

REVISING CHAPTER 48 OF THE DANE COUNTY CODE OF ORDINANCES,
REVISING REGULATION OF TATTOOING AND PIERCING

The County Board of Supervisors of the County of DANE does ordain as follows:

ARTICLE 1. Unless other wise expressly stated herein, all references to section and chapter numbers are to those of the Dane County Code of Ordinances.

ARTICLE 2. Section 48.03 to 48.07 are amended to read as follows:

48.03 AUTHORITY. Subchapter I is enacted under the authority of sec. ~~252.245(6)~~463.16, Wis. Stats., and acts amendatory thereto.

48.04 PURPOSE. The purpose of subchapter I is to provide standards and practices ~~for a more efficient the~~ enforcement ~~method of those of~~ state statutes ~~adopted by reference and also to impose stricter controls on tattooists and tattoo establishments and body piercers and body-piercing establishments than those imposed by state statutes and local ordinances designed to regulate the tattooists, tattoo establishments, body-piercers, and body-piercing establishments by the Health Department.~~

48.05 ADMINISTRATION. Subchapter I shall be enforced by ~~the public health division of the Dane County Human Services Department~~ Public Health Madison and Dane County.

48.06 APPLICABILITY. Subchapter I shall be enforced in all cities, villages, and towns of Dane County ~~except those having a public health department created under s. 251.2(1), Stats.~~

48.07 DEFINITIONS. Words and phrases used in subchapter I have the meanings designated in chapter ~~SPS 221HFS 173~~, Wis. Admin. Code, unless the context clearly indicates a different meaning, with the following additions or modifications for use in this subchapter I only:

~~(1) Body piercing includes ear piercing.~~

~~(2) Division means the public health division of the Dane County Human Services Department.~~

~~(3) Establishment~~ means a facility operated by one or more practitioners, whether organized as a corporation, limited liability company, partnership, sole practitioner or other association, at a single location for more than seven (7) days in a licensing year. As used in this definition, a fraction of a calendar day shall be considered as a whole day.

~~(4) Implants means any object that is placed under the skin for cosmetic purposes with the intent of permitting the object to remain there after the skin heals.~~

~~(5) Licensing year means the twelve month interval from July 1 through the following June 30.~~

~~(6) Director means the environmental health director or his or her designee.~~

~~(7) Person includes any natural person or persons and all partnerships, associations and bodies politic or corporate.~~

~~(8) Practitioner also includes a person who is both a tattooist and a body piercer.~~

~~(9) Special event means a show, bazaar, fair or other occurrence lasting up to a maximum of seven (7) consecutive days at which a collection of establishments practice their art in a single location, whether public or private premises.~~

~~(10) Tattoo includes the making of any permanent cosmetic enhancement to the human body which is not performed by a licensed physician or dentist.~~

~~(11) Temporary establishment includes an establishment at which both tattooing and body piercing are performed.~~

ARTICLE 3. Sections 48.11 to 48.13 are amended to read as follows:

48.11 REGULATION OF TATTOOING AND BODY-PIERCING. (1) ~~No person may operate a tattoo or body-piercing establishment or combination thereof on an annual or temporary basis unless the person has obtained a license and paid fees as specified in subchapter I. No person may tattoo or attempt to tattoo another, designate or represent himself or herself as a tattooist or use or assume the title "tattooist" unless the person is licensed under this subchapter I.~~

~~(2) No person may tattoo or body pierce another person unless the person has obtained a license and paid fees as specified in chapter SPS 221, Wis. Admin. Code. No person may pierce the body of or attempt to pierce the body of another, designate or represent himself or herself as a body piercer or use or assume the title "body piercer" unless the person is licensed under this subchapter I.~~

~~(3) Subsections (1) and (2) do not apply to a dentist who is licensed under s. 447.03(1), Wis. Stats., or to a physician who tattoos or offers to tattoo a person or who pierces the body of or offers to pierce the body of a person in the course of the dentist's or physician's professional practice.~~

48.12 REGULATION OF TATTOOING AND BODY-PIERCING; CONTINUED.

~~When operating a tattoo or body piercing establishment, the tattooist or body piercer must comply with the requirements found in chapter 463, Wis. Stats., chapter SPS 221, Wis. Admin. Code, and this subchapter. Failure to comply with such requirements shall be a violation of this subchapter. It shall be a violation of this subchapter I for any practitioner to:~~

~~(1) Tattoo or body pierce a patron without first obtaining a signed, informed consent of the person on a form approved by the State of Wisconsin.~~

~~(2) Body pierce a patron who is under the age of 16.~~

~~(a) This subsection shall not be construed to prohibit ear piercing of a person under age 16 provided that an informed consent has first been signed by the patron's parent or legal guardian.~~

~~(3) Body pierce a patron who is age 16 or 17 unless an informed consent has first been signed by the patron's parent or legal guardian in the presence of the practitioner.~~

~~(a) An informed consent which is limited to ear piercing need not be signed in the presence of the practitioner.~~

~~(4) Tattoo a patron who is under age 18.~~

~~(5) Fail to disclose to a patron that the practitioner intends to use a previously used needle or other body-piercing instrument.~~

~~(6) To repierce a part of the body when the initial piercing is not healing properly or before the initial piercing is entirely healed.~~

~~(7) Tattoo or body pierce any patron who appears to be under the influence of alcohol or a mind-altering drug.~~

~~(8) Tattoo or body pierce any patron who has evident skin lesions or skin infections in the area of the procedure.~~

48.13 REGULATION OF TATTOOING AND BODY-PIERCING; CONTINUED.

It shall be a violation of this subchapter I for any person to:

(1) Operate a tattooing establishment or a body-piercing establishment or a combined tattooing and body-piercing establishment unless a license for the establishment is first obtained under this subchapter I.

(2) Operate a tattooing establishment or a body-piercing establishment or a combined tattooing and body-piercing establishment unless all practitioners working in the establishment hold current licenses issued under Chapter SPS 221, Wis. Admin. Code, or this subchapter.~~under this subchapter I.~~

ARTICLE 4. Section 48.14 to 48.19 are amended and renumbered to read as follows:

48.14 SPECIAL EVENTS; LICENSES REQUIRED. (1) At special events, the Health Department may designate each separate table, both, or area where tattooist or body piercer performs tattooing or body piercing ~~shall be considered to be~~ a temporary establishment and which must be licensed as such before the onset of the event.

(2) In addition to a temporary establishment license, every practitioner at a special event shall also possess a current and valid State of Wisconsin practitioner's license issued by the State of Wisconsin, ~~the County of Dane, the City of Madison, or other Wisconsin municipality acting on behalf of the State of Wisconsin~~ before the practitioner can engage in tattooing or body piercing at a special event.

48.15 LICENSES; ADMINISTRATIVE REQUIREMENTS. (1) Application for licensing shall be made thirty (30) days prior to the desired date of issuance. The licensing year shall be from July 1 through the following June 30, except that a license initially issued during the period beginning on April 1 and ending on June 30 expires on June 30 of the following year. ~~The permit~~license fee herein established shall be for one licensing year or a fractional part thereof.

(2) An application for a temporary license shall be submitted ~~to the director's office~~ thirty (30) days prior to the special event to allow for processing.

(3) No license shall be issued until the required fee together with any late filing fee is paid in full.

~~(4) An applicant for practitioner's license or renewal thereof shall present evidence of training in bloodborne pathogens, such training to have been completed within the 12 month period preceding the filing of the application.~~

48.16 LICENSES; COUNTY FEES FOR LICENSES. (1) The county fee for a license for the operation of an establishment which performs tattooing or body piercing, but not both, shall be \$286.

~~(2) The fee for a license for an establishment that performs ear piercing shall be \$187.~~

~~(3)~~ The county fee for a license for the operation of an establishment which performs both tattooing and body piercing shall be \$374.

~~(43)~~ The county fee for a pre-inspection of an establishment shall be \$225.

~~(54)~~ The county fee for a temporary establishment license shall be \$75 for the first day and \$25 per day for each day thereafter.

~~(65)~~ In addition to the county fees set forth in this section, the division shall collect the appropriate state fee.

~~(6) The owner or operator of any tattoo or body piercing establishment that is required to be re-inspected because the Health Department found a violation of this chapter, chapter 463, Wis. Stat., or of chapter SPS 221, Wis. Admin. Code, shall be charged a re-inspection fee. Re-inspection fees shall be as follows:~~

~~(a) The first re-inspection fee shall be \$150.~~

~~(b) Any subsequent re-inspection fee shall be \$250.~~

48.17 LICENSES; LATE FILING. (1) ~~A completed application for~~ a renewal license shall be ~~presented to the director paid~~ on or before June ~~130~~.

~~(a) An application~~ A renewal is not complete unless all required information is set forth in the application and the required fee is attached.

(2) Failure to submit a renewal ~~completed application~~ by June ~~304~~ shall subject the applicant to a late filing fee equal to 15% of the license fee.

(a) An applicant for a renewal license who agrees to and does cease all tattooing and body piercing activity during the period from July 1 until such time as a renewal license is issued is not subject to the late filing fee.

(3) Payment of the late filing fee shall not relieve any person from any other penalties set forth in subchapter I for failure to possess or obtain a license.

48.18 ENFORCEMENT. (1) Enforcement procedures shall be conducted in accordance with ss. 66.0113 and 66.0417-424, Wis. Stats. and s. SPS 221.06, Wis. Admin. Code. The director may request the assistance of the Dane County Sheriff's Office in the enforcement of any aspect of subchapter I.

(2) The corporation counsel shall prosecute all violations of this chapter at the request of the department or of the board.

(3) The corporation counsel may seek an injunction in any case it deems appropriate, in addition to an action to collect a forfeiture.

48.19 APPEAL. Any person aggrieved by an order of the director issued pursuant to Chapter ~~HFS 173~~ SPS 221, Wis. Admin. Code, or subchapter I, may appeal such order in accordance with the provisions of s. 66.0417~~124~~, Wis. Stats., to the ~~Dane County~~ Board of Health. The board of health may affirm, set aside, or modify the order by majority vote. The board's decision shall be final and may be appealed to the Circuit Court of Dane County.

ARTICLE 8. Section 48.99 is amended to read as follows:

48.99 PENALTIES. (1) Any person who willfully violates any provision of subchapter I shall forfeit not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500) for each violation. Each day of violation and every violation of any provision of this subchapter shall constitute a separate offense.

(2) In addition to the above penalties, the director may order the suspension or revocation of the license issued to ~~a practitioner or~~ an establishment under subchapter I, subject to the right of appeal to the board of health under s. 48.19.

(3) Any person who does either of the following shall forfeit not less than \$200 nor more than \$5,000:

(a) Assaults, restrains, threatens, intimidates, impedes, interferes with or otherwise obstructs a county inspector, employee or agent in the performance of his or her duties under subchapter I.

(b) Gives false information to a county inspector, employee or agent engaged in the performance of his or her duties under subchapter I, with the intent to mislead the inspector, employee or agent.

[This ordinance Amendment updates Chapter 48 of the Dane County Code of Ordinances to bring the chapter into compliance with Chapter 463 of the Wisconsin Statutes and Chapter 212 SPS of the Wisconsin Administrative Code. The amendment also eliminates ear piercing as a regulated activity and clarifies the definition of a temporary establishment for special event licensing.]