

## **ORDINANCE #44**

### **Tattoo, Body Piercing, Branding and Scarification Regulations**

#### **1. Purpose**

The Town of Bolton hereby finds and declares the need to protect its residents and visitors through greater supervision of tattooing, tattoo studios, and body piercing studios, and by prohibiting branding and scarification within the Town of Bolton. The Town of Bolton recognizes that the threat of AIDS/HIV and hepatitis contamination through shared needles and other aspects of the tattoo and body piercing processes have the potential for negatively affecting the health and safety of the general public. The Town of Bolton also recognizes that there is an association of the foregoing businesses with criminal activity involving minors. The Town of Bolton realizes its obligation to protect the health and safety of its people and hereby regulates such industries.

The purpose of this Ordinance is to protect the public health, welfare, safety, peace and tranquility of the residents and visitors of the Town of Bolton by regulating the operation and establishments of tattoo studios and body piercing studios and by prohibiting branding and scarification within the Town of Bolton.

Due consideration has been given with respect to making provisions for suitable locations within a zone that is appropriate for a proper balance between the regulated activities and existing as well as anticipated businesses and residences within the municipality in selecting appropriate locations for the regulated activity as herein provided.

## **2. Title of Ordinance.**

This Ordinance shall hereafter be known and cited as the “Tattoo, Body Piercing, Branding, and Scarification Regulations.”

## **3. Definitions.**

- A. Minor. Any person under the age of 18 years of age.
- B. Tattoo. A mark on the body of a person made with indelible ink or pigments injected beneath an outer layer of the skin.
- C. Tattoo Studio. Shall mean any premises in which the tattooist conducts such practice.
- D. Tattooist. Shall mean any person who applies a tattoo to the body of any other person.
- E. Body Piercing Studio. Shall mean any premises in which the body piercing specialist conducts such practice.

- F. Body Piercing. Shall mean the piercing of any part of the body, except the ear.
- G. Body Piercing Specialist. Shall mean any person who performs body piercing to the body of any other person.
- H. Branding. The use of heat, cold or any chemical compound to imprint permanent markings on human skin by any means other than tattooing.
- I. Scarification. The cutting or tearing of human skin for the purpose of creating a permanent mark or design on the skin.

#### **4. License Required.**

No person shall be a body piercing specialist or tattooist and no person, firm, corporation, partnership, or other association shall operate a body piercing studio or tattoo studio within the Town of Bolton without first obtaining a license from the Town Clerk as provided herein on an annual basis premised on the calendar year.

#### **5. Application for License.**

- A. Form. Every person desiring to procure a license, as herein provided, shall file with the Town Clerk a written application upon a blank form

prepared and furnished by the Town, together with two (2"x2") color photographs of the applicant taken within 30 (thirty) days of filing said application form.

B. Contents. The application shall contain the following information:

- (1) Name and residence address of the applicant.
- (2) Age of the applicant.
- (3) Professional training and qualifications of the applicant.
- (4) Location of premises upon which the business will be conducted.
- (5) A copy of the permit required by Ordinance 4-A of the New York State Public Health Law as well as any other applicable certifications issued from appropriate state and federal agencies.
- (6) Where applicable, type of piercing equipment to be used.
- (7) Method of sterilization or disinfection used by the applicant on piercing equipment and customer.
- (8) Whether the applicant has ever been convicted of a felony or misdemeanor. The details of said conviction(s).
- (9) A diagram, drawn to scale, showing the dimensions of the premises where such business will be conducted and

delineating the interior floor space specifically designated for the regulated activity.

- C. Proof of general liability insurance shall accompany the application. Such application shall be accompanied with proof of general liability insurance for said establishment in the amount of no less than one million dollars (\$1,000,000.00) in coverage.
- D. Proof of inoculation for Hepatitis B virus. Such application shall be accompanied with proof of inoculation against the Hepatitis B virus for all persons who are in the process or application of tattooing or body piercing of consumers.
- E. Issuance, refusal of license; license fee. Upon filing with the Town Clerk an application and proof of liability insurance as provided for herein, together with the license fee as set by resolution from time to time by the Town Board of the Town of Bolton for the first year's license, the Town Clerk shall act on such application and approve or disapprove of same. No application shall be refused except for just cause and only upon grounds of insufficiency of the application requiring the protection of public safety, health or good order. The Town Clerk shall state the grounds for any refusal in writing and mail the same, together with the returned fee to the applicant.

- F. Posting of license. Every license issued in accordance with the provisions of this Ordinance shall be conspicuously on the premises where tattooing and/or body piercing shall be conducted.
- G. Application fee. The annual application fee shall be \$250.00, paid in advance.

**6. Duties of Licensee.**

- A. All body piercing specialists, tattooists, body piercing studios, and tattoo studios shall maintain a register of customers in chronological order, to include the following information:
  - i. The name, address and age of the customer. The manner of proof of identity and age of the customer shall be recorded.
  - ii. A description of the tattoo and/or body piercing on the body.
  - iii. A statement signed by the customer acknowledging that they may be temporarily prohibited from donating blood under applicable rules and regulations of the American Red Cross or other regulatory agencies.
- B. The information contained in Subsections “i” through “iii” above shall be recorded in the customer register prior to the commencement of the tattoo

or body piercing procedure or any preparation thereof and such register shall be maintained on premises available for public inspection for a period of at least six years.

- C. All tattooists and body piercing specialists operating in the Town of Bolton shall obtain a copy of a publication entitled “Guidelines for the Prevention of Blood Borne Disease During Tattooing,” (Guidelines) distributed by the Bureau of Disease Control of the New York State Department of Health dated August 1993 (or subsequent additions or publications of same). Said materials shall be posted in a conspicuous and public place within the establishment. Failure to comply with these guidelines shall constitute a violation of this Ordinance.

## **7. Method of Operation.**

- A. All body piercing and tattooing shall be performed outside the public view. Each person and establishment regulated hereunder shall perform all tattooing and body piercing in a designated enclosed area within the confines of the establishment licensed hereunder and out of public view.
- B. All licensees hereunder shall require each person who has received a tattoo or a body piercing to remain within the licensed premises for a

minimum period of twenty (20) minutes or until all wounds/blood is dried or clotted, whichever is longer. Each licensee regulated hereunder shall post in a conspicuous and public place within the establishment a notice informing the public of such requirement.

## **8. Locations.**

- A. No tattoo studio or body piercing studio shall be permitted within five hundred feet (500') of any school, park or house of worship, and no closer than five hundred feet (500') to other tattoo studio or body piercing studio or adult entertainment location.
- B. To the extent that a tattoo studio or body piercing studio shall constitute a commercial use, the same shall be permitted only in the RIL 3 Residential-Industrial-Low Density zone and only upon and after site plan review pursuant to the Land Use Code of the Town of Bolton as a Type I – Use as Permitted by a Special Use Permit (Refer to § 200-14 Schedule of Use Regulations for RIL 3 Residential-Industrial-Low Density zone).

## **9. Prohibitions.**

- A. No person or establishment licensed hereunder shall tattoo any person under the age of 18 years in the Town of Bolton. All licensees hereunder shall conspicuously post a sign in their business window stating that tattooing or body piercing of a person under the age of 18 is prohibited by New York State Penal Law.
- B. No person shall tattoo or body pierce a person who is visibly intoxicated.
- C. Branding and/or scarification is prohibited within the Town of Bolton.

## **10. Business Premises and Signage.**

All persons and establishments licensed hereunder shall perform its activities inside the licensed premises and in compliance with all provisions of the Land Use Code of the Town of Bolton. A maximum of one non-illuminated sign no greater than two square feet in surface area shall be permitted.

## **11. Inspection by the Town of Bolton as a Board of Health.**

The Town Board of the Town of Bolton in its capacity as a Town Board of Health, or its designee, shall have the power to inspect licensed establishments and businesses annually, or upon request of the Code Enforcement Officer, upon

reasonable cause, at any reasonable time. If required and after a due process hearing with respect to any allegation of violation by an applicant/licensee or operator of a regulated activity, the Town of Bolton Board of Health shall be authorized to impose any penalty provided in Town Law § 268 and in addition thereto, proceed for any civil remedy that may be available in law or equity for compliance with the requirements of this Ordinance.

## **12. Enforcement Provisions.**

The Code Enforcement Officer of the Town of Bolton and the Town Board of the Town of Bolton in its capacity as a Town Board of Health shall be the primary enforcement agents of this Ordinance.

## **13. Revocation of License.**

- A. Grounds, Hearing required. The Town of Bolton may, at any time for just cause alleging any violation of this Ordinance, and upon reasonable notice to the licensee with an opportunity to be heard, may revoke or limit any license granted under the provisions of this Ordinance.
- B. Service of Notice. Notice of any hearing and the reason therefore shall be in writing and may be served by the Town Board, or its agents,

upon the licensee by regular mailing to the address provided on the license application; or to the address of the licensed premises or by personal service upon the licensee in accordance with the requirements of service of process specified in the Civil Practice Laws and Rules.

- C. Effect of revocation. Whenever any license shall be revoked, no refund of any unearned portion therefore shall be made, and no license shall be granted to conduct such business to any person whose license has been revoked within a period of one year from the date of revocation.

#### **14. Penalties for Offenses.**

- a) A violation of this Article is hereby declared to be an offense, punishable by a fine not exceeding three hundred and fifty dollars (\$350.00) or imprisonment for a period not to exceed six (6) months, or both for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five (5) years, punishable by a fine not less than three hundred and fifty dollars (\$350.00) nor more than seven hundred dollars (\$700.00) or imprisonment for a period not to exceed six (6) months, or both; and, upon conviction for a third or subsequent offense all of

which were committed within a period of five (5) years, punishable by a fine not less than seven hundred dollars (\$700.00) nor more than one thousand dollars (\$1,000.00) or imprisonment for a period not to exceed six (6) months, or both. In addition to fine and imprisonment, enforcement shall include all civil remedies including those provided by Town Law § 268. Each week during any portion of which any violation of the Article is committed, permitted or continued, shall constitute a separate offense.

**15. Severability.**

Each separate provision of this Ordinance shall be deemed independent of all other provisions herein, and if any provision shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

**16. Effective Date.**

This Ordinance shall take effect ten (10) days after posting and publication by law and immediately as to any person personally served with a certified copy thereof.

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Editor's Note

*Must also add to zoning district: RIL 3 Residential-Industrial-Low Density zone Section 200-14, Schedule of Use Regulations Additional Type I- Uses Permitted by Special Use Permit "7":*

Tattoo Studio/Parlor and Body Piercing Studio/Parlor.