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February 8, 2016

**VIA HAND-DELIVERY**

Mr. Tim Stillings  
Director of Planning and Zoning  
City of Delray Beach  
100 NW 1<sup>st</sup> Avenue  
Delray Beach, Florida 33444

RECEIVED BY

FEB 08 2016

City of Delray Beach  
Planning & Zoning

**RE: ADMINISTRATIVE SIMILARITY OF USE DETERMINATION  
TATTOO STUDIO USE**

Dear Mr. Stillings:

Thank you for meeting with us on Friday, January 29, 2016, in your office to discuss my client, Tradition Tattoo (Mrs. Rebecca Loveless) and her desire to relocate her existing tattoo studio from the Boca Raton to Delray Beach. As we discussed during that meeting, it has been our understanding that the City has historically hesitated to approve the siting of tattoo studios within any zoning district of Delray Beach but that such a decision was inconsistent with the recent case of *Buehrle v. City of Key West*, No. 14-15354, 2015 U.S. App. LEXIS 22782 (11th Cir. Dec. 29, 2015) which case held that cities may not preclude tattoo studios, citing First Amendment protections, and must reasonably provide for their establishment within a municipality.

In order to facilitate our client's relocation in the absence of any unnecessary judicial intervention, you have asked us to provide you with an analysis of Tattoo Studio uses and their similarity to other Permitted uses within the City. This analysis is authorized pursuant to LDR Section 1.4.1(C), which incorporates LDR Section 4.3.2(C)(1):

*Interpretation by Director: In situations where a specific use is not listed in examples provided under a type, the Director may determine that a specific use is allowable on the basis is identical to uses listed in examples. The Director shall maintain a list of such determinations.*

(Emphasis added).

All tattoo studios (referred to by statute as "Tattoo Establishments") and tattoo artists themselves are regulated by Sections 381.00771 – 381.00791, Florida Statutes. These statutes are found within Chapter 381, Florida Statutes, entitled "Public Health" and are further regulated by the Florida Department of Health pursuant to rules adopted and codified within Chapter 64E-28 of

the Florida Administrative Code entitled "Tattooing." These rules provide that both a Tattoo Artist as well as any Tattoo Establishment must be licensed by the State of Florida and regularly inspected. See, generally, <http://www.floridahealth.gov/ENVIRONMENTAL-HEALTH/tattooing/index.html>. For your records, we have included the statutory scheme and regulations governing these uses.

The Department of Health posts on its website those all license holders who are permitted to provide tattoo services within the City of Delray Beach, which list can be accessed here: <http://www.floridahealth.gov/statistics-and-data/eh-tracking-and-reporting/tattoos.html>. The list of City-approved and State-licensed Tattoo Establishments includes "Changes Faces Makeovers," located at 140 NE 2nd Avenue (zoned CBD); "Dr. Mylissa's Medical Boutique," located at 1425 S. Congress Avenue (zoned MROC); and "New Hue Permanent Makeup," located at 4600 Linton Blvd. (zoned SAD). We have included with this letter a copy of that listing.

Based upon these approved uses, it appears that a Tattoo Establishment use is identical to, and intended to fall within the same use category of "Personal Service Providers" as that term is defined within LDR Appendix "A" which provides as follows:

*(Beauty Salons, Spas, etc.) Commercial establishments providing personal services varying in range and scope including but not limited to hairstyling, manicuring, pedicures, facials, massages, etc.*

While we have reason to believe that these licensed providers outwardly market themselves as places to obtain "Permanent Makeup and Cosmetics," there is nothing within the City's Land Development Regulations or otherwise which precludes a lawful distinction between "permanent makeup" and utilizing the same tools, methods, inks, and processes elsewhere on a person's body. As the above-referenced federal case provides, the City can no more regulate the expression placed on someone's body, either through word or image, than it can where such expressive conduct occurs.

The only thing the City may lawfully regulate is the compatibility of the use with adjacent uses. Since the use occurs entirely within the premises, and is no different than other similar "permanent makeup" studios already openly authorized by the City, we believe that wherever Personal Service Providers are allowed, a Tattoo Establishment must be allowed as of right without further regulation. To create a separate definition and to regulate differently, would be to constrain free speech unreasonably.

In this instance, our client has identified what would otherwise appear to be compatible and suitable property located within the existing South Delray Shopping Center, 165 Avenue L, Delray Beach. This property appears to have a City zoning designation of GC and which use would therefore appear to be a Permitted Use pursuant to LDR Section 4.4.9(B)(4) (allowing "services and facilities including but not limited to ... barber and beauty shops and salons").

We respectfully request an expedited response to our letter so that our client may relocate her business to the City without unreasonable delay. She is between leases and therefore time is of the essence. Should you have any specific questions relating to the nature of the use, beyond the

answers provided during our meeting, please do not hesitate to ask. I thank you for your time and prompt response to this letter.

Very truly yours,



**JEFFREY C. EYNNE**

JCL:ek

Enclosures

Cc: Mark McDonnell, Assistant Director of Planning and Zoning  
Michael Dutko, Esq., Assistant City Attorney  
Ashlee Coosaia, EI

<u>County</u> ▲	<u>Name</u>	<u>Address</u>	<u>City</u>	<u>Date</u>	<u>Result</u>
Palm Beach	<u>Bodyvital LLC</u>	660 Linton Boulevard, Unit 113	Delray Beach	8/13/2015	Satisfactory  Show
Palm Beach	<u>Changing Faces Makeovers, Inc.</u>	140 NE 2nd Avenue	Delray Beach	4/7/2015	Satisfactory  Show
Palm Beach	<u>Dr. Mylissa's Medical Boutique</u>	1425 S Congress Avenue	Delray Beach	11/12/2015	Satisfactory  Show
Palm Beach	<u>Gregory D Albert MD PA</u>	6290 Linton Blvd, Unit 203	Delray Beach	12/8/2015	Satisfactory  Show
Palm Beach	<u>New Hue Permanent Makeup LLC</u>	4600 Linton Boulevard	Delray Beach	11/19/2015	Satisfactory  Show
Palm Beach	<u>Solid Image Tattoo</u>	3860 N Federal Highway	Delray Beach	6/24/2015	Satisfactory  Show
Palm Beach	<u>Solid Image Tattoo</u>	3860 N Federal Highway	Delray Beach	6/19/2015	Stop Use Issued  Show
Palm Beach	<u>Thomas L Tzikas</u>	526 SE 5th Ave	Delray Beach	3/25/2015	Satisfactory  Show



Gary R. Nikolits, CFA  
**Property Appraiser**  
 Palm Beach County

Homestead Exemption



Location Address 140 NE 2ND AVE  
 Municipality DELRAY BEACH  
 Parcel Control Number 12-43-46-16-01-075-0120  
 Subdivision DELRAY TOWN OF  
 Official Records Book 26867 Page 896  
 Sale Date JUN-2014

Legal Description TOWN OF DELRAY LT 12 (LESS W 4 FT ALLEY R/W) & NLY 41.75 FT OF LT 13  
 (LESS W 4 FT ALLEY R/W) BLK 75

**Owners**

ACM ENTERPRISES INCORPORATED

**Mailing address**

510 SUNSHINE DR  
 DELRAY BEACH FL 33444 1719

Sales Date	Price	OR Book/Page	Sale Type	Owner
JUN-2014	\$3,000,000	26867 / 0896	WARRANTY DEED	ACM ENTERPRISES INCORPORATED
AUG-2003	\$10	15929 / 1042	WARRANTY DEED	PINEAPPLE GROVE PARTNERS LLC
MAY-2003	\$1,200,000	15362 / 1717	WARRANTY DEED	SHOWCASE REALTY & CNTRCTNG INC
MAR-1998	\$100	10364 / 0397	QUIT CLAIM	MDS INC
JAN-1972	\$37,500	01998 / 1461	WARRANTY DEED	

No Exemption Information Available.

Number of Units 0 \*Total Square Feet 7182 Acres 0.3478  
 Use Code 1100 - STORES Zoning CBD - Central Business ( 12-DELRAY BEACH )

Tax Year	2015	2014	2013
Improvement Value	\$1,113,413	\$567,378	\$541,266
Land Value	\$757,500	\$593,880	\$530,250
Total Market Value	\$1,870,913	\$1,161,258	\$1,071,516

All values are as of January 1st each year

Tax Year	2015	2014	2013
Assessed Value	\$1,870,913	\$1,161,258	\$1,056,012
Exemption Amount	\$0	\$0	\$0
Taxable Value	\$1,870,913	\$1,161,258	\$1,056,012

Tax Year	2015	2014	2013
Ad Valorem	\$42,795	\$26,946	\$24,729
Non Ad Valorem	\$2,220	\$2,357	\$2,366
Total tax	\$45,015	\$29,303	\$27,095



Gary R. Nikolits, CFA  
**Property Appraiser**  
 Palm Beach County

Homestead Exemption **E-file**



Location Address 660 W LINTON BLVD  
 Municipality DELRAY BEACH  
 Parcel Control Number 12-43-46-29-24-001-0000  
 Subdivision LAVERS INTERNATL PLAZA PL 1  
 Official Records Book 26996 Page 389  
 Sale Date JUL-2014  
 Legal Description LAVERS INTERNATL PLAZA PL 1 TR A LAVERS INTERNATL PLAZA PL 2 PB51P3

**Owners**

LIP I LLC &  
 LIP II LLC  
 LIP III LLC

**Mailing address**

102 NE 2ND ST # 305  
 BOCA RATON FL 33432 3908

Sales Date	Price	OR Book/Page	Sale Type	Owner
JUL-2014	\$15,300,000	26996 / 0389	DEED OF TRUST	LIP I LLC &
JUL-2001	\$6,000,000	12726 / 1317	WARRANTY DEED	MARULLI ALFRED N JR TR
NOV-1996	\$6,230,000	09552 / 1529	WARRANTY DEED	
MAY-1991	\$3,500,000	06828 / 0740	WARRANTY DEED	
OCT-1989	\$100	06241 / 1113	CERT OF TITLE	

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No Exemption Information Available.

Number of Units 0 \*Total Square Feet 85357 Acres 7.6728  
 Use Code 1600 - SHOPPING CENTER Zoning PC - Planned Commercial ( 12-DELRAY  
 CMMITY BEACH )

Tax Year	2015	2014	2013
Improvement Value	\$6,121,892	\$5,279,719	\$4,939,301
Land Value	\$4,725,984	\$2,754,039	\$2,673,824
Total Market Value	\$10,847,876	\$8,033,758	\$7,613,125

All values are as of January 1st each year

Tax Year	2015	2014	2013
Assessed Value	\$10,847,876	\$7,623,000	\$6,930,000
Exemption Amount	\$0	\$0	\$0
Taxable Value	\$10,847,876	\$7,623,000	\$6,930,000

Tax Year	2015	2014	2013
Ad Valorem	\$237,284	\$172,380	\$159,760
Non Ad Valorem	\$35,935	\$37,460	\$37,588
Total tax	\$273,219	\$209,840	\$197,348



Gary R. Nikolits, CFA  
**Property Appraiser**  
 Palm Beach County

Homestead Exemption



Location Address 1585 S CONGRESS AVE  
 Municipality DELRAY BEACH  
 Parcel Control Number 12-43-46-19-38-001-0000  
 Subdivision LINTON SQUARE

Official Records Book 07407

Page 0956

Sale Date SEP-1992

Legal Description LINTON SQUARE ALL OF PLAT (LESS WLY 11 FT SW 20TH AVE R/W)

**Owners**

GATOR LINTON PARTNERS LTD

**Mailing address**

1595 NE 163RD ST  
 MIAMI FL 33162 4717

Sales Date	Price	OR Book/Page	Sale Type	Owner
SEP-1992	\$3,400,000	07407 / 0956	WARRANTY DEED	
JUN-1986	\$12,790,500	04925 / 0554	WARRANTY DEED	

No Exemption Information Available.

Number of Units	0	*Total Square Feet	105775	Acres	8.4718
Use Code	1600 - SHOPPING CENTER CMMITY	Zoning	MROC - Mixed Res' Office & Commercial ( 12-DELRAY BEACH )		

Tax Year	2015	2014	2013
Improvement Value	\$4,965,138	\$4,452,446	\$4,221,804
Land Value	\$2,758,130	\$2,728,977	\$2,583,210
Total Market Value	\$7,723,268	\$7,181,423	\$6,805,014

All values are as of January 1st each year

Tax Year	2015	2014	2013
Assessed Value	\$7,723,268	\$7,181,423	\$6,600,000
Exemption Amount	\$0	\$0	\$0
Taxable Value	\$7,723,268	\$7,181,423	\$6,600,000

Tax Year	2015	2014	2013
Ad Valorem	\$168,937	\$159,456	\$148,772
Non Ad Valorem	\$55,871	\$59,493	\$59,700
Total tax	\$224,808	\$218,949	\$208,472



Gary R. Nikolits, CFA  
**Property Appraiser**  
 Palm Beach County

Homestead Exemption



Location Address 4600 W LINTON BLVD  
 Municipality DELRAY BEACH  
 Parcel Control Number 12-42-46-25-20-008-0000  
 Subdivision MIDTOWN DELRAY  
 Official Records Book 24824 Page 1080  
 Sale Date OCT-2011  
 Legal Description MIDTOWN DELRAY TR H

**Owners**

LINTON GROVE LLC

**Mailing address**

50 E SAMPLE RD STE 400  
 POMPANO BEACH FL 33064 3552

Sales Date	Price	OR Book/Page	Sale Type	Owner
OCT-2011	\$10,250,000	24824 / 1080	WARRANTY DEED	LINTON GROVE LLC
JUN-2008	\$1,600,000	22730 / 0491	WARRANTY DEED	MIDTOWN MEDICAL LLC

No Exemption Information Available.

Number of Units \*Total Square Feet 33411 Acres 2.5828  
 Use Code 1900 - PROF OFFICES Zoning SAD - Special Activities ( 12-DELRAY BEACH )

Tax Year	2015	2014	2013
Improvement Value	\$8,249,797	\$6,954,332	\$6,580,613
Land Value	\$962,921	\$953,774	\$935,075
Total Market Value	\$9,212,718	\$7,908,106	\$7,515,688

All values are as of January 1st each year

Tax Year	2015	2014	2013
Assessed Value	\$8,698,917	\$7,908,106	\$7,515,688
Exemption Amount	\$0	\$0	\$0
Taxable Value	\$8,698,917	\$7,908,106	\$7,515,688

Tax Year	2015	2014	2013
Ad Valorem	\$194,138	\$175,592	\$167,642
Non Ad Valorem	\$7,675	\$8,176	\$8,200
Total tax	\$201,813	\$183,768	\$175,842



- b. The contaminated instruments and all other instruments, must be packaged properly and loaded correctly into the autoclave.
- c. The contaminated instruments must be sterilized by autoclave.
- 4. All sterilized instruments must be stored and handled in a manner that maintains sterility.
- 5. Autoclaves must be cleaned regularly and serviced at least once a year.
- 6. Each body-piercing salon utilizing autoclave sterilization techniques must post the sterilization procedures and ensure that personnel responsible for performing the sterilization procedures are adequately trained.
- 7. All staff must be trained in proper infection-control procedures.
- 8. Presterilized, prewrapped, disposable instruments may be used, but must be used in accordance with the manufacturer's instructions.
- (c) The body-piercing salon must be in compliance with s. 381.0098.

History.—s. 1, ch. 99-176.

**381.00771 Definitions of terms used in ss. 381.00771-381.00791.—As used in ss. 381.00771-381.00791, the term:**

- (1) "Active license or registration" means a current license or registration issued by the department that is not suspended or revoked.
- (2) "Department" means the Department of Health.
- (3) "Guest tattoo artist" means a person who is licensed, registered, or certified to practice tattooing in a jurisdiction outside of this state who is registered with the department to practice tattooing in this state.
- (4) "Operator" means a person designated by a tattoo establishment or temporary establishment to control the operation of the establishment.
- (5) "Stop-use order" means a written notice from the department to a licensee or registrant requiring him or her to remove any tattooing equipment or supplies, or cease conducting any particular procedures, because the equipment or supplies are not being used or the procedures are not being conducted in accordance with ss. 381.00771-381.00791 or any rule adopted under those sections.
- (6) "Tattoo" means a mark or design made on or under the skin of a human being by a process of piercing and ingraining a pigment, dye, or ink in the skin.
- (7) "Tattoo artist" means a person licensed under ss. 381.00771-381.00791 to practice tattooing.
- (8) "Tattoo establishment" means any permanent location, place, area, structure, or business where tattooing is performed.

(9) "Temporary establishment" means any location, place, area, or structure where tattooing is performed during, and in conjunction with, a convention or other similar event that does not exceed 14 consecutive days.

History.—s. 1, ch. 2010-220.

381.00773 Application of ss. 381.00771-381.00791; exemption.—

(1) Except for s. 381.00787, which applies to all persons, ss. 381.00771-381.00791 do not apply to a person licensed to practice medicine or dentistry under chapter 458, chapter 459, or chapter 466 who performs tattooing exclusively for medical or dental purposes.

(2) Sections 381.00771-381.00791 apply exclusively to the tattooing of human beings and do not apply to the tattooing of any animal.

History.—s. 2, ch. 2010-220.

381.00775 Tattoo artists; licensure; registration of guest tattoo artists.—

(1) Except as provided in s. 381.00773, a person may not tattoo the body of any human being in this state unless the person is licensed as a tattoo artist or registered as a guest tattoo artist under this section.

(2)(a) A person seeking licensure as a tattoo artist must apply to the department in the format prescribed by the department. An application must include:

1. The name and residence address of the applicant.
2. The name and street address of each tattoo establishment and temporary establishment at which the applicant intends to practice tattooing in this state.

(b) The department shall issue a license to an applicant who:

1. Is 18 years of age or older.
2. Submits a completed application.
3. Pays the applicable license fee established in s. 381.00781.
4. Submits proof of successful completion of an education course approved by the department on blood-borne pathogens and communicable diseases.
5. Submits proof of passage of an examination approved by the department on the material presented in the education course.

(c) The department shall approve one or more education courses and examinations that allows a person to complete the requirements of subparagraphs (b)4. and 5. in person or through an Internet website.

(d) A tattoo artist must, within 30 days after a change, notify the department of any change in the following information disclosed in his or her most recent application for issuance or renewal of his or her tattoo artist license in the format prescribed by the department:

1. The name and residence address of the tattoo artist.
2. The name and street address of each tattoo establishment in this state at which the tattoo artist has practiced tattooing for more than 14 days since the most recent renewal of his or her tattoo artist license or, if the license has not been renewed, since the license was issued.

(3)(a) A person seeking registration as a guest tattoo artist must apply to the department in the format prescribed by the department. An application must include:

1. The name and residence address of the applicant.
2. The name and street address of each tattoo establishment and temporary establishment at which the applicant will practice under the guest tattoo artist registration.

(b) The department shall issue a guest tattoo artist registration to an applicant who:

1. Is 18 years of age or older.
2. Submits a completed application.
3. Pays the applicable registration fee established in s. 381.00781.
4. Holds an active license, registration, or certification issued by a jurisdiction outside this state, whether by another state, the District of Columbia, any possession or territory of the United States, or any foreign jurisdiction, if:
  - a. The education and examination requirements of the license, registration, or certification substantially meet or exceed the requirements of subparagraphs (2)(b)4. and 5.; or
  - b. The applicant submits proof of successful completion of an education course approved by the department under subparagraph (2)(b)4. and proof of passage of an examination approved by the department under subparagraph (2)(b)5.

(4)(a) A tattoo artist license is valid for 1 year and must be renewed annually.

(b) A guest tattoo artist registration is valid for 14 days. A guest tattoo artist may apply for reregistration before or after expiration of his or her current registration.

(5) A license or registration issued by the department under this section is not transferable.

History.—s. 3, ch. 2010-220.

381.00777 Tattoo establishments; licensure; temporary establishments.—

(1)(a) Except as provided in s. 381.00773, a person may not tattoo the body of any human being in this state except at a tattoo establishment or temporary establishment licensed under this section.

(b) A person may not operate a tattoo establishment or temporary establishment in this state unless the establishment is licensed under this section.

(2) A person seeking licensure of a tattoo establishment must apply to the department in the format prescribed by the department. An application must include:

- (a) The registered business name, including any fictitious names under which the tattoo establishment conducts business in the state.
  - (b) The street address and telephone number of the tattoo establishment.
  - (c) The name, mailing address, and telephone number of the tattoo establishment's operator.
  - (d) The name and address of the tattoo establishment's registered agent for service of process in the state.
- (3) The department shall issue a tattoo establishment license to an applicant, if:
- (a) The applicant submits a completed application.
  - (b) The applicant pays the applicable license fee established in s. 381.00781.
  - (c) The establishment complies with all applicable local building, occupational, zoning, and health codes.
- (4) A temporary establishment must meet the same requirements for licensure as a permanent tattoo establishment.
- (5)(a) A license is valid only for the location listed on the license. A tattoo establishment must notify the department in the format prescribed by the department before any change of the licensed location. A tattoo establishment with more than one location must obtain a separate license for each location.
- (b) A tattoo establishment license is valid for 1 year and must be renewed annually.
  - (c) A temporary establishment license is valid for the duration of a convention or other similar event for which the license is issued not to exceed 14 consecutive days.
- (6) A license issued by the department under this section is not transferable.

History.—s. 4, ch. 2010-220.

**381.00779 Practice requirements.—**

- (1) A tattoo establishment or temporary establishment must:
- (a) Display an active license for the establishment in a manner that is easily visible to the public at all times while tattooing is performed at the establishment.
  - (b) Ensure that each tattoo artist and guest tattoo artist, while practicing tattooing at the establishment, meets all applicable requirements of ss. 381.00771-381.00791.
  - (c) Maintain sanitary conditions of the establishment at all times.
  - (d) Comply with all state and local health codes and ordinances.
  - (e) Allow the department to inspect the establishment pursuant to subsection (4).
  - (f) Comply with s. 381.0098 and rules adopted under that section.
- (2) A tattoo artist or guest tattoo artist must:

- (a) Display his or her active license in a manner that is easily visible to the public at all times while practicing tattooing.
  - (b) Practice tattooing exclusively at an establishment licensed under ss. 381.00771-381.00791.
  - (c) Maintain sanitary conditions of the establishment at all times.
  - (d) Comply with all state and local health codes and ordinances.
- (3) A tattoo artist or guest tattoo artist may tattoo the body of a minor child only to the extent authorized in s. 381.00787. A tattoo establishment or temporary establishment must keep, for the period prescribed by the department, each written notarized consent submitted under s. 381.00787(2)(c) by the parent or legal guardian of a minor child who is tattooed at the establishment.
- (4) The department may inspect and investigate each tattoo establishment and temporary establishment as necessary to ensure compliance with ss. 381.00771-381.00791. However, the department shall inspect each tattoo establishment at least annually and shall inspect each temporary establishment before and, as necessary, during a convention or similar event with which the establishment is connected.

History.—s. 5, ch. 2010-220.

381.00781 Fees; disposition.—The department shall establish by rule the following fees:

- (1) For the initial licensure of a tattoo establishment and the renewal of such license, a fee not to exceed \$250 per year.
- (2) For licensure of a temporary establishment, a fee not to exceed \$250.
- (3) For the initial licensure of a tattoo artist and the renewal of such license, a fee not to exceed \$150 per year.
- (4) For registration or reregistration of a guest tattoo artist, a fee not to exceed \$45.
- (5) For reactivation of an inactive tattoo establishment license or tattoo artist license. A license becomes inactive if it is not renewed before the expiration of the current license.

History.—s. 6, ch. 2010-220; s. 38, ch. 2012-184.

381.00783 Grounds for discipline; administrative penalties.—

- (1) The following acts constitute grounds for which disciplinary action specified in subsection (2) may be taken by the department against any tattoo establishment, temporary establishment, tattoo artist, guest tattoo artist, operator of a tattoo establishment, or unlicensed person engaged in activities regulated under ss. 381.00771-381.00791:
- (a) Providing false information on an application for licensure or registration.
  - (b) Violating a state or local health code or ordinance.
  - (c) Violating any provision of ss. 381.00771-381.00791, rule adopted under those sections, or lawful order of the department.

- (d) Being found guilty of or pleading nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of tattooing or the operation of a tattoo establishment or temporary establishment.
  - (e) Committing fraud, deceit, negligence, or misconduct in the practice of tattooing or the operation of a tattoo establishment or temporary establishment.
  - (f) Aiding, procuring, or assisting a person to unlawfully practice tattooing or unlawfully operate a tattoo establishment or temporary establishment.
  - (g) Failing to keep the written notarized consent of the parent or legal guardian of a minor child who is tattooed at a tattoo establishment or temporary establishment for the period specified pursuant to s. 381.00779(3) or knowingly making false entries in a parent's or legal guardian's written notarized consent.
- (2) When the department determines that a person commits any of the acts set forth in subsection (1), the department may enter an order imposing one or more of the following penalties:
- (a) Refusal to issue a license or registration or renew a license.
  - (b) Suspension or revocation of a license or registration.
  - (c) Imposition of an administrative fine not to exceed \$1,500 for each count or separate violation.
  - (d) Issuance of a reprimand.
  - (e) Placement of the licensee or registrant on probation for a specified period and subject to the conditions that the department may specify.
  - (f) Issuance of a stop-use order.
  - (g) Corrective action.
- (3) The department shall impose stricter penalties for the repetition of violations and as the severity of violations escalate, distinguishing lesser violations from those that endanger the public health.
- (4) Disciplinary proceedings shall be conducted as provided in chapter 120.

History.—s. 7, ch. 2010-220.

**381.00785 Criminal penalties.—**

- (1) A person may not:
- (a) Operate a tattoo establishment or temporary establishment in this state without a license.
  - (b) Practice tattooing in this state without a tattoo artist license or guest tattoo artist registration, except as provided in s. 381.00773.
  - (c) Practice tattooing in this state at any place other than a tattoo establishment or temporary establishment, except as provided in s. 381.00773.

(d) Obtain or attempt to obtain a license or registration by means of fraud, misrepresentation, or concealment.

(2) A person who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 8, ch. 2010-220.

381.00787 Tattooing prohibited; penalty.—

(1) A person may not tattoo the body of a minor child younger than 16 years of age unless the tattooing is performed for medical or dental purposes by a person licensed to practice medicine or dentistry under chapter 458, chapter 459, or chapter 466.

(2) A person may not tattoo the body of a minor child who is at least 16 years of age, but younger than 18 years of age, unless:

(a) The minor child is accompanied by his or her parent or legal guardian;

(b) The minor child and his or her parent or legal guardian each submit proof of his or her identity by producing a government-issued photo identification;

(c) The parent or legal guardian submits his or her written notarized consent in the format prescribed by the department;

(d) The parent or legal guardian submits proof that he or she is the parent or legal guardian of the minor child; and

(e) The tattooing is performed by a tattoo artist or guest tattoo artist licensed under ss. 381.00771-381.00791 or a person licensed to practice medicine or dentistry under chapter 458, chapter 459, or chapter 466.

(3) A person who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. However, a person who tattoos the body of a minor child younger than 18 years of age does not violate this section, if:

(a) The person carefully inspects what appears to be a government-issued photo identification that represents that the minor child is 18 years of age or older.

(b) The minor child falsely represents himself or herself as being 18 years of age or older and presents a fraudulent identification.

(c) A reasonable person of average intelligence would believe that the minor child is 18 years of age or older and that the photo identification is genuine, was issued to the minor child, and truthfully represents the minor child's age.

History.—ss. 1, 2, ch. 59-439; s. 1, ch. 69-118; s. 1148, ch. 71-136; s. 1, ch. 77-174; s. 124, ch. 92-149; s. 23, ch. 93-260; s. 1426, ch. 97-102; s. 9, ch. 2010-220.

Note.—Former s. 877.04.

**381.00789 Rulemaking.**—The department shall adopt rules to administer ss. 381.00771-381.00791. Such rules may include, but are not limited to, rules defining terms; prescribing educational requirements for tattoo artists and guest tattoo artists, health and safety requirements, sanitation practices, and sterilization requirements and procedures; and providing requirements for tattoo equipment, customer notification, the contents of customer records, the retention of records, and physical plants. The department shall consult with representatives of the tattooing industry in this state during the development of such rules.

History.—s. 10, ch. 2010-220.

**381.00791 Local laws and ordinances.**—Sections 381.00771-381.00791 do not preempt any local law or ordinance of a county or municipality that imposes regulations on tattoo establishments, temporary establishments, tattoo artists, or the practice of tattooing which are in addition to those sections.

History.—s. 11, ch. 2010-220.



## CHAPTER 64E-28 TATTOOING

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### **64E-28.001 Scope of Chapter Rules.**

These rules provide minimum standards relating to tattoo artists and tattoo establishments, including licensure and registration requirements, operational requirements, standards of practice, and a fee schedule.

*Rulemaking Authority 381.00789 FS. Law Implemented 381.00787, 381.00791 FS. History—New 9-5-12.*

### **64E-28.002 Definitions.**

(1) Alcohol-based hand sanitizer – An antimicrobial skin sanitizer which contains a minimum concentration of at least 60% alcohol.

(2) Aseptic technique – Practices used by a tattoo artist to prevent cross contamination.

(3) Compromised package – A wet, torn, or stained package.

(4) Contaminated – means the presence of disease-causing organisms on inanimate objects or surfaces.

(5) Cross contamination -- The act of spreading disease-causing organisms from one surface to another.

(6) Department – The Department of Health and its representative county health departments.

(7) Disinfect – The use of a product registered with the United States Environmental Protection Agency (USEPA) as a tuberculocidal disinfectant which results in the reduction in the number of disease-causing organisms on objects or surfaces, thereby rendering them safe for handling and use.

(8) Equipment – All machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks and all other apparatus and appurtenances used in connection with the operation of a tattoo establishment.

(9) Fixed – Incapable of being moved.

(10) Government-issued photo identification – A document issued by a state, federal, or foreign government containing the photo of the person it is identifying.

(11) Inactive license – A tattoo establishment or artist license which has not been renewed on or before the date of expiration.

(12) Instruments – Hand pieces and other tools that may come in contact with a customer's body or be exposed to body fluids during tattooing procedures.

(13) Minor – An individual who is less than eighteen (18) years of age.

(14) Person – Any individual, partnership, corporation, association, or public body.

(15) Registered business name – The name, as registered with the Department of State, under which a tattoo establishment operates.

(16) Registered agent for service of process – A person, as registered with the Department of State, authorized by a tattoo establishment to receive legal notices for the establishment.

(17) Single-use – means products or items that are intended for one-time, one-person use and are disposed of after use on each customer, such as cotton swabs or balls, gauze pads, tissues or paper products, sanitary coverings, razors, instruments that pierce the skin, and protective gloves.

(18) Spore strip – A device used to monitor the sterilization process in a steam autoclave to ensure destruction of *Geobacillus stearothermophilus* spores.

(19) Sterilization – The use of a steam autoclave to destroy all forms of microbial life, including spores.

(20) Tattoo artist – A tattoo artist as defined in Section 381.00771, F.S., including an artist who performs cosmetic tattooing.

(21) Unobstructed access – A situation where an artist can wash their hands and return to the tattooing area without recontaminating their hands by handling an object such as a door knob.

**64E-28.003 Licensure Requirements for a Tattoo Artist.**

(1) An applicant seeking initial licensure as a tattoo artist shall submit a completed application for licensure to the department on form DH 4147, 8/12, Application for Tattoo Artist License, which is incorporated herein by reference and which can be obtained from the environmental health section of the county health department, which has jurisdiction for the tattooing program in the county where the tattoo artist lives, or from the internet at <https://www.flrules.org/Gateway/reference.asp?No=Ref-01524> or <http://www.myfloridaeh.com/community/Tattoo/index.html>. An application shall be considered complete if all of the information requested on the form is provided, along with the fee specified in Rule 64E-28.011, F.A.C., and the following documentation is attached:

- (a) A copy of a government issued photo identification confirming the applicant is at least 18 years of age.
- (b) A copy of the certificate of training proving completion of a department approved course on blood-borne pathogens and communicable diseases with having achieved a minimum score of seventy percent (70%) on the course examination.
- (2) A tattoo artist's license is valid, throughout the state of Florida, for one year from the date it is issued.
- (3) A tattoo artist seeking licensure renewal shall:
  - (a) Annually, submit a completed application for license renewal on Form DH 4147 before the date of expiration.
- 1. An application shall be considered complete if all of the information requested on the form is provided, along with the fee specified in Rule 64E-28.011, F.A.C.
- 2. A license which has not been renewed on or before the date of expiration shall be deemed inactive. If this day falls on a weekend or holiday, a tattoo artist license must be renewed on or before the first working day after the date of expiration.
- (b) Not perform tattooing without an active license.
- (4) A tattoo artist license shall not be transferrable from one person to another.

*Rulemaking Authority 381.00789 FS. Law Implemented 381.00771, 381.00775, 381.00779, 381.00781 FS. History—New 9-5-12.*

**64E-28.004 Registration Requirements for a Guest Tattoo Artist.**

- (1) A guest tattoo artist seeking registration by the department shall:
  - (a) Submit, at least fourteen (14) days prior to practicing tattooing in any licensed tattoo establishment or licensed temporary tattoo establishment, a completed application for registration to the department on Form DH 4150, 7/12, Application for Guest Tattoo Artist Registration, which is incorporated herein by reference and which can be obtained from the environmental health section of the county health department, which has jurisdiction for the tattooing program in the county where the tattoo artist lives, or from the internet at <https://www.flrules.org/Gateway/reference.asp?No=Ref-01525> or <http://www.myfloridaeh.com/community/Tattoo/index.html>. An application shall be considered complete if all of the information requested on the form is provided, along with the fee specified in Rule 64E-28.011, F.A.C., and the following documentation is attached:
    - 1. A copy of a government issued photo identification confirming the applicant is at least 18 years of age.
    - 2. A copy of an active license, registration, or certification in another jurisdiction.
    - 3. A copy of the certificate of training proving completion of a course on blood-borne pathogens and communicable diseases, which meets the requirements specified in paragraph (b).
  - (b) Complete a department approved course on blood-borne pathogens and communicable diseases with having achieved a minimum score of seventy percent (70%) on the course examination.
    - 1. Completion of the educational course mentioned in paragraph (b), shall not be required when a tattoo artist has completed a blood-borne pathogens and communicable diseases course as a requirement for license, registration, or certification in a jurisdiction outside of the state and, as determined by the department, the course requirements met or exceeded those prescribed in Sections 381.00775(2)(b)4. and 5., F.S., and Rule 64E-28.006, F.A.C.
    - 2. A tattoo artist may submit a course curriculum to the department and request the department conduct a review for determination of the requirements specified in subparagraph (1)(b)1. Requests for curriculum review shall be submitted prior to submission of a completed application for registration of a guest artist.
- (2) A guest tattoo artist's registration is valid for up to fourteen (14) consecutive days, throughout the State of Florida.
- (3) A guest tattoo artist shall not perform tattooing without an active guest tattoo artist registration.
- (4) A guest tattoo artist registration shall not be transferrable from one person to another.

*Rulemaking Authority 381.00789 FS. Law Implemented 381.00775 FS. History—New 9-5-12.*

#### **64E-28.005 Licensure Requirements for a Tattoo Establishment.**

##### **(1) Licensure of a permanent tattoo establishment:**

(a) Prior to performing tattooing, a completed application shall be submitted to the county health department on form DH 4151, 8/12, Application for Tattoo Establishment Licensure, which is incorporated herein by reference and which can be obtained from the environmental health section of the county health department, which has jurisdiction for the tattooing program in the county where the establishment is physically located, or from the internet at <https://www.flrules.org/Gateway/reference.asp?No=Ref-01526> or <http://www.myfloridaeh.com/community/Tattoo/index.html>. An application shall be considered complete if all of the information requested on the form is provided, along with the fee specified in Rule 64E-28.011, F.A.C.

(b) A license for a tattoo establishment is valid for one year from the date it is issued.

(c) A license which has not been renewed on or before the date of expiration shall be deemed inactive. If this day falls on a weekend or holiday, a tattoo artist license must be renewed on or before the first working day after the date of expiration.

##### **(2) Licensure of a temporary tattoo establishment:**

(a) A completed application to be submitted to the county health department on form DH 4151 at least thirty (30) days prior to performing tattooing. An application shall be considered complete if all of the information requested on the form is provided, along with the fee specified in Rule 64E-28.011, F.A.C.

(b) A license for a temporary tattoo establishment is valid for up to fourteen (14) consecutive days in conjunction with a convention or similar event for which the license is issued.

(3) No tattooing shall be performed at an establishment that does not have an active license.

(4) A tattoo establishment license shall not be transferrable from one location or person to another.

*Rulemaking Authority 381.00789 FS. Law Implemented 381.00777 FS. History--New 9-5-12.*

#### **64E-28.006 Education Course Requirements.**

(1) All educational courses per Section 381.00775(2)(b)4., F.S., shall be approved by the department. Any person seeking approval of an education course shall submit a request for determination of compliance with the requirements of this rule to the Department of Health, Bureau of Community Environmental Health, 4052 Bald Cypress Way, Bin #A08, Tallahassee, FL 32399. All requests for course approval shall be handled in accordance with Section 120.60, F.S. Requests for course approval shall include submission of the following documentation:

(a) A copy of the credentials of trainers and persons compiling the curriculum.

(b) A copy of the curriculum.

(c) Copies of training materials.

(d) A copy of the test to be given.

(e) A copy of the answers to the test questions.

(f) A copy of the certificate of training to be issued.

(2) The course shall meet the following criteria:

(a) Utilize a classroom-based or internet-based delivery method.

(b) Be specific to the tattoo industry.

(c) Be a minimum of three (3) hours in length, excluding the examination.

(d) Include an opportunity for interactive questions and answers with the person conducting the training.

(e) Include, at a minimum, education and training on blood-borne pathogens, such as human immunodeficiency virus and hepatitis B and C viruses, and communicable diseases, such as hepatitis A, staphylococcal including those of methicillin-resistant *Staphylococcus aureus*, tuberculosis, impetigo, scabies, ringworm, molluscum contagiosum, herpes simplex, and herpes zoster, and the prevention of such transmission. This information shall include:

1. Identification of the disease;

2. Identification of the infectious agent;

3. Mode of transmission;

4. Incubation period;

5. Period of communicability; and

6. Prevention of transmission in a tattoo setting.

(f) Be followed by a written examination covering the materials in the course. The examination shall contain a minimum of fifty (50) questions with a passing score of at least seventy percent (70%).

(g) Ensure identity verification and validation for each student taking the internet or classroom course and test.

(3) In addition to that specified in paragraphs (2)(b)-(g) above, internet-based courses shall meet the following criteria:

- (a) Each course section shall have a minimum time to finish that section before it is possible to move on to the next section.
- (b) Identity verification and validation shall occur prior to the initiation of the internet course, using an identity verifying technology that seeks verification through internet databases using information that is specific to the student's identity. Following initial identity verification, validation shall occur at least every hour during the course and prior to completing the test.
- (c) The course shall automatically terminate when a student fails to answer an identity validation question during a 60-second response time period or a student provides more than one incorrect answer to a validation question. Upon termination, a one-hour waiting period is required before the student is allowed to register again.
- (d) At a minimum, the course provider shall include on the internet registration form, initial blocks in which the student indicates agreement with the following information:
1. That the student who registers for the course is the person taking the course.
  2. That the student will be asked time-limited identity validation questions during the internet course. The validation questions will ask the student questions about themselves based on information provided by them and obtained through internet databases as described in paragraph (b), above. Failure by a student to answer an identity validation question during a 60-second response time period or a student providing more than one incorrect answer to an identity validation question will cause the course to automatically terminate. Upon termination, a 1-hour waiting period is required before the student is allowed to register again.
- (e) A student shall be prevented from proceeding with the internet course should they fail to indicate agreement with each stipulation listed in paragraph (d) above.
- (f) A subject matter expert representing the course provider shall be available by telephone or via electronic means during normal business hours to assist students.
- (4) In order to ensure that the requirements of this rule section are met, the department may annually register and take the course, as any interested student would.
- (5) The course provider shall notify the department in writing within 30 days of determining that a student has attempted or acquired certification by committing fraud, deceit, false statements, or perjury. When this is determined, the course provider shall revoke the certificate.
- (6) Any reference to department approval shall state no more than: "This course is approved by the Florida Department of Health for tattoo artist licensure under Section 381.00775, F.S. and Chapter 64E-28, F.A.C."
- (7) Course approval is not transferrable from person to person.

*Rulemaking Authority 381.00789 FS. Law Implemented 381.00775 FS. History—New 5-15-12.*

#### **64E-28.007 Operational Requirements for a Tattoo Establishment.**

- (1) Tattoo establishments shall have walls, a floor, and a ceiling. Floors and walls located in the tattooing area, the area where items are cleaned and sterilized, and in the restrooms shall be constructed of non-absorbent, easily cleanable materials. The entire establishment shall be maintained in clean condition and good repair.
- (2) There shall not be a direct opening between a tattoo establishment and any building or portion of a building used as living or sleeping quarters. This shall be accomplished, at a minimum, by a solid floor to ceiling wall of separation.
- (3) A tattoo establishment shall not be located in an area where food is prepared.
- (4) Eating and drinking, except for the purpose of administering first aid, and smoking are prohibited in areas where tattooing is performed or where instruments and supplies are cleaned and stored.
- (5) Water supplies shall comply with the provisions of Chapter 64E-8 or 62-550, F.A.C.
- (6) Sewage disposal shall comply with the provisions of Chapter 64E-6 or 62-200, F.A.C.
- (7) The establishment shall use effective measures to protect against the entrance, breeding, and presence of vermin, such as insects and rodents. Openings to the outside shall be protected by such means as self-closing doors, closed windows, or screening. If screening is used, it shall not be less than sixteen (16) mesh to the inch.
- (8) Animals shall not be allowed in a tattoo establishment, except as provided under Section 413.08, F.S. Aquariums with fish shall be allowed in waiting rooms and non-procedural areas only.
- (9) Each tattoo establishment shall have an artificial light source equivalent to at least one hundred (100) foot candles in the tattooing area and in the area where items are cleaned and sterilized.
- (10) Restrooms shall be supplied with toilet tissue, a hand sink supplied with running water under pressure, liquid soap, a dispenser with single-use paper towels, and a waste receptacle. Signage shall be posted in the restroom to instruct employees that they must thoroughly wash their hands before returning to work.
- (11) A handsink with unobstructed access shall be located within each tattoo area or centrally located within the overall workroom area, so that each tattoo artist has access to the handsink for handwashing.

(a) The handsink shall be supplied with running water under pressure, liquid soap, a dispenser with single-use paper towels, and a waste receptacle.

(b) A restroom handsink may be used as the handsink provided that it is located within the tattoo establishment and it meets the above stated requirements.

(12) At a minimum, contaminated, reusable items shall be cleaned manually in a sink, separate from the handsink(s), or mechanically in an ultrasonic machine prior to sterilization.

(a) If items are manually cleaned in a sink, the sink shall be deep enough to allow complete submersion of the items. Gloves shall be worn when manual cleaning is performed.

(b) If items are cleaned in an ultrasonic machine, the machine shall be used in accordance with the manufacturer's instructions, which shall be available for review by the department at the time of inspection.

(c) After cleaning, items shall be rinsed and allowed to air dry or shall be dried with single-use paper towels prior to packaging for sterilization.

(d) If only individually packaged, pre-sterilized, single-use items are used in the establishment, the cleaning sink and ultrasonic machine requirements do not apply.

**(13) A tattoo establishment shall have a steam autoclave for sterilizing instruments.**

(a) The autoclave shall be used in accordance with the manufacturer's instructions for packaging, loading, and processing items.

(b) The autoclave shall be maintained to ensure proper operation.

1. The autoclave shall be cleaned at the frequency recommended by the manufacturer and shall be serviced at least once a year or at the frequency recommended by the manufacturer.

2. A copy of the manufacturer's instructions for operating, cleaning, and servicing the autoclave shall be maintained in the tattoo establishment and shall be available for review by the department at the time of an inspection.

(14) When using an autoclave, sterilization shall be verified through:

(a) A chemical indicator strip placed inside one packet in each load to monitor the sterilization procedure. The strip must indicate exposure to steam and the autoclave operating temperature.

(b) Testing with spore strips at a minimum frequency of every 40 hours of operation of the autoclave, but not less than on a quarterly basis.

1. Test results shall be confirmed by an independent laboratory.

2. In the event of positive results, the autoclave shall be immediately taken out of service and all unused items processed in the autoclave since the most recent negative test results shall be considered non-sterile.

3. While the autoclave remains out of service, tattooing may continue provided either another properly functioning autoclave is placed in service in the establishment or all single-use, pre-sterilized instruments are used.

4. When the improperly functioning autoclave has been restored to proper function, which shall be confirmed by follow-up testing, it may be placed back in service.

**(15) Each tattoo establishment shall maintain autoclave sterilization records onsite.** The records shall, at a minimum, include the following information:

(a) Autoclave log showing cumulative run time, quantity and types of items sterilized on a given date, and the date spore strip testing was conducted.

(b) Spore strip results provided by an independent laboratory.

(16) If only individually packaged, pre-sterilized, single-use items are used, an autoclave shall not be required nor the requirements specified in subparagraphs 12., 13., 14., and 15. of this section.

(a) Individually packaged, pre-sterilized, single-use items shall be sterilized with ethylene gas or gamma rays and shall be labeled with the expiration date by the manufacturer.

(b) If a package containing pre-sterilized, single-use items has been compromised, the contents shall be discarded.

(17) Packages of sterile items, which are sterilized by the tattoo establishment, shall be labeled with the date of autoclaving. If any package has been compromised, the items shall be re-sterilized.

(18) All packages of sterile items shall be stored in a clean, dry, covered container or in a clean, dry cabinet until just prior to use.

(19) Work chairs, tables, stands, cabinets, and counter tops shall have a smooth, non-porous, easily cleanable surface, and shall be cleaned and disinfected after each customer.

(20) If any liquid product is not in its original container, the container into which the product has been placed shall be labeled with the name of the product.

(21) Each tattoo establishment shall maintain the following records:

(a) Customer records, including parental consent;  
(b) Autoclave sterilization records and maintenance records;  
(c) Documentation identifying the method of sterilization utilized by the manufacturer if the information is not printed on the packaging of the item.

(d) The records stated in paragraphs (a), (b), and (c) above shall be maintained for two years with those records for the current licensing period maintained onsite in the establishment and available for review by the department at the time of inspection.

(e) Personnel records of each tattoo artist who works in the establishment. The record shall contain the tattoo artist's name, address, date of birth, and the license number issued by the department. Personnel records shall be maintained for at least 2 years after an artist's employment ends.

(22) A tattoo establishment shall allow the department to conduct, at minimum, annual inspections for the purpose of ensuring compliance with Sections 381.00771-.00791, F.S., and these rules. Results of each inspection shall be recorded on DH Form 4153, 7/12, Tattoo Establishment Inspection Report, herein incorporated by reference and which can be obtained at <https://www.flrules.org/Gateway/reference.asp?No=Ref-01527> or from the environmental health section of the county health department having jurisdiction.

(23) Biomedical waste shall be managed in accordance with Section 381.0098, F.S. and Chapter 64E-16, F.A.C. Regular solid waste shall be collected, stored and disposed of in a manner and at a frequency that does not create a sanitary nuisance, as defined in Chapter 386, F.S.

(24) Tattoo establishments, currently operating on the effective date of this rule, which are not in full compliance with the handsink and cleaning sink requirements shall have six months from the effective date of this rule to comply with the requirements.

*Rulemaking Authority 381.00789 FS. Law Implemented 381.00779 FS. History—New 9-5-12.*

#### **64E-28.008 Operational Requirements for a Temporary Tattoo Establishment.**

(1) A licensed temporary establishment shall meet the operational requirements set forth in Rule 64E-28.007, F.A.C., with the following exceptions.

(2) A temporary establishment shall have rigid perimeter walls, a rigid floor, and a rigid ceiling. Floors in the tattooing area and the area where items are cleaned and sterilized shall be constructed of nonabsorbent, easily cleanable materials. The entire establishment shall be maintained in clean condition and good repair.

(3) If any tattoo items are sterilized by an artist prior to a temporary event, spore test results confirmed by an independent laboratory, shall be available for review by the department at the time of inspection.

(4) A temporary establishment shall allow the department to conduct, at minimum, an initial inspection prior to and, if deemed necessary, during the convention or similar event for the purpose ensuring compliance with Sections 381.00771-.00791, F.S., and these rules. Results of each inspection shall be recorded on DH Form 4153, 7/12, Tattoo Establishment Inspection Report.

*Rulemaking Authority 381.00789 FS. Law Implemented 381.00779 FS. History—New 9-5-12.*

#### **64E-28.009 Standards of Practice for a Tattoo Artist or Guest Tattoo Artist.**

(1) A tattoo artist shall ensure that a customer record is completed for each customer. The record shall, at a minimum, include the following:

- (a) Name of tattoo artist.
- (b) Customer's name, age, and birthdate.
- (c) Description and location of tattoo on the customer's body.
- (d) Signature of the customer.
- (e) Signature of the artist.
- (f) Date(s) tattooing procedure is performed.

(2) Pursuant to Section 381.00787, F.S., a tattoo artist shall not tattoo the body of a minor less than sixteen (16) years of age.

(3) If tattooing a minor who is sixteen (16) or seventeen (17) years of age, a tattoo artist shall:

(a) Inspect copies of a government-issued photo identification for both the minor and for the parent or legal guardian of the minor. If the photo identification for the minor does not show a birth date, a copy of the minor's birth certificate shall be provided.

(b) Obtain a signed and notarized consent by the minor's parent or legal guardian on form DH 4146, 7/12, Written Notarized Consent For Tattooing of a Minor Child, Age 16 through 17 Years Old, which is incorporated herein by reference and which can be obtained from the environmental health section of the county health department, which has jurisdiction for the tattooing program in the county where the tattoo artist lives or the tattoo establishment is physically located, or from the internet at <https://www.flrules.org/Gateway/reference.asp?No=Ref-01528> or <http://www.myfloridaeh.com/community/Tattoo/index.html>.

- (c) Complete the requirements of subsection (1).
- (4) Prior to or after performing a tattoo procedure on a customer, a tattoo artist shall provide information on aftercare to the customer, both verbally and in writing.
- (5) Prior to setup for a tattoo procedure, a tattoo artist shall:
  - (a) Ensure that the skin area where a tattoo is to be applied is visibly healthy.
  - (b) Wash their hands thoroughly using liquid soap, rinse them, and dry them using single-use paper towels.
- (6) Prior to performing a tattoo procedure, a tattoo artist shall cleanse the area of the skin where the tattoo will be placed using a clean, single-use paper towel or pad and a solution labeled as an antiseptic. The antiseptic solution shall be used in accordance with the manufacturer's instructions.
- (7) If hair is to be removed from the area to be tattooed, either a single-use razor shall be used, or clippers which are capable of being disinfected. If hair removal is done after cleansing, the area shall be re-cleansed as specified in subsection (6) above.
- (8) While performing a tattoo procedure, a tattoo artist shall:
  - (a) Use aseptic techniques, including barrier covers on instruments and equipment that may come into contact with the tattoo artist or the customer during the tattoo procedure. Should an artist choose to not use a barrier cover on the tattoo machine, they must disinfect the machine upon completion of the tattoo procedure.
  - (b) Use only sterile needle bars, sterile needle tubes, and single-use, sterile needles.
  - (c) Wear new, disposable examination gloves, which shall be discarded after the completion of each single tattooing session.
    - 1. Should the gloves become torn, punctured, or otherwise contaminated outside the general scope of tattooing, or should the gloves come in contact with any object or surface other than the customer's skin or items being used in the procedure, the gloves shall be removed and discarded and the tattoo artist shall thoroughly wash their hands or apply an alcohol-based hand sanitizer and re-glove before resuming the tattoo session.
    - 2. In the event a tattoo artist must leave the tattooing area, the gloves shall be removed and discarded. The artist shall thoroughly wash their hands or apply an alcohol-based hand sanitizer and re-glove before resuming the tattoo session.
  - (d) Discard any sterile, single-use items that become contaminated and replace them with sterile items before resuming the procedure.
  - (e) Use a stencil that is single-use and clean. The product used to apply the stencil shall be packaged as a single dose or dispensed from a product container as a single customer dose.
  - (f) Any item used for freehand artistry on the customer shall be single-use and discarded after use unless an antiseptic is applied to the skin after marking the skin.
  - (g) Use inks, dyes, and pigments which are intended for tattooing.
    - 1. Inks shall be used in accordance with the manufacturer's instructions.
    - 2. Individual portions of inks, dyes, or pigments shall be dispensed into clean single-use cups for each customer.
  - (9) Any item which an artist adds to a tattoo machine to stabilize the needle shall be either single-use or a reusable item that has been disinfected.
  - (10) Upon completion of a tattooing procedure, a tattoo artist shall:
    - (a) Remove any excess ink from the customer's skin with a single-use clean paper towel or pad.
    - (b) Use a clean glove, single-use paper towel, or single-use pad to apply a moisturizing ointment or lotion that is packaged as a single dose or is dispensed from a product container as a single customer dose.
    - (c) If needed, cover the tattooed area with a clean nonstick bandage.
    - (d) Remove and discard any barriers used to cover instruments and equipment and disinfect both the tattoo machine and the work area with a tuberculocidal disinfectant registered with the USEPA.
    - (e) Remove any reusable instruments from the tattooing area in preparation for cleaning, rinsing, drying, and sterilization.
    - (f) Discard any unused ink, dye, or pigment.
    - (g) Thoroughly wash and rinse hands and dry them with clean single-use paper towels.

*Rulemaking Authority 381.00787, 381.00789 FS. Law Implemented 381.00779 FS. History—New 9-5-12.*

**64E-28.011 Fee Schedule.**

(1) Tattoo Artist License and Renewal	\$ 60.00
(2) Guest tattoo Artist Registration and Re-registration	\$ 35.00
(3) Tattoo Establishment License	\$200.00
(4) Temporary Establishment License	\$200.00
(5) Reactivation of Tattoo Artist License	\$ 25.00

(6) Reactivation of Tattoo Establishment License

\$ 75.00

*Rulemaking Authority 381.00789 FS. Law Implemented 381.00781 FS. History—New 9-24-12.*