

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

606



FROM: Community Health Agency/Department of Environmental Health

SUBMITTAL DATE:
May 2, 2011

SUBJECT: Riverside County Ordinance No. 907 Regulating Body Art Facilities, Permanent Cosmetics and Body Piercing Facilities

RECOMMENDED MOTION: That the Board of Supervisors:

- 1) Introduce and set for public hearing Ordinance No. 907, an Ordinance of the County of Riverside Regulating Body Art Facilities, Permanent Cosmetics and Body Piercing Facilities;
- 2) Authorize the Clerk of the Board to place an advertisement for a public hearing in the appropriate local publications; and
- 3) Upon the close of the public hearing, adopt Ordinance No. 907.

(continued)

SVS:JW

Steve Van Stockum, Director

FINANCIAL DATA	Current F.Y. Total Cost:	N/A	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	10/11

SOURCE OF FUNDS: Contract revenue and department budget	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

Delia Coarnaze
County Executive Office Signatory

County Executive Office Signatory

Consent
 Policy
 Per Exec. Ofc.:
 Policy

BACKGROUND:

The Department of Environmental Health (the "Department") has been waiting several years for the State to pass regulations for the body art industry, which covers activities such as tattoo, body piercing and permanent cosmetics. Although state-wide regulation of the industry would appear to be the best approach, numerous attempts at passage of State regulations have failed, including, most recently, California Assembly Bill 223.

Accordingly, the Department desires to move forward with County Ordinance No. 907, which will establish minimum standards for body art facilities and practitioners engaged in the business of body art in Riverside County. Department staff have circulated the draft ordinance to interested practitioners including meeting with individual shop owners. Some changes were made to the ordinance to address concerns. These regulations are intended to protect both the practitioner and the client from transmission of contagious diseases through the application of proper body art procedures and the control of cross-contamination of instruments and supplies.

FISCAL

The approval of this ordinance amendment will result in no cost to the County; implementation expenses will be paid through fees.

- 1 B. **Antiseptic:** means a liquid or semi-liquid substance that is approved by the U.S.
2 Food and Drug Administration, as indicated on the label, to reduce the number of
3 microorganisms present on the skin and mucosal surfaces.
- 4 C. **Approved:** means that the Department of Environmental Health has authorized a
5 person, or deemed acceptable, an Instrument, device, procedure, location or
6 training that is not in conflict with these regulations.
- 7 D. **Bloodborne Pathogens Exposure Control Training:** A course of study covering
8 the transmission, epidemiology and symptoms of bloodborne pathogens and the
9 means of reducing risk through personal protective equipment, vaccination and
10 Universal Precautions.
- 11 E. **Body Art:** means Body Piercing, Branding, Permanent Cosmetic and/or Tattooing.
- 12 F. **Body Art Facility:** means a place of business, whether operated for profit or not,
13 upon the premises of which Body Art procedures are performed.
- 14 G. **Body Piercing:** means to insert a needle or object into a human being to create a
15 permanent hole for the insertion of jewelry or other decorations. This includes, but
16 is not limited to, piercing of the ear (other than Ear Lobe Piercing), lip, tongue,
17 nose or eyebrow.
- 18 H. **Branding:** means the process in which a mark or marks are burned into human skin
19 tissue with a hot iron or other Instrument, with the intention of leaving a permanent
20 scar.
- 21 I. **Client:** means any individual who receives a tattoo, Body Piercing or application of
22 Permanent Cosmetic.
- 23 J. **Cross-contamination:** means transfer of micro-organisms from surfaces or
24 equipment to previously sterilized or sanitized surfaces or equipment.
- 25 K. **Department:** means the County of Riverside Department of Environmental Health.
- 26 L. **Director:** means the Director of the Department of Environmental Health or
27 his/her authorized designee.
- 28

- 1 M. **Disinfectant:** means a product that is approved by the U.S. Environmental
2 Protection Agency to reduce or eliminate the presence of disease causing
3 microorganisms (i.e. fungicidal, bactericidal, virocidal).
- 4 N. **Ear Lobe Piercing:** means the lowest part of the auricle; it consists of fat and
5 fibrous tissue not reinforced by the auricular cartilage.
- 6 O. **Enforcement Officer:** means the Director of the Department of Environmental
7 Health and his or her designees.
- 8 P. **Exposure Control Plan:** A written action plan that specifies precautionary
9 measures taken to manage and minimize potential exposure to blood-borne
10 pathogens in the workplace.
- 11 Q. **Germicidal:** means an agent that kills germs, especially pathogenic
12 microorganisms.
- 13 R. **Gloves:** means personal protective barriers for the hands and fingers, tight fitting
14 and made from a non-permeable material such as latex, nitrile rubber or vinyl.
- 15 S. **Hand Washing:** means compliance with the following process:
- 16 i. Wet hands with warm potable running water that is at least 105° Fahrenheit.
- 17 ii. Apply soap (antimicrobial liquid soap in a pump) and thoroughly distribute
18 over hands.
- 19 iii. Rub hands together vigorously for at least 20 seconds covering all surfaces
20 of the hands and fingers, paying special attention to the thumbs, back of the
21 hands and beneath the fingernails.
- 22
- 23 iv. Rinse hands thoroughly to remove residual soap.
- 24 v. Dry hands with single-use, disposable paper towels or warm air dryer.
25 When using paper towels the holders must dispense them singly.
- 26 vi. Use the towel to turn off the taps or use elbow/foot operated taps.
27
28

1 T. **Instrument:** means any Tattooing, Body Piercing or Permanent Cosmetics
2 application equipment or device that comes into contact with intact skin, non-intact
3 skin, or mucosal surfaces. Such equipment includes, but is not limited to needles,
4 needle bars, needle tubes, forceps, hemostats, tweezers, razors, razor blades, or
5 other tools and devices used to insert pigment or pierce the skin or mucosa of the
6 human body.

7 U. **Owner:** means any of the following:

- 8 i. The owner of a facility where the business of Body Art is performed.
9 ii. A person providing a Body Art Facility where they or others perform Body
10 Art.
11 iii. A person who employs Practitioners to perform Body Art, or any other
12 activity regulated by this Ordinance.

13 V. **Permanent Cosmetic/ Make-up:** means procedure performed above the jaw line
14 and anterior to the ear and the frontal hairline in which pigment is applied with a
15 needle or electronic machine to produce a permanent mark visible through the skin.
16 The procedure includes, but is not limited to, the application of eyeliner, eye
17 shadow, lip, eyebrow, or cheek color for the purposes of enhanced aesthetic; scar
18 concealment; and/or re-pigmentation of areas involving reconstructive surgery or
19 trauma. Permanent Cosmetic shall **not** include placing on the body any pictures,
20 images, numbers, signs, letters of the alphabet, or designs.

21 W. **Permit:** means written approval from the Department for an Owner to operate an
22 establishment where Body Art is performed. Approval is given in accordance with
23 the standards in this Ordinance and as may be established by regulation, and is
24 separate from and in addition to any other licensing requirements that may exist
25 within the local jurisdiction or under state or federal law. This Permit shall be
26 posted in a conspicuous space within the Body Art Facility.

27 ///

28

- 1 X. **Piercing Gun:** means a hand held tool that shall be used exclusively for piercing
2 the lower ear lobe, into which single use pre-sterilized studs and clutches are loaded
3 into the gun without the need to handle with bare hands, and placed and inserted
4 into the ear lobe by a hand squeezed or spring loaded action to create a permanent
5 hole.
- 6 Y. **Practitioner:** means a person who is required to be registered with the Department
7 as required by the Health and Safety Code Section 119303 to perform Body Art
8 procedures.
- 9 Z. **Registration:** means a one-time application and appropriate (annual) fee paid by a
10 Practitioner to the Department as required by Health and Safety Code Section
11 119303 to perform Body Art as defined by this Ordinance.
- 12 AA. **Sanitization:** means a cleaning process that greatly reduces the number of
13 microorganisms through the use of chemical or heat, see also "Disinfectant."
- 14 BB. **Sharps Container:** means a rigid puncture-resistant container that, when sealed, is
15 leak resistant and cannot be readily opened.
- 16 CC. **Sterilization:** means the complete destruction of all microbial life forms including
17 spores.
- 18 DD. **Temporary Facility:** means a fixed location issued a Permit by the Department
19 and for a period not exceeding fourteen (14) days, where Body Art is performed.
- 20 EE. **Tattooing:** means to pierce or puncture the human skin with a needle or other
21 Instrument for the purpose of inserting indelible pigment under the surface of the
22 skin. Tattooing does not include the removal of tattoos, nor the practice of
23 Branding, cutting, scarification, skin braiding, or mutilation of any part of the body
24 such as permanent subcutaneous implants.
- 25 FF. **Universal Precautions:** means a set of guidelines and engineered controls
26 published by the Centers for Disease Control (CDC) outlining certain practices that
27 should be employed in order to prevent parenteral, mucous-membrane and non-
28 intact skin exposure to bloodborne pathogens. This method of infection control

1 requires the employer and employee to assume that all human blood and specified
2 human body fluids are infectious for human immunodeficiency virus (HIV),
3 Hepatitis B (HBV), Hepatitis C (HCV) and other bloodborne pathogens.
4 Precautions include: Hand Washing, gloving, personal protective equipment, injury
5 prevention, proper handling and disposal of needles and other sharp Instruments,
6 and blood and body fluid contaminated products. Any description of Universal
7 Precautions defined in this Ordinance does not preclude CAL-OSHA CCR Title 8,
8 Section 5193, Bloodborne Pathogens Standards.

9 **Section 5. PROHIBITIONS.**

- 10 A. No person shall own or operate a Body Art Facility in Riverside County,
11 California, without having first obtained a Permit from the Department in
12 accordance with the procedures set forth herein.
- 13 B. No Permit or Registration shall be issued unless it is in accordance with all the
14 provisions of this Ordinance, state or federal law, or regulation. Any Permit or
15 Registration issued contrary to the provisions of this Ordinance, State or Federal
16 law, or regulation shall be void and of no effect.
- 17 C. No Permit issued pursuant to this Ordinance shall be construed as authorizing the
18 conduct of or continuance of any occupation, use or activity of any kind which is
19 prohibited by County ordinance, State or Federal law or regulation.
- 20 D. No Practitioner shall perform Body Art services outside of a Department permitted
21 facility.
- 22 E. No person shall operate a Body Art Facility (in the unincorporated area of the
23 county) without the approval of the Riverside County Planning Department.
- 24 F. No person shall perform or offer to perform Body Art on a person under the age of
25 18 years.
- 26 G. No person shall perform Body Art without having a valid Registration issued by the
27 Department.

28 ///

- 1 ix. Develop, maintain and ensure compliance with an Approved Exposure
2 Control Plan as specified in this Ordinance. Maintain a copy to be made
3 available to the Enforcement Officer upon request.
- 4 x. Notify the Department, in writing, within seven (7) days of when a Body
5 Art Facility undergoes a change of ownership or goes out of business.
- 6 E. The Body Art Facility shall be well ventilated and provided with an artificial light
7 source equivalent to at least twenty (20) foot candles. At least fifty (50) foot
8 candles lighting shall be provided at any location where the Body Art procedure is
9 performed.
- 10 F. All walls and floors of the operating surfaces of the Body Art procedure area shall
11 be made of a smooth, nonabsorbent and nonporous material that is easily cleanable
12 and can be maintained in a sanitary manner at all times.
- 13 G. All hand sinks in the Body Art Facility shall have hot and cold running water, and
14 liquid soap and disposable paper towels, in permanently mounted dispensers.
- 15 H. Adequate toilet facilities shall be provided. Hand Washing sinks with hot and cold
16 running water, liquid soap and disposable paper towels in permanently mounted
17 dispensers must be located in rooms with toilets or toilet vestibules.
- 18 I. Adequate, cleanable, covered trash receptacles lined with plastic bags shall be
19 provided at each workstation for disposal of trash and contaminated single use
20 items. Receptacles at the workstations shall be emptied daily, at minimum, and kept
21 clean.
- 22 J. A Sharps Container, appropriately labeled with the words "Sharps Waste" that is
23 strong enough to protect the Practitioner, Clients and others from accidental cuts or
24 puncture wounds must be provided for disposal of sharp objects that come in
25 contact with blood and/or body fluids. A Sharps Container must be provided at
26 each workstation.
- 27 K. Sharps Containers shall be tightly closed and removed from service when they
28 reach $\frac{3}{4}$ capacity and replaced with a new container. Sharps Containers shall be

1 stored or mounted in such a manner that they are secure, cannot easily tip over and
2 are not easily accessible to Clients.

3 L. All permitted Body Art Facilities generating contaminated sharps waste must
4 dispose of this waste in accordance with the California Health and Safety Code,
5 Division 104, Section 117600-118360 (Medical Waste Management Act).

6 M. Tracking documents shall be maintained for three years on site for review at time of
7 inspection showing how any medical waste and sharps have been disposed of.

8 N. Solid waste, meaning waste other than contaminated sharps waste, which includes
9 but is not limited to Gloves, gauze, wipes, tissues and used pigments during Body
10 Art procedures, shall be placed in plastic bags, securely tied and disposed of daily
11 in a trash container that prevents unauthorized access. This material shall be
12 transported by a licensed solid waste hauler to an Approved landfill or transfer
13 station.

14 O. An autoclave, registered and listed with the U.S. Food and Drug Administration
15 must be at the Body Art Facility at all times when not using all 100% pre-
16 packaged, pre-sterilized Instruments and equipment. Sterilizers or autoclaves must
17 be kept clean, in good working order, and operated in a clean area.

18 P. No animals of any kind shall be allowed on premises except service animals used
19 by disabled individuals for assistance. Only the Practitioner, authorized personnel
20 and the Client are allowed in the procedure area when Body Art procedure is
21 performed.

22 Q. The facility shall be used exclusively for Body Art purposes. No habitation,
23 cooking or food storage shall be allowed except in separated, designated
24 break/lunch rooms. In general, the entire premises of the Body Art Facility must
25 be kept clean and in good condition at all times.

26 R. The Body Art Facility shall be responsible for maintaining all Client related
27 documents properly for a period of at least 3 years.

28 ///

1 S. STERILIZATION REQUIREMENTS.

- 2 i. Instruments that pierce the skin, or touch non-intact skin or mucous
3 membranes that will be reused, shall be cleaned, packaged, and sterilized, in
4 a separate, designated sterilization area.
- 5 ii. Single use, packaged, sterilized equipment obtained from commercial
6 suppliers or manufacturers must contain a temperature strip or sterilizer
7 indicator listed with the U.S. Food and Drug Administration. Single use
8 items shall not be reused for any reason.
- 9 iii. Ultrasonic cleaners, if used, shall be operated according to manufacturer
10 instructions.
- 11 iv. If an ultrasonic cleaner is not available, Instruments shall be cleaned and
12 disinfected manually by scrubbing with a brush and a detergent Disinfectant
13 used according to manufacturer's instructions. Where applicable,
14 manufacturer's instructions for cleaning specific Instruments shall be
15 followed.
- 16 v. After cleaning, all Instruments used in the Body Art procedure shall be
17 packaged individually in paper peel-packs, heat-sealed plastic, or other
18 packaging (approved by the Department), then sterilized. All packs must be
19 marked with the date of Sterilization, and a sterilizer indicator or internal
20 temperature indicator must be used. Equipment packed in peel-packs or heat
21 sealed plastic will be considered sterile for a maximum of six (6) months. If
22 a paper-peel or heat-sealed pack is torn or otherwise compromised, (or it
23 has been more than six months since Sterilization), the Instrument inside
24 will be considered non-sterile and must be repackaged and re-sterilized.
- 25 vi. Sterilizers or autoclaves shall be loaded and operated according to
26 manufacturer's directions. Manufacturer's directions and specifications for
27 sterilizer or autoclave shall be kept on site and available for review upon
28 request by the Enforcement Officer.

1 vii. Sterilization procedures shall be completed in a designated “clean” area that
2 is free of known contaminants such as dust, dirt, and debris.

3 viii. All reusable Instruments used in the Body Art procedure must be sterilized
4 by a steam or chemical autoclave sterilizer registered and listed with the
5 U.S. Food and Drug Administration. Such Instruments must be used,
6 cleaned, and maintained according to the manufacturer’s instructions.

7 ix. All Sterilization equipment must be tested on a regular basis, as specified
8 below, for functionality and thorough Sterilization by use of all of the
9 following means:

10 1. Chemical indicators (color change), to ensure sufficient temperature
11 and proper functioning of equipment during the Sterilization cycle,
12 are required on all packaged Instruments during each Sterilization
13 cycle; and

14 2. A biological monitoring system (commercial preparation of spores)
15 to ensure all microorganisms have been destroyed and Sterilization
16 has been achieved. Each permittee of a Body Art Facility shall
17 demonstrate that the sterilizer or autoclave is capable of attaining
18 proper heat and pressure through a monthly spore destruction tests.

19 These tests shall be verified by an independent laboratory.

20 T. All equipment used in the Body Art procedure must remain stored in sterile
21 packages until just prior to performing a procedure. Sterile packages shall be stored
22 in a closed container or cabinet protected from dust and moisture until immediately
23 before use. When equipment is assembled, the Practitioner shall wear Gloves and
24 use great care to ensure that equipment is not contaminated.

25 U. Sterilization equipment shall be maintained to meet the following requirements:

26 i. Sterilization equipment shall be cleaned and maintained according to
27 manufacturer’s instructions.
28

1 activity (Registrations will only be Approved if procedures are conducted
2 within a permitted facility);

3 ii. An acknowledgment that Practitioner has obtained a copy of this Ordinance
4 and commits to meet the requirements herein;

5 iii. Proof of completion of a Department approved Bloodborne Pathogens
6 Exposure Control Training Course that has been completed within the last 2
7 years (and shall be renewed every 2 years);

8 iv. Proof of a Hepatitis B Vaccination (HBV) certification or declination form;

9 v. Such other information as the Department reasonably determines is
10 necessary in order to implement or administer the provisions of this
11 Ordinance; and

12 vi. A one-time Practitioner Registration fee and an annual inspection fee, as set
13 forth in Section 10 of this Ordinance.

14
15 B. Practitioner Registration is not transferable. Should a Practitioner perform Body
16 Art at more than one permitted location, duplicate Registration cards can be
17 requested for a fee, as set forth in Section 10 of this Ordinance.

18 C. Prior to commencing any Body Art procedure, the Practitioner shall discuss with
19 the Client all topics on the consent and Aftercare forms. The Client shall complete
20 and sign the forms.

21 i. The Practitioner shall indicate types of documents, such as a driver's
22 license, passport, or school identification card, that verifies the age of the
23 Client.

24 ii. The Practitioner shall verify that all information filled out by the Client is,
25 to the best of Practitioner's knowledge, correct by concurrently signing the
26 form.

27 ///

28

- 1 D. The Practitioner and Client shall not smoke, eat, drink or prepare food at the
2 workstation or in the procedure or Sterilization rooms at any time.
- 3 E. The Practitioner shall thoroughly wash hands, as defined under "Hand Washing" in
4 the definitions section of this Ordinance, before and after each Client, to prevent
5 Cross-contamination and/or transmission of body fluids, infection or exposure to
6 service related chemicals or wastes.
- 7 F. The Practitioner shall wear new, clean, disposable examination Gloves for every
8 Client during the procedure and, if a glove is torn or otherwise compromised,
9 becomes soiled, or comes in contact with any non-clean surface, object, or a third
10 person, the Practitioner must discard both Gloves and exchange them for a new
11 unused, and clean pair.
- 12 G. The Practitioner shall use single-use, clean, disposable drapes, lap-cloths or aprons
13 for each Client. All drapes, lap cloths, and aprons shall be stored in a closed cabinet
14 or container. Used disposable items shall be placed into a covered container lined
15 with a plastic bag for disposal at the end of each day or more frequently, if
16 necessary.
- 17 H. Immediately before any Body Art procedure is begun, the procedure area, including
18 the Instrument tray, shall be wiped down with a germicide or Disinfectant. If trays
19 are wrapped or covered for the procedure, the material shall be sanitary and for
20 single use only. All used trays and/or covers shall be discarded into a covered, lined
21 trash receptacle.
- 22 I. All pre-sterilized Instruments or facility sterilized Instruments used in any Body
23 Art procedure shall be opened in front of the Client.
- 24 J. Tattoo machines shall be cleaned and sanitized after each procedure, and the rubber
25 bands and grommets shall be replaced between Clients, to prevent Cross-
26 contamination. This includes, but is not limited to, the frame, coils, armature bar,
27 front and back springs and clip cord. Bagging of machine and clip cord does not
28

1 exempt Practitioner from cleaning and sanitizing requirement between each
2 procedure.

3 K. Before starting any procedure, and after shaving, if required, the Practitioner shall
4 clean any area with Germicidal soap, Antiseptic or appropriate cleanser that has
5 been applied with a single use applicator that is discarded after use. The area shall
6 be kept clean during and after the procedure to prevent Cross-contamination. If
7 shaving is necessary, a new single-use disposable razor shall be used for each
8 procedure.

9 L. Substances applied to the Client's skin to transfer designs from a stencil or paper
10 shall be dispensed in a manner that prevents contamination of the unused portion.
11 Use of a spray bottle to apply liquid to the skin is acceptable. All creams and other
12 semi-solid substances shall be removed from containers with a clean, sanitized
13 spatula. Spatulas made from a durable, non-absorbent material that can be
14 effectively sanitized may be used again. Spatulas made of wood shall be discarded
15 after use. Single use tubes and containers shall be discarded after completion of the
16 Body Art procedure.

17 M. All dyes and pigments used in tattoo or Permanent Cosmetic procedures must be
18 obtained from a commercial manufacturer specifically for use in Body Art.

19 N. Individual portions of dyes or pigments shall be placed in a clean single-use cup for
20 each Client. Any remaining unused dye or pigment shall be discarded immediately
21 upon completion of the procedure.

22 O. Single use items shall not be reused for any reason. Tattoo or Permanent
23 Cosmetics needles shall not be reused. After use, all needles, and other sharps shall
24 be immediately disposed of in an Approved Sharps Container.

25 P. Branding shall not be done with another Client (or any other person) in the
26 procedure area. During the procedure, the Practitioner and the Client shall wear
27 appropriate protective face filter masks.
28

1 Q. Only jewelry made of ASTM F138, ISO 5832-1 and AISI 316L or AISI 316 LVM
2 implant grade stainless steel, solid 14K through 18K yellow or white gold,
3 niobium, ASTM F136 6A4V titanium, platinum or other materials found to be
4 equally bio-compatible shall be placed in newly pierced skin.

5 R. Upon completion of any Body Art procedure, Aftercare instructions shall be
6 reviewed with the Client. Aftercare instructions shall consist of verbal and written
7 instructions concerning proper care of the affected skin area. Instructions shall
8 specify:

9 i. Responsibilities and care following the Body Art procedure(s).

10 ii. Possible side effects specific to the type of procedure(s).

11 iii. Physical restrictions with an activity time line.

12 iv. Signs and symptoms of local or general infection.

13 v. Instructions to call a physician if any of the addressed signs and
14 symptoms occur or for any other health concern related to the Body Art
15 procedure.
16

17 S. Any person applying for a Practitioner Registration shall be at least 18 years of age.

18 T. A Practitioner shall comply with the following:

19 i. Maintain Registration with the Department and perform Body Art
20 procedures only in permitted Body Art Facilities.

21 ii. Notify the Department in writing within seven (7) days, on a form approved
22 by the Department, whenever there is a change in work location or change
23 of mailing address.
24

25 iii. Display their Registration prominently at their work stations, which shall
26 not be altered or defaced.
27
28

- iv. Maintain a copy of the most recent Practitioner inspection and provide it to a potential Client upon request.
- v. Maintain all required documentation on site so as to be available for review at time of inspection, including: (1) an Approved Bloodborne Pathogens Exposure Control Training within the last 24 months, and (2) a Hepatitis B Vaccination (HBV) certification or declination form.
- vi. Practitioners shall only perform Tattooing, Body Piercing and Permanent Cosmetics as defined in this Ordinance.
- vii. Provide Aftercare and consent form to all Clients.

U. Bloodborne Pathogens Exposure Control Training Requirements.

- i. All Practitioners shall receive Bloodborne Pathogens Exposure Control Training that is specific to their respective Body Art practices.
- ii. Training shall be completed within 90 days of the effective date of these regulations and thereafter must be updated every 2 years. Additional training shall be given when changes such as procedure modifications or development of new procedures affect the Practitioner or Client's exposure. Additional training may be limited to addressing the new exposures created and documentation of notification to staff.
- iii. The person conducting the training shall be knowledgeable regarding Universal Precautions and exposure minimization principles as they relate to the procedures conducted in a Body Art Facility.
- iv. The training program shall contain elements as outlined by the Department.

Section 8. REQUIREMENTS FOR PERMANENT COSMETICS.

In addition to the other requirements described in this Ordinance, the Permanent Cosmetics Practitioner shall abide by the following:

///
 ///

- 1 A. The Permanent Cosmetic Practitioner shall not be required to have a U.S. Food and
2 Drug Administration approved autoclave or sterilizer if only 100% pre-packaged,
3 presterilized, single-use needles, needle tips, casings and combo couplers are used.
- 4 B. If a manual device is used, it shall be single use and disposable. The device shall be
5 pre-packaged and pre-sterilized before use and discarded into a Sharps Container at
6 the end of each procedure.
- 7 C. Only rotary pens (also called cosmetic machines) that are engineered to prevent
8 Cross-contamination through the use of detachable, disposable or autoclavable
9 components shall be use. Use of rotary pens that use a sponge at the opening of the
10 chamber to stop the pigment or body fluids from getting into the machine, or, are
11 designed in a manner that does not allow proper cleaning and sterilizing are
12 prohibited.

13 **Section 9. REQUIREMENTS FOR TEMPORARY BODY ART EVENTS.**

- 14 A. Permit applications for the Temporary Facility shall be submitted for review to the
15 Department, at least 30 days prior to the event. Application must be made on forms
16 approved by the Department, which shall include a list of all Practitioners
17 participating in the event.
- 18 B. All Practitioners participating in the temporary event shall have a valid Registration
19 from the Department.
- 20 C. Provide a means for sterilizing all reusable equipment at the event. At a multi-
21 vendor event, an event coordinator shall provide the Department with a schematic
22 of the booths and the designated sterilization area. This should include a proposed
23 ratio of vendors to autoclaves/sterilizers for Department approval.
- 24 D. All activities shall follow Universal Precautions as stated in this Ordinance.
- 25 E. The following criteria pertain to Temporary Facility Permits:
- 26
- 27
- 28

- i. Temporary Facility Permits expire 14 days from the date the event begins or upon conclusion of the event, whichever comes first, unless additional time has been granted by the Department in writing.
 - ii. Temporary Facility Permits shall not be transferable from one place to another or from one person to another.
 - iii. Temporary Facility Permits shall be posted in a prominent and conspicuous place so as to be readily observed by Clients.
 - iv. A Temporary Facility Permit fee, as set forth in Section 10 of this Ordinance.
- F. All temporary facilities applying for Temporary Facility Permits must be inspected prior to being issued a Permit to ensure compliance of all requirements regarding effective exposure control and proper Sterilization and Sanitization. This includes a working sink with warm running water, liquid soap and single use paper towels.
 - G. All sharps waste shall be stored, transported and disposed of in an Approved manner.
 - H. All parameters and exceptions specified in the Body Art Facility requirements in this Ordinance apply.

Section 10. FEES.

The fees for Body Art related permits, inspections, and other related fees are as set forth below.

All fees shall be incorporated into Riverside County Ordinance No. 640.

- A. Body Art Facility Annual Permit Fee: \$200
- B. Body Art Facility Re-inspection Fee: \$100
- C. Practitioner Registration Fee: \$50
- D. Practitioner Annual Inspection Fee: \$50
- E. Duplicate Practitioner Registration Card: \$30
- F. Temporary Facility Permit Fee: \$150

///

1 **Section 11. VIOLATIONS.**

- 2 A. Any person violating any provision of this Ordinance shall be deemed guilty of an
3 infraction or a misdemeanor as hereinafter specified. Such person shall be deemed
4 guilty of a separate offense for each and every day or portion thereof during which
5 any violation of the provisions of this Ordinance is committed, continued or
6 permitted. Any person convicted of a violation of this Ordinance shall be: (1)
7 guilty of an infraction offense and punished by a fine not exceeding \$100.00 for a
8 first violation; (2) guilty of an infraction offense and punished by a fine not
9 exceeding \$200.00 for a second violation on the same site. The third and any
10 additional violations on the same site shall be punished by fine not exceeding
11 \$1000.00 or six months in jail, or both.
- 12 B. Notwithstanding the above, a first offense may be charged and prosecuted as a
13 misdemeanor. Payment of any penalty herein shall not relieve any person from the
14 responsibility of correcting the violation.
- 15 C. In addition, any violation of this Ordinance is hereby declared to be a public
16 nuisance and may be abated by the Director irrespective of any other remedy
17 hereinabove provided.

18 **Section 12. PERMIT OR REGISTRATION REVOCATION OR SUSPENSION.**

- 19 A. The Department may revoke or suspend a Permit and/or a Practitioner Registration
20 upon a finding that:
- 21 i. The permittee or Practitioner has violated any of the conditions or
22 requirements of the Permit or Registration or the provisions of this
23 Ordinance, statutes, rules or regulations pertaining to the Permit or
24 Registration;
- 25 ii. The Permit or Registration was issued in error;
- 26 iii. The Permit or Registration was issued on the basis of incorrect information
27 supplied by the permittee or Practitioner;
- 28

- iv. Written notice of the violation has been sent to the permittee or Practitioner by first class mail, and the permittee or Practitioner has failed or neglected to correct the violation within the required time frame; or
- v. Gross incompetence is observed at the Body Art Facility.

B. **Hearing.** A Permit or Practitioner Registration may be revoked or suspended by the Department, as provided for herein, after the permittee or Practitioner is afforded a pre-deprivation opportunity for a hearing pursuant to subsection B.(i), below. Notwithstanding the foregoing, a Permit or Registration may be summarily revoked or suspended, and the permittee or other person who owns, controls or operates a Body Art Facility may be ordered to immediately stop operations of the Body Art Facility, in whole or in part, in the event that the Department determines that exigent circumstances exist which demonstrate an immediate threat to the public health, safety, or welfare. Upon a determination that exigent circumstances exist, a permittee or Practitioner shall be sent a written notice, and shall be alternatively afforded a post-deprivation opportunity for a hearing pursuant to subsection B.(ii), of this Section.

- i. **Pre-Deprivation Hearing.** Any person whose application for a Permit or Registration has been denied or whose Permit or Registration faces revocation or suspension after having first been sent a written notice of violation pursuant to this Ordinance, shall be entitled to request a predeprivation hearing. The person shall file with the Department a written petition requesting the hearing and setting forth a brief statement of the grounds for the request within fifteen (15) days from the date the written notice of violation or application denial was mailed. The requested hearing shall be provided within 15 business days of the written request. The failure to timely submit a written request for a hearing shall be deemed a

1 waiver of the right to such hearing, and shall result in the denial of the
2 application or revocation or suspension of the Permit or Registration.

- 3 ii. **Post-Deprivation Hearing.** Any person whose Permit or Registration has
4 been summarily revoked or suspended shall be entitled to request a post-
5 deprivation hearing. The person shall file with the Department a written
6 petition requesting the hearing and setting forth a brief statement of the
7 grounds for the request within fifteen (15) days from the date the written
8 notice was mailed. The requested hearing shall be provided to any permittee
9 or Practitioner within 15 business days of the written request. The failure to
10 timely submit a written request for a hearing shall be deemed a waiver of
11 the right to such hearing, and shall result in the revocation or suspension of
12 the Permit or Registration.

- 13 C. **Hearing Procedure.** The hearing officer shall be a Department Supervising
14 Environmental Health Specialist or his or her designee. The hearing officer shall
15 not be the investigating Department representative who issued the notice of
16 violation or denial of the application, or their immediate supervisor or subordinate.
17 The hearing shall be set for a date within fifteen (15) business days from the date
18 the written request is received by the Department unless extended at the request of
19 the petitioner. At the time and place set for the hearing, the hearing officer shall
20 give the petitioner and other interested persons adequate opportunity to present any
21 facts pertinent to the matter at hand. The hearing officer may, when deemed
22 necessary, continue any hearing by setting a new time and place and by giving
23 notice to the petitioner of such action. The hearing officer shall make a finding, and
24 may sustain, modify or rescind any official notice or order considered at the
25 hearing. A written report of the hearing officer's final determination shall be
26 forwarded to the applicant, permittee or Practitioner, by the Department, within ten
27 (10) business days after the hearing, by postage prepaid, certified mail.

28 ///

1 **Section 13. ADMINISTRATIVE CITATIONS AND PENALTIES.**

2 In addition to the remedies and penalties contained in this Ordinance, and in accordance with
3 Government Code Section 53069.4, an administrative citation may be issued for any violation of this
4 Ordinance. The following procedures shall govern the imposition, enforcement, collection and
5 administrative review of administrative citations and penalties.

6 A. **Notice of Violation.** If the violation is not corrected within the period stated in the
7 notice of violation, or if the violation creates an immediate danger to health or
8 safety, an administrative citation may be issued by the Enforcement Officer. The
9 notice of violation shall specify the manner in which the conditions of the Body Art
10 Facility or the actions of the Practitioner violate the provisions of this Ordinance
11 and the corrective actions required to correct the condition or conduct. The notice
12 shall also state that failure to come into compliance with this Ordinance could
13 subject the permittee, Practitioner, or other person who owns, controls or operates a
14 Body Art Facility to civil, administrative and criminal penalties. The failure of the
15 notice to set forth all required contents shall not affect the validity of the
16 proceedings.

17 B. **Content of Citation.** The administrative citation shall be issued on a form
18 approved by County Counsel and shall contain the information listed below. The
19 failure of the citation to set forth all required contents shall not affect the validity of
20 the proceedings.

- 21 i. Date, location and approximate time the violation was observed.
- 22 ii. The Ordinance section violated and a brief description of the violation.
- 23 iii. The amount of the administrative penalty imposed for the violation.
- 24 iv. Instructions for the payment of the penalty, the time period by which it shall
25 be paid, and the consequences of failure to pay the penalty within this time
26 period.
27
28

1 v. Instructions on how to appeal the citation.

2 vi. The signature of the Enforcement Officer.

3 **C. Service of Citation.**

4 i. If the permittee, Practitioner, or other person who has violated the
5 Ordinance is present at the scene of the violation, the Enforcement Officer
6 shall attempt to obtain their signature on the administrative citation and
7 shall deliver a copy of the administrative citation to them.

8
9 ii. If the permittee, Practitioner, or other person who has violated the
10 Ordinance is a business, and the business owner is on the premises, the
11 Enforcement Officer shall attempt to deliver the administrative citation to
12 them. If the Enforcement Officer is unable to serve the business owner on
13 the premises, the administrative citation may be left with the manager or
14 employee of the business. If left with the manager or employee of the
15 business, a copy of the administrative citation shall also be mailed to the
16 business owner by certified mail, return receipt requested.

17 iii. If no one can be located at the property, then the administrative citation
18 shall be posted in a conspicuous place on or near the property and a copy
19 mailed by certified mail, return receipt requested to the Owner, permittee,
20 Practitioner, or other person who has violated the Ordinance. The citation
21 shall be mailed to the property address and/or the address listed for the
22 Owner on the last County Equalized Assessment Roll.

23 iv. The failure of any interested person to receive the citation shall not affect
24 the validity of the proceedings.

25 **D. Administrative Penalties.**

26 i. The penalties assessed for each violation shall not exceed the following
27 amounts:
28

- a) \$100.00 for a first violation;
- b) \$200.00 for a second violation of the same Ordinance within one year; and
- c) \$500.00 for each additional violation of the same Ordinance within one year.

- ii. If the violation is not corrected, additional administrative citations may be issued for the same violation. The amount of the penalty shall increase at the rate specified above.
- iii. Payment of the penalty shall not excuse the failure to correct the violation nor shall it bar further enforcement action.
- iv. The penalties assessed shall be payable to the County of Riverside.

E. Administrative Appeal.

- i. **Notice of Appeal.** The recipient of an administrative citation may appeal the citation by filing a written notice of appeal with the Department. The written notice of appeal must be filed within twenty (20) days of the service of the administrative citation. Failure to file a written notice of appeal within this time period shall constitute a waiver of the right to appeal the administrative citation.

The notice of appeal shall contain the following information:

- a) A brief statement setting forth the appellant's interest in the proceedings;
- b) A brief statement of the material facts which the appellant claims supports his/her contention that no administrative penalty should be imposed or that an administrative penalty of a different amount is warranted;
- c) An address at which the appellant agrees notice of any additional proceeding or an order relating to the imposition of the administrative penalty may be received by mail.
- d) The notice of appeal must be signed by the appellant.

1 ii. **Administrative Hearing.** Upon a timely written request by the recipient of the
2 administrative citation, an administrative hearing shall be held as follows:

3 a) **Notice of Hearing.** Notice of the administrative hearing shall be
4 given at least ten (10) days before the hearing to the person
5 requesting the hearing. The notice may be delivered to the person or
6 may be mailed to the address listed in the notice of appeal.

7 b) **Hearing Officer.** The administrative hearing shall be held before
8 the Director. The hearing officer shall not be the Enforcement
9 Officer who issued the administrative citation or their immediate
10 supervisor or subordinate. The Director may contract with a
11 qualified provider to conduct administrative hearings or to process
12 administrative citations.

13 c) **Conduct of the Hearing.** Except as may be required by the hearing
14 officer, the Enforcement Officer who issued the administrative
15 citation shall not participate in the administrative hearing. The
16 contents of the Enforcement Officer's file in the case shall be
17 admitted as prima facie evidence of the facts stated therein. The
18 hearing officer shall not be limited by the technical rules of
19 evidence. If the person requesting the appeal fails to appear at the
20 administrative hearing, the hearing officer shall make his or her
21 determination based on the information contained in the notice of
22 appeal.

23 d) **Hearing Officer's Decision.** The hearing officer's decision
24 following the administrative hearing shall be delivered to the person
25 requesting the hearing personally or sent by mail. The hearing
26 officer may allow payment of the administrative penalty in
27 installments, if the person provides evidence satisfactory to the
28 hearing officer of an inability to pay the penalty in full. The hearing

1 officer's decision shall contain instructions for obtaining review of
2 the decision by the superior court.

3 **F. Review of Administrative Hearing Officer's Decision.**

4 i. **Notice of Appeal.** Within twenty (20) days of the date of the delivery or
5 mailing of the hearing officer's decision, a person may contest that decision by
6 filing an appeal to be heard by the superior court. The fee for filing the notice
7 of appeal is twenty-five dollars (\$25.00). The failure to file the written appeal
8 and to pay the filing fee within this period shall constitute a waiver of the right
9 to an appeal and the decision shall be deemed confirmed. A copy of the notice
10 of appeal shall be served in person or by first class mail upon the issuing
11 agency by the contestant.

12 ii. **Conduct of Hearing.** The conduct of the appeal is a subordinate judicial duty
13 and may be performed by traffic trial commissioners and other subordinate
14 judicial officials at the direction of the presiding judge of the court. The appeal
15 shall be heard de novo, except that the contents of the issuing agency's file in
16 the case shall be received in evidence. A copy of the document or Instrument
17 of the issuing agency providing notice of the violation and imposition of the
18 administrative penalty shall be admitted into evidence as prima facie evidence
19 of the facts stated therein. The court shall request that the issuing agency's file
20 on the case be forwarded to the court, to be received within fifteen (15) days of
21 the request.

22 iii. **Judgment.** The court shall retain the twenty-five dollar (\$25.00) fee regardless
23 of the outcome of the appeal. If the court finds in favor of the contestant, the
24 amount of the fee shall be reimbursed to the contestant by the Department.
25 Any deposit of the fine or penalty shall be refunded by the issuing agency in
26 accordance with the judgment of the court. If the fine or penalty has not been
27 deposited and the decision of the court is against the contestant, the issuing
28

1 agency may proceed to collect the penalty pursuant to any manner provided by
2 law.

3 **Section 14. CIVIL ACTIONS**

4 A. **Injunctive Relief and Abatement.** Whenever, in the judgment of the Enforcement
5 Officer, any person is engaged in or about to engage in any act or practice which
6 constitutes or will constitute a violation of any provision of this Ordinance, or any
7 rule, regulation, order, Permit or conditions of approval issued thereunder, upon the
8 request of the Enforcement Officer, the County Counsel or District Attorney may
9 commence proceedings for the abatement, removal, correction and enjoinder
10 thereof, and require the violator to pay civil penalties and/or abatement costs.

11 B. **Civil Remedies and Penalties.** Any person, whether acting as principal, agent,
12 employee, Owner, lessor, lessee, tenant, occupant, operator, contractor or
13 otherwise, who willfully violates the provisions of this Ordinance or any rule,
14 regulation, order or conditions of approval issued thereunder, shall be liable for a
15 civil penalty not to exceed \$1,000.00 for each day or portion thereof, that the
16 violation continues to exist. In determining the amount of the civil penalty to
17 impose, the court shall consider all relevant circumstances, including, but not
18 limited to, the extent of the harm caused by the conduct constituting a violation, the
19 nature and persistence of such conduct, the length of time over which the conduct
20 occurred, the assets, liabilities, and net worth of the violator, whether corporate or
21 individual, and any corrective action taken by the violator.

22 **Section 15. COSTS AND DAMAGES.**

23 Any person, whether acting as a principal, agent, employee, Owner, lessor, lessee, tenant,
24 occupant, operator or contractor, or otherwise, violating any provisions of this Ordinance or the rules,
25 regulations, orders, Permits or conditions of approval issued thereunder, shall be liable to the County of
26 Riverside for costs of abatement and any damages suffered by the County, its agents and agencies, as a
27 result of such violations.

28 ///

1 **Section 16. RECOVERY OF ATTORNEYS' FEES IN NUISANCE ABATEMENT**
2 **CASES.**

3 In any action, administrative proceeding, or special proceeding to abate a nuisance, attorneys' fees
4 may be recovered by the prevailing party. In no action, administrative proceeding, or special proceeding
5 shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees
6 incurred by the County in the action or proceeding.

7 **Section 17. REMEDIES AND PENALTIES.**

8 All remedies and penalties provided for herein shall be cumulative and not exclusive. The
9 conviction and punishment of any person hereunder shall not relieve such person from the responsibility
10 of correcting, removing or abating the violation, nor prevent the enforced correction, removal or
11 abatement thereof. Each and every day during any portion of which any violation of this Ordinance or the
12 rules, regulations, orders, Permits or conditions of approval issued thereunder is committed, continued, or
13 permitted by such person, shall be deemed a separate and distinct offense.

14 **Section 18. SEVERABILITY**

15 If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any
16 person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or
17 applications of the provisions of this Ordinance which can be given effect without the invalid provision or
18 application, and to this end, the provisions of this Ordinance are hereby declared to be severable.

19
20
21
22
23
24
25
26 ///
27 //
28 /

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Section 19. EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days after its adoption.

BOARD OF SUPERVISORS OF THE COUNTY
OF RIVERSIDE, STATE OF CALIFORNIA

By: _____

Chairman, Board of Supervisors

ATTEST:

CLERK OF THE BOARD

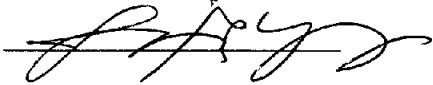
By: _____

Deputy

(SEAL)

APPROVED AS TO FORM

May 3, 2011

By: 

JINNY R. YANG

Deputy County Counsel