

DRAFT



CITY OF AURORA
CITY COUNCIL

ORDINANCE NUMBER _____

DATE OF PASSAGE _____

PETITIONER: The City of Aurora

AN ORDINANCE AMENDING CHAPTER 25 OF THE CITY OF AURORA CODE OF ORDINANCES TO ADD A NEW ARTICLE XI THERETO REGARDING TATTOO ESTABLISHMENT LICENSES

WHEREAS, the City of Aurora has a population of more than 25,000 persons and is, therefore, a home rule unit as defined in Article VII, section 6(a) of the 1970 Constitution of the State of Illinois; and

WHEREAS, said section of the Constitution authorizes a home rule unit to exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals and welfare; and

WHEREAS, the Mayor and City Council believe and hereby declare that it is in the best interests of the City to license and regulate the business of operating a tattoo parlor;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Aurora, Illinois, in the exercise of its home rule powers, as follows:

Section One: The foregoing recitals shall be and are hereby incorporated as findings of fact as if said recitals were fully set forth herein,

Section Two: A new Article XI shall be and is hereby added to Chapter 25 of the City of Aurora Code of Ordinances, which Article XI shall hereafter be and read as follows:

ARTICLE XI. TATTOO ESTABLISHMENTS

Sec. 25-265. Definitions

For purposes of this article, the words and terms defined below shall have the following meanings:

Applicant(s) means any person, firm, company, partnership, corporation or association that applies for a license under this chapter.

Body piercing means any procedure whereby a part or parts of the human body are pierced by a sharp instrument in order to allow insertion of a piece or pieces of jewelry, a ring(s) or other ornamental device(s) through the orifice(s) thus created.

Licensee means any person, firm, company, partnership, corporation or association that owns or operates an establishment where tattooing is performed and any individual who performs or practices the art of tattooing other human beings.

Tattoo, tattooed or tattooing means any method of placing designs, letters, scrolls, figures, symbols or any other marks upon or under the skin by the aid of needles or other instruments designed to touch or puncture the skin.

Sec. 25-266. License requirement.

- (a) It shall be unlawful for any person, firm, company, partnership, corporation or association to maintain and operate a tattoo establishment, with or without body piercing, without first having obtained a license as hereinafter provided.
- (b) A license may be issued for only one tattoo establishment at a fixed and certain place. Every applicant desiring to operate more than one tattoo establishment must have a license for each location.
- (c) Every license as provided for herein shall be issued on an annual basis and shall expire on the last day of December following its issuance, unless sooner revoked, and must be renewed before operation is allowed for the following year.

Sec. 25-267. Application and Fee.

Applicants for a license to operate or conduct a tattoo establishment shall file a written application upon a form provided by the city and nonrefundable license fee, to the Chief Financial Officer/City Treasurer. The license fee for tattoo establishments shall be determined, from time to time, by separate ordinance or resolution of the city council. The application for a tattoo establishment shall include the following information:

- (a) The name, complete address and phone numbers of the business for which the license is sought;
- (b) Hours of operation;
- (c) A copy of the operation procedure for response to any emergency medical occurrence;
- (d) A Complete description of all tattoo and body piercing to be performed;
- (e) If the applicant is a sole proprietorship, the character of the business and the length of time applicant has been in this business, the licensee name, complete residence address, residence telephone number, copy of driver's license, and date of birth;
- (f) If the applicant is a firm, company, partnership, corporation or association, the legal name of the same, date of incorporation, partnership or other such business formation, the object for which the firm, company, partnership, corporation or association was organized and the date the charter was issued;
- (g) Every officer, director, or stockholder controlling more than 25% of the stock, shall be deemed to be an applicant, and the name, complete residence address, residence telephone number, copy of driver's license, and date of birth of all such partners, including limited partners, officers and directors and stockholders shall be included;
- (h) Full name and exact duties, residence address, phone number, date of birth, training documentation/certificates; and copy of driver's license of all employees;
- (i) The business, occupation or employment of the applicant for the three years immediately preceding the date of application;

- (j) Applicant shall provide a list of any criminal convictions other than misdemeanor traffic violations, fully disclosing the jurisdiction in which convicted, the offense for which convicted and the circumstances thereof;
- (k) Any tattoo, body piercing or similar business experience of the applicant, including whether such person has had a business license revoked or suspended, the reason therefore, and the business activity or occupation subsequent to such action of suspension or revocation;
- (l) Copy of the Certificate of Registration with the Illinois Department of Public Health and a certificate of compliance with or inspection by the County Health Department;
- (m) Copy of Malpractice Insurance in the amount of at least one hundred thousand dollars (\$100,000.00);
- (n) A statement to the city listing the name, address, telephone number and specialty of each licensed physician and/or osteopath the applicant has on call. The list shall be accompanied by a statement addressed to the city from the physician or osteopath confirming the same;
- (o) The written declaration by the applicant under penalty of perjury that the foregoing information contained in the application is true and correct.

Sec. 25-268. Issuance or denial of license.

Within forty-five (45) days of receipt of a completed application in full, whether original or renewal, the Chief Financial Officer/City Treasurer, shall grant or deny the requested license and give written notice to the applicant as to the decision. The Chief Financial Officer/City Treasurer or designee shall issue the license to the licensee unless one (1) or more of the following conditions exist:

- (a) The applicant fails to supply all of the information requested on the application;
- (b) The applicant gave materially false, fraudulent or untruthful information on the application;
- (c) The applicant has not fully complied with this article or any other applicable, federal, state or local laws, regulations or ordinances affecting the conduct of the applicants business(s) and health and safety of its patrons;
- (d) The applicant has had a license revoked for the same business or same type of business or has had a license revoked elsewhere;
- (e) The applicant is under twenty-one (21) years of age;
- (f) The applicant or any other person in charge that employs any person who is not at least twenty one (21) years of age;
- (g) The applicant and/or any employee which has been convicted of a felony within the last ten (10) years or any criminal offense involving a crime of moral turpitude within ten (10) years. Every officer, director, or stockholder controlling more than 25% of the stock of applicant shall be deemed to be an applicant;
- (h) The applicant is delinquent on any debt owed the city;
- (i) The premises of the business are not in clean, sanitary, and safe condition as required by applicable law or by any administrative regulations promulgated by the city pursuant to this article;

- (j) The applicant knew or should have known that criminal activity was occurring on the premises and failed to take corrective action or failed to contact law enforcement officials;
- (k) The applicant is not of good character and reputation in the city of aurora, or in any other community in which the applicant resides, has operated a business or is currently operating a business;
- (l) It is solely within the discretion of the City to issue the license based on the information provided.

Sec. 25-269. Display of License.

The licensee shall display a valid current license in a conspicuous place within the licensed establishment so that the license may be readily seen by persons entering the establishment.

Sec. 25-270. Transfer of license prohibited.

No license for the operation of a tattoo establishment shall be transferable.

Sec. 25-271 Premises.

No tattoo establishment shall receive a license or be operated, established or maintained unless the establishment shall comply with each of the following minimum regulations:

- (a) The establishment shall have a certificate of compliance with or inspection by the County Health Department.
- (b) The establishment shall have a Certificate of Registration with the Illinois Department of Public Health.
- (c) The entire premises and equipment shall be maintained in a clean, sanitary condition and in good repair.
- (d) No person, while on the premises of the tattoo establishment, shall possess, sell, dispense, provide, give, or keep any alcoholic beverage.
- (e) The tattoo establishment shall not be open to the public for business between the hours of 10:00 p.m. and 8:00 a.m.
- (f) The main entrance door of the tattoo establishment shall be visible from a public street and shall remain unlocked during business hours.
- (g) All first floor windows shall remain transparent, and shall not be papered or otherwise blocked, tinted or covered over with the exception of signage which shall only be 25% of the window face.
- (h) The business shall also comply with all city codes and ordinance including the terms and conditions set forth in this chapter 25.

Sec. 25-272. Requirement for authorized physician.

The licensee of a tattoo establishment must have on call during all business hours a physician or osteopath authorized to practice medicine or osteopathic medicine in the State of Illinois as set forth in the Illinois Medical Practice Act of 1987 (225 ILCS 60/1 et seq.) or any amendment thereof and having privileges at one of the aurora hospitals. The licensee must annually provide a statement to the city listing the name, address, telephone number and specialty of each physician and osteopath licensee has

on call. The list shall be accompanied by a statement addressed to the city from the physician or osteopath confirming the same.

Sec. 25-273. Requirement for body piercing.

Body piercing may only be performed within such licensed tattoo establishment. The piercing of ears shall be exempt from the provisions of this article.

Sec. 25-274. Records.

Records for every patron or customer shall be maintained by the licensee of the establishment. Before the tattooing or body piercing operation begins, the patron or customer shall be required personally to enter, on a form provided, the date, his full name, address, age, any pre-existing conditions, and his signature and a copy of a valid state ID of the individual and legal guardian, if applicable. The records shall be maintained in the tattoo or body piercing establishment and shall be available for examination by the city. Records shall be retained by the licensee for a period of not less than two (2) years. In the event of a change of ownership or closing of the business, all such records shall be made available to the city.

Sec. 25-275. Inspections.

Any city department may make an inspection of each establishment granted a license under the provisions of this article for the purpose of determining compliance with all city codes and ordinance including the terms and conditions set forth in this Chapter 25.

Sec. 25-276. Exemptions.

The provisions of this chapter shall not apply to a physician or osteopath authorized to practice medicine or osteopathic medicine in the State of Illinois as set forth in the Illinois Medical Practice Act of 1987 (225 ILCS 60/1 et seq.) or any amendment thereof who perform body piercing or tattoo individuals while in the course of their medical practice.

Sec. 25-277. Tattooing and piercing the body of minors.

In accordance with 720 ILCS 5/12-10, no person under the age of eighteen (18) may be tattooed except by a person authorized to practice medicine or osteopathic medicine as set forth in this article or for the purpose of tattoo removal under a court order. In accordance with 720 ILCS 5/12-10.1, no minor under the age of eighteen (18) may be pierced without written consent of a parent or legal guardian, except by a person authorized to practice medicine or osteopathic medicine as set forth in this article.

Sec. 25-278. Compliance with and State and County Requirements.

The licensee of the tattoo or body piercing establishment shall comply with all State and County health requirements applicable to such establishments, and if there is any conflict between the provisions of this chapter and such State and County requirements, the more restrictive shall control.

Sec. 25-279. Insurance.

The licensee shall keep and maintain malpractice insurance in an amount of at least one hundred thousand dollars (\$100,000.00) and shall provide evidence of such insurance upon application for or renewal of each license.

Sec. 25-280. Revocation or suspension of license.

It shall be cause for revocation or suspension that a licensee has violated the provisions of this article or any code or ordinance of the city relative to operation of the business or use of the premises, has made false statement on any application for license under this article or, in the event that the licensee shall refuse to permit any authorized police officer or authorized member of the police department or any other department of the city to inspect the premises or the operations thereof at reasonable times. No license shall be revoked or suspended without notice and hearing first being provided to the licensee.

Sec. 25-281. Penalties.

In addition to license suspension or revocation as hereinabove provided, every applicant and/or licensee violating any provision of this article may be fined not less than \$50.00 nor more than \$500.00, and a separate offense shall be deemed to have been committed each day during which or on which a violation occurs or continues.

PASSED AND APPROVED by the City Council of the City of Aurora, Illinois on this ____ day of _____, 2012.

AYES ____ **NAYS** ____ **NOT VOTING** ____

SIGNED by the Mayor of the City of Aurora, Illinois, on this ____ day of _____ 2012.

Mayor
City of Aurora, Illinois

Attest:

City Clerk

Case File Number: KDWK-_____

This instrument prepared by:
Aurora Planning Division
1 South Broadway
Aurora, Illinois 60505