

ORDINANCE 2023-23

ORDINANCE AMENDING AND SUPPLEMENTING THE MUNICIPAL CODE OF THE BOROUGH OF KENILWORTH TO ADD A NEW CHAPTER 214, “BODY ART ESTABLISHMENTS”

WHEREAS, the Borough of Kenilworth Board of Health Department reviewed the Borough’s Municipal Code and determined that in order to protect its residents, and for the general safety of the community, that an ordinance regulating body art establishments should be added to the Borough Code; and

WHEREAS, the State of New Jersey requires body art establishments to be licensed or permitted to operate with approved practitioners by local health departments, which also conduct inspections of establishments. The Body Art Procedures rules are set forth in N.J.A.C. 8:27-1, et seq., and these rules pertain to procedures involving body and ear piercing, tattooing and permanent cosmetics; and

WHEREAS, the Mayor and Borough Council of the Borough of Kenilworth desires to amend and supplement the Borough Code by adding a new Chapter 214, “Body Art Establishments,” in accordance with N.J.A.C. 8:27-1 et seq., in order to protect its residents, and for the general safety of the community; and

WHEREAS, pursuant to N.J.S.A. 40:48-1, the governing body of a municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this State or Federal Government, as it may deem necessary and proper for the good of government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Kenilworth in the County of Union, State of New Jersey as follows:

SECTION 1. The foregoing whereas clause is incorporated herein by reference and made a part hereof.

SECTION 2. Chapter 214, “Body Art Establishments,” is set forth in its entirety as follows:

§ 214-1 Purpose, summary and findings.

The purpose of this chapter is to safeguard and protect the health, welfare and safety of the citizens of the Borough of Kenilworth from the potential hazards associated with improper sterilization, sanitation, and safety standards for persons engaged in the business of tattooing, permanent cosmetics, and ear and body piercings, pursuant to “Body Art Procedures, New Jersey State Sanitary Code, Chapter VIII,” N.J.A.C. 8:27-1 et seq., and the governing body of the Borough of Kenilworth hereby adopts licensing procedures and standards to govern such commercial facilities which are to be administered by the Board of Health of the Borough of Kenilworth. This chapter shall govern all businesses that offer tattooing, permanent cosmetics, and ear and body piercings to the public with the exception of a physician licensed to practice medicine.

§ 214-2 Definitions.

“Body art” means the practice of physical body adornment in permitted establishments by operators utilizing, but not limited to, body piercing, tattooing, and permanent cosmetics.

“Body art establishment” means any place or premises, whether public or private, temporary or permanent in nature or location, where the practices of body art, whether or not for profit, are performed.

“Body piercing” shall mean puncturing or penetration of the skin of a person using presterilized single use needles and the insertion of presterilized or disinfected jewelry or other adornment thereto in the opening.

“Ear Piercing” shall mean the puncturing of an ear lobe and the trailing edge of the ear using a

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presterilized single use stud and clasp ear piercing system following manufacturer's instructions.

“Jewelry” shall mean any personal ornament inserted into a newly pierced area and may be made of surgical implant grade stainless steel, solid 14 karat or 18 karat white or gold, niobium, titanium, platinum, glass or a dense, low porosity plastic.

“Permanent cosmetics” shall mean the implanting of inert pigments, colors, and/or dyes intradermally which results in the permanent alteration of tissue to gain a cosmetic effect.

“Practitioner” shall mean any person that performs the act of tattooing, permanent cosmetics and/or ear and body piercing.

“Tattooing” shall mean any method of placing ink or other inert pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This includes all forms of permanent cosmetics.

“Workstation” shall mean the area or room used for the purpose of performing body art procedures by a practitioner.

§ 214-3 Body art regulations.

Pursuant to N.J.S.A. 26:3-69.1—26:3-69.6, the regulations promulgated by the State Department of Health on body art procedures, N.J.A.C. 8:27-1.1, et seq., are hereby incorporated into this article by reference and made a part of this Article as if set forth at length herein.

§ 214-4 License required; application; liability insurance.

- A. No person shall at any time within the Borough of Kenilworth conduct, maintain, or operate a body art establishment without first having applied for and obtained a license to do so from the Board of Health of the Borough of Kenilworth.
- B. Application for such a license shall be made to the Board of Health of the Borough of Kenilworth, on forms approved by the Board of Health, signed and executed by the applicant a minimum of thirty (30) business days prior to the intended operation date.
- C. The Board of Health for the Borough of Kenilworth shall review the application for a license for compliance with all provisions of N.J.A.C. 8:27-1, et seq., and shall either approve or disapprove of the application in writing within thirty (30) business days from the date of submission to the Board of Health.
 1. Persons denied of approval shall be given notice of the denial, in writing, and the Board of Health shall specify the reason(s) for the action and give the applicant opportunity for a hearing with the Board of Health within a reasonable time, not to exceed fifteen (15) business days from the date of the denial of the application.
- D. A body art establishment license may be renewed if said establishment has been inspected by the Borough of Kenilworth Board of Health Officer and found to comply with all of the requirements of this chapter and the state regulations of this chapter.
- E. Each practitioner shall maintain current professional liability insurance.

§ 214-5 Conditions and requirements.

- A. No body art establishment shall be permitted to open for operation until the Board of Health of the Borough of Kenilworth has given formal approval by issuance of an appropriate license or permit, which shall be renewed on an annual basis. The license or permit shall be displayed in a conspicuous place on the premises where it may be readily observed by all clients.
- B. No body piercing procedure, tattoo or permanent cosmetics shall be applied to any person

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under 18 years of age without the presence, written consent, and proper identification of a parent or legal guardian. In the case a minor is emancipated, legal proof documenting emancipation shall be presented prior to any body piercing procedure or tattoo or permanent cosmetics application.

- C. No person shall display a sign or in any way advertise or purport to be a body art practitioner or to be engaged in the business of body art without first obtaining a license or permit for the facility from the Board of Health of the Borough of Kenilworth.
- D. Practitioners shall refuse service to any person who, in the opinion of the practitioner, is under the influence of alcohol or drugs.
- E. Smoking, eating, or drinking by anyone shall be prohibited in the workstation, bathrooms, and equipment cleaning rooms/areas.
- F. The physical layout and environment of the facility shall be in compliance with N.J.A.C. 8:27-3.1 through N.J.A.C. 8:27-3.5.

§ 214-6 Fees.

A. Every applicant for a Body art establishment shall pay the Borough of Kenilworth Board of Health a \$100 plan review fee to be submitted with their application.

B. Every applicant for whom a license is granted by the provisions of this chapter shall be subject to the following annual renewal fees, which shall become due on the 1st day of March:

- 1. Tattooing: \$200
- 2. Body Piercing: \$200
- 3. Permanent Cosmetics: \$100
- 4. Practitioner Fee: \$50

C. The fee for a body art establishment license reinstatement after the suspension or revocation shall be the same fee as the annual license fee established under Section B above, to be paid to the Borough of Kenilworth Board of Health.

§ 214-7 Violations and penalties.

Any person or business in violation of any provision of this chapter, upon conviction before the Municipal Court, shall be liable for a penalty of not less than \$100 or more than \$500 for each violation and all other applicable law and/or injunctive action as provided by law, or both. Each day that a violation exists shall be considered a separate offense.

SECTION 3. If any section, paragraph, subdivision, clause, or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause, or provision so adjudged and the remainder of this Ordinance shall remain valid and effective.

SECTION 4. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

SECTION 5. This Ordinance shall take effect upon final passage and publication according to law.


Linda Karlovitch, Mayor

