work. Handwashing signs are to be posted at all employee hand washing facilities.
- (j) Adequate cabinets for the storage of instruments, dyes, pigments, carbon and stencils shall be provided for each tattoo operator and shall be maintained in a sanitary manner. Poisons, including germicidal solutions, used in the tattoo/body piercing establishment shall be stored in covered containers with labels identifying the contents.
- (k) An adequate number of worktables shall be provided for each tattoo/body piercing artist. The surface of all work tables shall be constructed of a material that is smooth, light colored, non-absorbent, corrosive-resistant, and easily cleaned and disinfected.
- (l) Food and drink are prohibited in work areas.
- (m) Animals are prohibited throughout the tattoo/body piercing establishment.

## **SECTION 5. Records**

- (a) Proper records shall be maintained by the tattoo/body piercing operator for each patron.
- (b) A record of each patron shall be prepared prior to any procedure being performed and shall include the time and date on which the tattoo/body piercing occurred, the name, signature, address and age of the patron, a brief description of the work done, its location on the patron's body, and the name of the tattoo/body piercing artist who did the work. Records of each piercing of a minor shall also be kept in accordance with Niagara County Local Law #1-2001, referenced at the conclusion of this Chapter.
- (c) The records shall be entered in ink or indelible pencil in a book kept solely for this purpose. This book shall be available at a reasonable time for examination by the Health Officer. Records for each patron shall be preserved for at least three (3) years from the date of the procedure. The signature of the patron shall be in the book.

## **SECTION 6. Consent**

- (a) It is unlawful to apply a tattoo to a minor.
- (b) It shall be the responsibility of the person applying the tattoo to insure the person receiving the tattoo is not a minor.

- (c) Consent of a parent or guardian is required for any body piercing of a minor as per Niagara County Local Law #1-2001, referenced at the conclusion of this Chapter.

### **SECTION 7. Procedures to be Followed in Tattooing**

- (a) There shall be printed instructions approved by the Health Officer given to each patron on the possible complications and risks involved in the tattoo requested. It must also include the care of the skin after tattooing as a precaution to prevent infection. These instructions must also be verbally explained to each patron. Each patron shall sign a release form stating that he/she understands the risks and possible complications involved with tattoo procedures.
- (b) A copy of these instructions shall also be posted in a conspicuous place in the tattoo/body piercing establishment and clearly visible to the person being tattooed.
- (c) It shall be unlawful for any tattoo/body piercing artist to perform any tattooing on an individual who appears to be under the influence of drugs or alcohol. No tattoo/body piercing artist may perform tattoo while under the influence of drugs or alcohol.
- (d) Each tattoo/body piercing artist must wear a clean outer garment.
- (e) Each working surface shall be cleaned and disinfected after each use.
- (f) No person with any disease in a communicable form or suspected of having such a disease shall engage in tattooing. Such diseases may include, but shall not be limited to, influenza, tuberculosis, scabies, impetigo, syphilis, chicken pox, mumps, hepatitis, infection on hands or arms, sore throat or jaundice of the skin.
- (g) The Health Officer may require a certificate signed by a duly licensed physician stating that the person is free from communicable diseases before permission to resume tattooing is granted.
- (h) A tattoo/body piercing artist shall clean his/her fingernails and shall thoroughly wash and scrub his/her hands with warm running water and soap, detergent or other surfactant cleaning compound before working on each patron. Bar soap is prohibited.
- (i) A tattoo/body piercing artist shall not allow his/her hands to dry without the use of individual single service towels or warm air blowers.
- (j) That area of the patron that is to be tattooed shall be prepared by washing with warm water and soap, detergent or other surfactant cleaning compound. Bar soap is prohibited.
- (k) A new disposal razor shall be used prior to the application of the tattoo when it is necessary to shave the area to be tattooed. Once it is used on a patron, the razor must be disposed of. If longer hair must be removed first, any scissors or clippers must be sterilized prior to being used.
- (l) The tattoo/body piercing artist shall again wash and scrub his or her hands, as described in item (g) above, following the cleaning and/or shaving of the patron's skin.
- (m) The tattoo/body piercing artist shall wear single service, disposable gloves when applying a tattoo. The gloves must be properly disposed of once used on a patron. Hand washing shall occur each time gloves are removed, as described in item (g) above.

- (n) The tattoo/body piercing artist shall treat the skin area with a germicidal solution listed in the United States Pharmacopeia or National Formulary, which shall be applied with sterile cotton or sterile gauze, before placing the design on the patron's skin. If petroleum jelly (petrolatum) is used, it must be listed in the United States Pharmacopeia or National Formulary. The application may be spread by the use of sterile gauze or sterile single use applicators. Fingers, gloved or ungloved may not be used to remove product for application.
- (o) The stencil used by a tattoo/body piercing artist for transferring the design to the skin shall be disposable and single use only. Any writing instrument touching the skin must be new and single use only.
- (p) Styptic pencils or alum solids shall not be used to check the flow of blood, should such flow of blood occur.
- (q) Any infection resulting from the tattoo/body piercing procedure which becomes known to the tattoo/body piercing operator or the establishment shall be immediately reported to the Niagara County Department of Health.
- (r) All used needles shall be placed immediately in a "Sharps" container for storage until final disposal from the premises. No needles may be given to patrons.

#### **SECTION 8. Dyes or Pigments**

- (a) Dyes or pigments shall be obtained only from a reputable tattoo supplier. Only nontoxic and sterile material shall be used in preparing dyes or pigments to be used by a tattoo/body piercing artist. Single-service or individual portions of dyes or pigments shall be stored in clean, sterilized individual containers or single-service containers before use on each person.
- (b) The remaining unused dye or pigment in the single-service or individual containers must be discarded after tattooing is completed.
- (c) Patrons shall be provided printed warning of the potential physical reactions from the use of certain dyes in a form acceptable to the Niagara County Department of Health.

#### **SECTION 9. Sterilization**

- (a) A set of individual single-service, clean and sterile needles shall be used by the tattoo/body piercing artist for each new patron. Clean and sterile tubes shall also be used for each new patron.
- (b) Any reusable instruments or parts thereof shall be thoroughly cleaned ultrasonically prior to sterilization.
- (c) All instruments to be sterilized shall be placed in appropriate wrappers or bags prior to their being placed in an autoclave or dry heat sterilizer. Sterilization may be accomplished by holding in an approved autoclave for twenty (20) minutes at fifteen (15) pounds pressure at a temperature of 250 degrees F or 121 degrees C. An indicator shall be used to show that the proper temperature has been reached in an autoclave. Sterilization may be accomplished by dry heat at 300 degrees Fahrenheit for two and one half (2½) hours, or at 320 degrees Fahrenheit for two (2) hours, or 340 degrees Fahrenheit for one (1) hour. If dry heat sterilization is employed, sterilization temperatures must be checked each time the unit is operated by using a temperature indicator label capable of measuring temperatures of 300, 320 or 340 degrees Fahrenheit, depending on the time allotted for proper sterilization. Any other method of sterilization must be approved by the Niagara County Department of Health. Sterilization equipment shall be spore tested monthly by

an independent testing facility, to check for biologic growth. If the tattoo/body piercing establishment is notified by the independent testing facility that a test result is positive for biologic growth, the tattoo/body piercing establishment shall immediately cease all operations, and notify the Niagara County Department of Health. Operations for the tattoo/body piercing establishment shall not resume until test results that are negative for biologic growth have been provided to the Niagara County Department of Health by the testing facility. Records shall be kept in a log book for a minimum of three (3) years. All items in the units must go through a second sterilization cycle, if at any time during the sterilization process the registered heat tapes or temperature indicator labels fail to indicate proper sterilization temperatures were achieved. All grips and needle bars shall be left in approved wrappers or sterilizer bags during the sterilization process. They shall remain in these wrappers or bags until they are used. These wrapped articles shall be stored in a closed cabinet and maintained in a sanitary manner at all times.

- (d) No damaged, defective or broken needles shall be used for tattooing.
- (e) All “peel pack” sterilizer bags must be dated within thirty (30) days of the event and show positive indication of sterilization. Any “peel packs” not dated or dated more than thirty (30) days prior to the event must be re-packaged and sterilized by an approved, on-site sterilizer. All “peel packs” which have been opened or have had the sterility compromised in any way must be re-packaged and re-sterilized in an approved, on-site sterilizer. Single use, pre-packaged sterilized equipment obtained from reputable suppliers is allowed. “Peel packs” must show proof of positive sterilization via an indicator.

#### **SECTION 10. After-Care of the Tattoo**

- (a) The completed tattoo shall be washed with a piece of sterile gauze or sterile cotton saturated with an approved germicidal solution. It shall be allowed to air dry.
- (b) An anti-bacterial or alternate suitable ointment shall be applied from a collapsible metal or plastic tube after drying. The entire area may be covered with a piece of sterile gauze, which may, in turn, may be covered with a piece of tissue and fastened to the site with an appropriate type of adhesive.

#### **SECTION 11. Body Piercing Procedures**

- (a) There shall be printed instructions, as approved by the Niagara County Department of Health, given to each patron on the increased risk of an invasive infection resulting from the piercing of mucus membrane tissue, specifically the piercing of tissue. Such printed instructions shall also include information for the patron on the care of the body opening caused by piercing as a precaution to prevent infection and to advise the patient to consult a private physician immediately, should an infection become evident, who, in turn, may immediately notify the Niagara County Department of Health, or advise the patient to do so. Information should also be provided with reference to the security or snugness of certain jewelry to prevent accidental ingestion or lodging in body cavities. These instructions shall be verbally explained to each patron. Each patron shall sign a release form stating that he/she understands the risks involved with body piercing procedures.
- (b) A copy of such printed instructions shall be posted in a conspicuous place in the work area and clearly visible to the person being pierced.

- (c) A tattoo/body piercing artist may not pierce any person who is under the apparent influence of drugs or alcohol. No tattoo/body piercing artist may perform a piercing while under the influence of drugs or alcohol.
- (d) Only single use, sterilized and disposable safety razors shall be used when it is necessary to shave the area to be pierced.
- (e) Ear piercing guns and ear-piercing needles are to be used only for piercing earlobes. This piercing device may not be used to pierce any other part of the body.
- (f) A single use, sterilized disposable surgical piercing needle of the same gauge as the jewelry, or one gauge larger, shall be required for all body piercing.
- (g) Skin shall be marked with a non-toxic marker prior to cleansing with antiseptic. The area being pierced must be free of sores and lesions.
- (h) Jewelry shall be pushed through the skin following the needle in the same direction as the piercing when the jewelry is being applied.
- (i) Gauze, bandages, alcohol, peroxide, or ointment should not be applied to a completed piercing.

## **SECTION 12. Sterilization of Piercing Needles and Jewelry**

- (a) An individually bagged sterilized single use needle and bagged sterilized jewelry shall be used for each piercing.
- (b) All instruments to be sterilized shall be placed in appropriate wrappers or bags prior to their being placed in an autoclave or dry heat sterilizer. Sterilization may be accomplished by holding in an approved autoclave for twenty (20) minutes at fifteen (15) pounds pressure at a temperature of 250 degrees F or 121 degrees C. An indicator shall be used to show that the proper temperature has been reached in an autoclave. Sterilization may be accomplished by dry heat at 300 degrees Fahrenheit for two and one half (2½) hours, or at 320 degrees Fahrenheit for two (2) hours, or 340 degrees Fahrenheit for one (1) hour. If dry heat sterilization is employed, sterilization temperatures must be checked each time the unit is operated by using a temperature indicator label capable of measuring temperatures of 300, 320 or 340 degrees Fahrenheit, depending on the time allotted for proper sterilization. Any other method of sterilization must be approved by the Niagara County Department of Health. Sterilization equipment shall be spore tested monthly by an independent testing facility, to check for biologic growth. If the tattoo/body piercing establishment is notified by the independent testing facility that a test result is positive for biologic growth, the tattoo/body piercing establishment shall immediately cease all operations, and notify the Niagara County Department of Health. Operations for the tattoo/body piercing establishment shall not resume until test results that are negative for biologic growth have been provided to the Niagara County Department of Health by the testing facility. Records shall be kept in a log book for a minimum of three (3) years. All items in the units must go through a second sterilization cycle, if at any time during the sterilization process the registered heat tapes or temperature indicator labels fail to indicate proper sterilization temperatures were achieved. This piercing equipment shall be left in approved wrappers or sterilizer bags during the sterilization process. They shall remain in these wrappers or bags until they are used. These wrapped articles shall be stored in a closed cabinet and maintained in a sanitary manner at all times
- (c) All instruments and jewelry shall be placed in chemically treated sealed bags that indicate



sterilization has occurred by color change.

- (d) Unused, sterilized instruments and jewelry shall remain in sealed, sterilized bags until needed and shall be stored in such a manner as to prevent contamination.
- (e) Corroded, broken, defective or damaged instruments and jewelry shall not be used for body piercing.
- (f) Used needles shall be placed immediately into an acceptable “Sharps” container for storage until final disposal from the premises after completion of the piercing.
- (g) All “peel pack” sterilizer bags must be dated within thirty (30) days of the event and show positive indication of sterilization. Any “peel packs” not dated or dated more than thirty (30) days prior to the event must be re-packaged and sterilized by an approved, on-site sterilizer. All “peel packs” which have been opened or have had the sterility compromised in any way must be re-packaged and re-sterilized in an approved, on-site sterilizer. Single use, pre-packaged sterilized equipment obtained from reputable suppliers is allowed. “Peel packs” must show proof of positive sterilization via an indicator.

**SECTION 13. Temporary Tattoo/Body Piercing Establishments (Amended 07/27/2017)**

**A. Permitting**

- (a) “Temporary Tattoo/Body Piercing Establishments” shall mean those operating at fairs, festivals or expositions on a temporary basis.
- (b) An application for a temporary permit for Tattooing/Body Piercing must be submitted to the Niagara County Department of Health at least two (2) weeks prior to the event. The application fee will be assessed to the tattoo operator as directed by Chapter XIV: Fees and Revenue.
- (c) The exact date(s) and location of the event must be specified on the application for the temporary permit.
- (d) Temporary Tattoo/Body Piercing Establishments shall comply with all the requirements set forth in this Code.
- (e) Any artist must have a valid Niagara County certificate to perform tattooing or body piercing as per Section 2 of this Chapter. A temporary, fourteen (14) day certification may be obtained prior to the event from the Niagara County Department of Health by making application in advance, as per Paragraphs (a), (b), (c), and (d) of Section 2 of this Chapter. The temporary fourteen (14) day permit fee is assessed as directed by Chapter XIV: Fees and Revenue.
- (f) Each tattoo/body piercing establishment represented in a booth shall have on site a copy of its most recent spore test as per requirements listed below.

**B. Sterilization**

- (a) A negative growth spore destruction test must be submitted and documented by an independent laboratory within the last thirty (30) days for each shop represented in each booth.

- (b) Instruments must be re-sterilized in an approved sterilizer and a copy of that sterilizer's spore destruction test must be kept in the tattoo operator's booth, if no documentation exists.
- (c) All "peel pack" sterilizer bags must be dated within thirty (30) days of the event and show positive indication of sterilization.
- (d) Any "peel packs" not dated or dated more than thirty (30) days prior to the event must be re-packaged and sterilized by an approved, on-site sterilizer.
- (e) All "peel packs" which have been opened or have had the sterility compromised in any way must be re-packaged and re-sterilized in an approved, on-site sterilizer.
- (f) Single use, pre-packaged sterilized equipment obtained from reputable suppliers is allowed. "Peel packs" must show proof of positive sterilization via an indicator.

### C. Space Requirements

- (a) No more than two (2) tattoo/body piercing operators may work at any time in one 10' x10' booth.
- (b) A minimum of forty-five (45) square feet of floor space is required per operator.
- (c) Ancillary sales, displays or other activities may not encroach upon the floor space required for each operator.

### D. Operations

- (a) There must be at least one "Sharps" container in each booth.
- (b) Latex or other medically approved gloves must be available in each booth.
- (c) Tattoo/body piercing operators must be aware of the location of approved hand wash and service sinks and use them as required.
- (d) Approved germicidal wipes must be available for each tattoo/body piercing operator.
- (e) There must be a trash container available in each booth, which must be kept covered when not in use.
- (f) At least fifty (50) foot-candles of light must be available at procedure sites. Spotlights are acceptable.
- (g) Tattoo/body piercing operators must properly clean and disinfect procedure areas and procedure surfaces. Materials to clean and disinfect must be on-site and available for inspection.
- (h) Written and verbal instructions of proper "after-care" must be supplied at the end of each tattoo and/or body piercing for each client.
- (i) Written records of each tattooing/body piercing procedure shall be maintained on site, and shall conform to Section 5 of this Code.
- (j) No animals are allowed in booths.

- (k) No food or beverages are allowed in the procedure area while tattooing/body piercing is taking place.
- (l) The temporary permit must be prominently displayed.

#### **SECTION 14. Waiver.**

In order to accept alternate arrangements that do not meet a provision of this Code, a tattoo/body piercing operator shall submit a written request to the Health Officer for a waiver from a specific provision of this Code. Such request shall not be granted unless the tattoo/body piercing operator or artist can demonstrate that safety will not be endangered and/or compromised by granting such a waiver.

#### **SECTION 15. Variance**

A tattoo/body piercing operator shall submit a written request to the Health Officer for a variance in order to allow time to comply with a provision of this Code. Such temporary variance request shall not be granted unless the tattoo/body piercing operator demonstrates health and safety will not be endangered and/or compromised by granting such a variance.

#### **SECTION 16. Severability**

If any provision of this Code or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Code which can be given effect without the invalid provision or application and to this end the provisions of this Code are declared to be severable.

#### **SECTION 17. Certificates and Inspections**

- (a) Access — The Health Officer is to be permitted access for purposes of inspection at all times while the tattoo/body piercing establishment is in operation whether open to the public or not. Refusal of admittance, after proper identification, is cause for action to obtain certification revocation, an order to close, and a fine.
- (b) Permits are non-transferable from one tattoo/body piercing operator to another, or from one tattoo/body piercing establishment location to another, or from one tattoo/body piercing artist to another. The tattoo/body piercing artist must be able to produce a valid certificate when engaging in the act of tattooing.
- (c) The person in charge is the individual present in a tattoo/body piercing establishment who is the apparent supervisor of the tattoo/body piercing establishment at the time. Any employee present may be deemed the person in charge if no individual is the apparent supervisor.

#### **SECTION 18. Enforcement**

- (a) Operation of a tattoo/body piercing establishment without a valid certificate is a violation of this Code. The Health Officer may order any tattoo/body piercing establishment or operation in his jurisdiction operating without a valid permit to close and cease all tattoo/body piercing operations immediately and to remain closed until the tattoo/body piercing establishment or operation has obtained and displays a valid permit.

- (b) For serious, repeated or persistent violations of any of the requirements of this Code or for interference with the Health Officer in the performance of his/her duties, the permit may be revoked after notice and an opportunity for a hearing has been provided by the Health Officer.
- (c) The Health Officer may suspend a permit and order the immediate cessation of tattoo/body piercing operations within his/her jurisdiction when, in his/her opinion, continued operation is an imminent hazard to public health. Any person so ordered is to comply immediately and within fifteen (15) days is to be provided an opportunity to be heard and to present proof that continued operation of the tattoo/body piercing establishment does not constitute a danger to the public health.
- (d) Any person applying a tattoo/body piercing without a valid permit issued by the Health Officer is in violation of this Code. The tattoo/body piercing operator who allows a person to apply a tattoo/body piercing without a valid certificate will be subject to enforcement as described in subsection (a) of this section.
- (e) Suspension of Certificates — Certificates may be suspended temporarily by the Health Officer, after notice and an opportunity to be heard, for failure of the certificate holder to comply with the requirements of this Code or with any lawful notice or order issued by the Health Officer.
- (f) Closure — When action is taken to order closure and cessation of any tattoo establishment and its operations, the Health Officer shall:
  - (1) Conspicuously post a notice or placard at each entrance of the tattoo/body piercing establishment stating the existence of such order and the authority for such order. This order is not to be concealed, mutilated or altered by any person or removed without permission of the Health Officer.
  - (2) Publish notice of the order with the reasons why the order was issued in one or more newspapers in the County or City in which the tattoo/body piercing establishment is located.
- (g) Hearings — The hearings provided for in this section are to be conducted by the Health Officer.

### **SECTION 19. Penalty for Violation**

Every person, firm, organization or corporation convicted of violating any of the provisions of this Code, or any of the orders, rules and regulations made and promulgated in pursuance hereof, shall be punished by a fine of up to \$250.00 per violation and be subject to other punishment provided for in this Code and/or any Federal, State or Local Law.

### **SECTION 20. Effective Date**

The effective date of this Chapter shall be the 19<sup>th</sup> day of September, 2008.

Reference is made to the Niagara County Local Law #1-2001, Prohibiting The Body Piercing of Minors Without The Written Informed Consent of One Parent or Legal Guardian adopted by the Niagara County Legislature on March 20, 2001. Reference is also made to the Niagara County Board of Health Body Piercing Rules and Regulations addressing this law which are available from the Niagara County Department of Health.