

CHAPTER 116: TATTOOING AND BODY PIERCING ESTABLISHMENTS

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§ 116. 01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BODY PIERCING. The placing of a permanent or temporary foreign object in a person's body, such as ears, nose, lips, genitals, nipples or parts thereof, for a decorative or other nonmedical purpose by a person not directly under the supervision of a licensed physician as defined by SDCL § 36-4-11; the site or location, on the patron, of the body piercing.

BODY PIERCING AREA. Within a body piercing establishment, the immediate vicinity where body piercing is performed.

BODY PIERCING ARTIST. A person engaged in the practice of body piercing.

BODY PIERCING ESTABLISHMENT. The building or structure where body piercing is practiced.

COMMUNICABLE DISEASE. A disease which is capable of being transmitted from person to person.

MINOR. A person who is under the age of 18 years.

PATRON. A person who receives a tattoo.

PERMANENT BODY PIERCING ESTABLISHMENT. A building where body piercing is practiced on a year-round basis.

PERMANENT TATTOO ESTABLISHMENT. A building where tattooing is practiced on a year-round basis.

TATTOO ARTIST. A person engaged in the practice of tattooing.

TATTOO ESTABLISHMENT. The building or structure where tattooing is practiced.

TATTOOING. To puncture the skin of a person with a needle and insert indelible permanent colors through the puncture to leave permanent marks or designs.

TATTOOING AREA. Within a tattoo establishment, the immediate vicinity where tattooing is performed.

TEMPORARY BODY PIERCING ESTABLISHMENT. A building or structure where body piercing is practiced for not more than 30 consecutive days.

TEMPORARY TATTOO ESTABLISHMENT. A building or structure where tattooing is practiced for not more than 30 days.
(Prior Code, § 5.24. 010)

§ 116. 02 LICENSE REQUIRED.

No person shall engage in, conduct or carry on or permit to be engaged in, conducted or carried on in or upon any premises within the city, a tattoo establishment or body piercing establishment unless a license has been issued by the city which remains in effect in conformity with the provisions of this chapter.
(Prior Code, § 5.24. 020) Penalty, see § 10. 99

§ 116. 03 APPLICATION FOR LICENSE.

Each application for a license shall be upon a form provided by the city and shall be submitted to the city along with a fee, in the amount established by resolution of the City Commission, and shall contain the following information:

(A) A definition of service to be provided;

(B) The location and mailing address of the proposed establishment;

(C) The name and residence address of the applicant. If the applicant is a corporation, the name and address of the registered agent and of the officers. If the applicant is a partnership, the names and residence addresses of each of the partners, including limited partners, and the address of the partnership itself, if different from the address of the tattoo establishment;

(D) The last two previous addresses (if any) during the past three years immediately prior to the present address of the applicant;

(E) Written proof that the applicant is over the age of 18 years;

(F) Individual or partnership applicant's height, weight, color of eyes, hair and sex;

(G) Copy of identification such as driver's license and Social Security card;

(H) The history of the applicant in the operation of a tattoo establishment or similar business or occupation, including, but not limited to, whether or not such person has previously had a similar license revoked or suspended and the reason therefore;

(I) The name and address of each tattoo or body piercing artist who is or will be employed in the establishment; and

(J) Any other information or identification necessary to substantiate these provisions.
(Prior Code, § 5.24. 030)

§ 116. 04 INSPECTION.

After the city receives an application, the Finance Officer or designee shall request that the tattoo and body piercing establishment be inspected by the Department of Health within 30 days, and annually upon renewal of the license. (ORD 1051, Effective 5.17.18)

§ 116. 05 MINIMUM SANITATION STANDARDS.

The establishment shall meet the minimum sanitation standards set forth by the South Dakota Administrative Rules, Chapters 44:12:01 and 44:12:02 before a license will be granted.
(Prior Code, § 5.24. 050)

§ 116. 06 GRANTING OF LICENSE.

Upon proof of compliance from the Department of Health, the city shall grant the establishment a license which shall be effective for one year.
(Prior Code, § 5.24. 060)

§ 116. 07 DENIAL OF LICENSE.

(A) The city shall not issue such establishment a license if the Department of Health report finds that establishment does not meet the minimum sanitation standards or the applicant has knowingly made any false or fraudulent statement in the application for the license.

(B) The Finance Officer shall notify the applicant of the denial and the reasons for the denial in writing and send it to the applicant by certified mail. The applicant may request a hearing with the City Commission by filing the request within ten days of receipt of the notice. (ORD 1051, Effective 5.17.18)

§ 116. 08 RENEWAL OF LICENSE.

An application to renew a license shall be made no later than 30 days before the expiration of the current license along with a renewal fee in the amount established by resolution of the City Commission. After an inspection is completed by the Department of Health which shows proof of compliance, the city shall renew the license for an additional year.
(Prior Code, § 5.24. 080)

§ 116. 09 CHANGE OF LOCATION OF ESTABLISHMENT.

A license is not transferable to a new location until a transfer fee, in the amount established by resolution of the City Commission, has been submitted and an inspection showing that the establishment is in compliance with the sanitation standards.
(Prior Code, § 5.24. 090)

§ 116. 10 REVOCATION OF LICENSE.

Any establishment granted a license under this chapter shall be subject to suspension or revocation by the Finance Officer for violation of any provision of this chapter, or applicable provision of the city ordinances, administrative rule, state law or for grounds that should warrant the denial of the issuance of such license in the first instance. The suspension or revocation of a license shall be accomplished pursuant to a hearing held before the City Commission at which time evidence shall be received for the purpose of determining whether or not such license shall be suspended or revoked or retained. Following the hearing, if the license is suspended or revoked, the notification of and reasons for such decision shall be set forth in writing and sent to the licensee by means of registered or certified mail or hand delivery. Notice of such hearing shall be in writing, directed to and delivered to the applicant by means of registered or certified mail or hand delivery at least ten days before such hearing. (ORD 1051, Effective 5.17.18)

§ 116. 11 PATRONS RESTRICTED.

(A) Any establishment may not tattoo or body pierce a patron without first obtaining a signed consent. The consent must include a statement by the patron that he or she is free from infectious or contagious diseases in a communicable stage. This includes rashes, skin lesions, boils, and blood-borne diseases such as viral hepatitis B and human immunodeficiency virus infection. An establishment may not tattoo or body pierce

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a patron with evident skin lesions or skin infections or who is known or suspected to have an infectious or contagious disease in a communicable stage.

(B) Minors may not be tattooed or body pierced unless the minor's parents have signed a consent form authorizing the tattoo or body piercing in the presence of an employee at the licensed establishment. No establishment may tattoo or body pierce a patron who is under the influence of alcohol or other mind-altering drugs.

(C) The establishment shall conspicuously post a notice stating that it is illegal to tattoo or body pierce any person under the age of 18 without the parents' signed consent.
(Prior Code, § 5.24. 110)