



Requirements for Body Art Establishments

**Fargo Cass Public Health
1240 25th Street South
Fargo, ND 58103-2367**

History: Effective December 10, 2018

General Authority: Fargo Municipal Code Article 25-33, N.D. Admin Code Ch. 33-41-01

CITY OF FARGO REGULATIONS FOR OWNERS AND OPERATORS OF BODY ART ESTABLISHMENTS

The following regulations, promulgated by the Fargo Health Department and approved by resolution of the Board of City Commissioners of the City of Fargo on the 3rd day of December 2018, as authorized by Section 25-3303 of the Fargo Municipal Code, must be posted in all Body Art Establishments in a prominent location so that they may be read by clients and by operators of a Body Art Establishment.

Section

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Section I. Definitions

The following terms used in these regulations shall be defined as follows:

1. **"Aftercare"** means an agent that destroys disease-causing microorganisms on human skin or mucosa.
2. **"Antiseptic"** means an agent that destroys disease-causing microorganisms on human skin or mucosa.
3. **"Bloodborne Pathogen"** means a micro-organism that is present in human blood or in other bodily fluid or tissue which can cause a disease in humans, including the hepatitis B virus, the hepatitis C virus, and the human immunodeficiency virus, and for which testing is recommended by the United States public health service.
4. **"Body art"** means the practice of physical body adornment by permitted or licensed establishments and operators using techniques including body piercing, tattooing, cosmetic tattooing, branding, scarification, and subdermal implanting. This definition does not include, for the purpose of this article, piercing of the outer perimeter or lobe of the ear with presterilized single-use stud-and-clasp ear-piercing systems.
5. **"Body art establishment"** means any place or premise, whether public or private, temporary or permanent, in nature of location, where the practices of body art, whether or not for profit, are performed.

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6. **"Body piercing"** means puncturing or penetration of the skin of a person with presterilized single-use needles and the insertion of presterilized jewelry or other adornment thereto in the opening, except that puncturing the outer perimeter or lobe of the ear with a presterilized single-use stud-and-clasp ear-piercing system shall not be included in this definition.
7. **"Branding"** means inducing a pattern of scar tissue by use of a heated material (usually metal) to the skin, making a serious burn, which eventually becomes a scar.
8. **"Communicable disease"** means a disease or condition that causes serious illness, serious disability, or death, the infectious agent or which may pass or be carried, directly or indirectly, from the body of one person to the body of another.
9. **"Contaminated waste"** means any liquid or semiliquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semiliquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; sharps and any wastes containing blood and other potentially infectious materials, as defined in 29 Code of Federal Regulations part 1910.1030, known as "occupational exposure to bloodborne pathogens".
10. **"Cosmetic tattooing"** is included in the definition of tattooing.
11. **"Department"** means Fargo Cass Public Health, or its authorized representatives.
12. **"Disinfection"** means the destruction of disease-causing microorganisms on inanimate objects or surfaces, thereby rendering these objects safe for use or handling.
13. **"Ear piercing"** means the puncturing of the noncartilaginous perimeter or lobe of the ear with a presterilized single-use stud-and-clasp ear-piercing system following manufacturer's instructions. Under no circumstances shall ear-piercing studs and clasps be used anywhere on the body other than the outer perimeter and lobe of the ear.
14. **"Equipment"** means 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 body art establishment.
15. **"Gross incompetence"** means any serious lack of ability or knowledge to perform one's duty in a sanitary manner or failure to comply with these regulations. It shall also mean any conduct which endangers the public's health or safety.
16. **"Handsink"** means a lavatory equipped with hot and cold running water under pressure, used solely for washing hands, arms, or other portions of the body.
17. **"Hot water"** means water that attains and maintains a temperature of at least one hundred degrees Fahrenheit.
18. **"Instruments used for body art"** means hand pieces, needles, needle bars, and other instruments that may come in contact with a client's body or may be exposed to bodily fluids during body art procedures.
19. **"Invasive"** means entry into the body either by incision or insertion of an instrument into or through the skin of mucosa, or by any other means intended to puncture, break, or compromise the skin or mucosa.
20. **"Jewelry"** means any personal adornment inserted into a newly pierced area, which may be made of surgical implant-grade stainless steel; solid fourteen karat or eighteen karat white or yellow gold, niobium, titanium, or platinum; or a dense, low-porosity plastic, which is free of nicks, scratches, or irregular surfaces and which has been properly sterilized prior to use.

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21. **"License"** means written approval issued by the director of public health or any designee of the director of public health to operate a body art establishment.
22. **"Liquid chemical germicide"** means a disinfectant or sanitizer registered with the United States environmental protection agency or an approximately one-to-one hundred dilution of household chlorine bleach made fresh daily and dispensed from a spray bottle (five hundred parts per million, one-fourth cup per gallon, or two tablespoons per quart of tap water).
23. **"Mobile body art establishment or unit"** means a mobile establishment or unit, which is self-propelled or otherwise movable from place to place and is self-sufficient for utilities such as gas, water, electricity, and liquid waste disposal, which operates at a fixed location where a permitted or licensed operator performs body art procedures.
24. **"Operator"** means any person who controls, operates, manages, conducts, or practices body art activities at a body art establishment and who is responsible for compliance with these rules, whether actually performing body art activities or not. The term includes an assistant technician who works under the operator and performs body art activities.
25. **"Person"** means an individual, any form of business or social organization or any other nongovernmental legal entity, including corporations, partnerships, limited liability companies, associations, trusts, or unincorporated organizations.
26. **"Physician"** means a person currently licensed by the state of North Dakota to practice medicine pursuant to the provisions of chapter 43-17 of the North Dakota Century Code
27. **"Procedure room"** means the physical space or room used for performing body art procedures.
28. **"Procedure surface"** means any surface of an inanimate object that contacts the client's unclothed body during a body art procedure, skin preparation of the area adjacent to and including the body art procedure, or any associated work area, which may require sanitizing.
29. **"Sanitization procedure"** means a process of reducing the numbers of microorganisms on cleaned surfaces and equipment to a safe level as judged by public health standards and which has been approved by the department.
30. **"Scarification"** means altering the skin texture by cutting the skin and controlling the body's healing process in order to produce wounds, resulting in permanently raised wheals or bumps known as keloids.
31. **"Sharps"** means any objects (sterile or contaminated) that may purposefully or accidentally cut or penetrate the skin or mucosa, including presterilized, single-use needles; scalpel blades; and razor blades.
32. **"Sharps container"** means a puncture-resistant, leak-proof container that can be closed for handling, storage, transportation, and disposal and that is labeled with the international biohazard symbol.
33. **"Single-use"** means products or items that are intended for one-time, one-person use and are disposed of after use on each client, including cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, stencils, ink cups, and protective gloves.
34. **"Sterilization"** means a process resulting in the destruction of all forms of microbial life, including highly resistant bacterial spores.

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35. **"Tattooing"** means any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This term includes all forms of cosmetic tattooing.
36. **"Temporary Body Art Event"** means an event to promote body art, which lasts no longer than five consecutive days.
37. **"Ultrasonic unit"** means a unit approved by the department, physically large enough to fully submerge instruments in liquid, which removes all foreign matter from the instruments by means of high frequency oscillations transmitted through the contained liquid.
38. **"Universal precautions"** means a set of guidelines and controls, published by the centers for disease control and prevention (CDC) as "Guidelines for Prevention of Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Health Care and Public Safety Workers" in Morbidity and Mortality Weekly Report (MMWR), June 23, 1989, vol. 38, no. S-6, and as "Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures", in (MMWR), July 12, 1991, vol. 40, no. RR-8. This method of infection control requires the employer and the employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV, and other blood pathogens. Precautions include handwashing; gloving; personal protective equipment; injury prevention; and proper handling and disposal of needles, other sharp instruments, and blood-contaminated and body fluid-contaminated products.

Section II. Premises Requirements

The following are the requirements for construction, materials and general condition of a body art establishment:

- 2.1 All walls, floors, ceilings, and procedure surfaces of a body art establishment shall be smooth, free of open holes or cracks, light-colored, washable, and in good repair. Walls, floors, and ceilings shall be maintained in a clean condition. All procedure surfaces, including client chairs and benches, shall be of such construction as to be easily cleaned and sanitized after each client. All body art establishments shall be completely separated by solid partitions or by walls extending from floor to ceiling, from any room used for human habitation, any food establishment or room where food is prepared, any hair salon, any retail sales, or any other such activity that may cause potential contamination of work surfaces, exposed equipment, or client procedure sites.
- 2.2 Effective measures shall be taken by the body art operator to protect against entrance into the establishment and against the breeding or presence on the premises of insects, vermin, and rodents. Insects, vermin, and rodents shall not be present in any part of the establishment, its appurtenances, or appertaining premises.
- 2.3 There shall be adequate floor space for the operator in each procedure room. Each establishment shall have procedure rooms that may be closed or screened, or both, from public view for clients requesting privacy.

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- 2.4 The establishment shall be well-ventilated and provided with an artificial light source equivalent to at least twenty foot candles measured three feet off the floor, except that at least one hundred foot candles shall be provided at the level where the body art procedure is being performed, and where instruments and sharps are assembled.
- 2.5 No animals of any kind shall be allowed in a body art establishment except service animals used by persons with disabilities (e.g., seeing eye dogs). Fish aquariums shall be allowed in waiting rooms and nonprocedural areas.
- 2.6 A separate, readily accessible handsink with hot and cold running water, under pressure, preferably equipped with wrist-operated or foot-operated controls and supplied with liquid soap and disposable paper towels shall be readily accessible within the body art establishment. One handsink shall serve no more than three operators. In addition, there shall be a minimum of one lavatory, excluding service sinks, and one toilet in a body art establishment.
- 2.7 At least one covered waste receptacle shall be provided in each operator area and each toilet room. Receptacles in the operator area shall be emptied daily, and solid waste shall be removed from the premises at least weekly. All refuse containers shall be lidded, cleanable, and kept clean.
- 2.8 All instruments and supplies shall be stored in clean, dry, and covered containers.
- 2.9 Reusable cloth items shall be mechanically washed with detergent and chlorine bleach and dried after each use. The cloth items shall be stored in a dry, clean environment until used.

Section III. Body Art Operator Requirements

- 3.1 The following information shall be kept on file on the premises of a body art establishment and available for inspection by the department:
 - 3.1.1 Employee information:
 - 3.1.a Full names and exact duties;
 - 3.1.b Date of birth;
 - 3.1.c Gender;
 - 3.1.d Home address;
 - 3.1.e Home and work telephone numbers; and
 - 3.1.f Identification photos of all body art operator/technicians.
 - 3.1.2 Establishment information;
 - 3.2.a Establishment name;
 - 3.2.b Hours of operation; and
 - 3.2.c Owner's name and address.

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- 3.1.3 A complete description of all body art procedures performed.
- 3.1.4 An inventory of all instruments and body jewelry, all sharps, and all inks used for any and all body art procedures, including names of manufacturers and serial or lot numbers, if applicable. Invoices or orders shall satisfy this requirement.
- 3.1.5 A copy of these regulations.
- 3.2 The body art operator must be a minimum of eighteen years of age.
- 3.3 Smoking, eating, or drinking is prohibited in the area where body art is performed.
- 3.4 Operators shall refuse service to any person who, in the opinion of the operator, is under the influence of alcohol or drugs.
- 3.5 The operator shall be free of communicable diseases that may be transmitted to a patron, maintain a high degree of personal cleanliness, conform to hygienic practices, and wear clean clothes when performing body art procedures. Before performing body art procedures, operators must thoroughly wash their hands in hot running water with liquid soap, then rinse hands and dry with disposable paper towels. This shall be done as often as necessary to remove contaminants.
- 3.6 In performing body art procedures, the operator shall wear disposable medical gloves. Gloves must be changed if they become contaminated by contact with any non-clean surfaces or objects or by contact with a third person. The gloves shall be discarded, at a minimum, after the completion of each procedure on an individual client, and hands shall be washed before the next set of gloves is donned. Under no circumstances shall a single pair of gloves be used on more than one person. The use of disposable medical gloves does not preclude or substitute for handwashing procedures as part of a good personnel hygiene program.
- 3.7 If, while performing a body art procedure, the operator's glove is pierced or torn, or otherwise contaminated, the procedure delineated in subsection 3.6 shall be repeated immediately. The contaminated gloves shall be immediately discarded, and the hands washed thoroughly as described in subsection 3.6 before a fresh pair of gloves is applied. Any item or instrument used for body art that is contaminated during the procedure shall be discarded, and replaced immediately with a new disposable item or a new sterilized instrument or item before the procedure resumes.
- 3.8 Contaminated waste that may release liquid blood or body fluids when compressed or may release dried blood or body fluids when handled must be placed in an approved red bag marked with the international biohazard symbol. It must then be disposed of by a waste hauler approved by the department or, at a minimum, in compliance with 29 CFR part

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1910.1030, "occupational exposure to bloodborne pathogens". Sharps ready for disposal shall be disposed of in approved sharps containers. Contaminated waste that does not release liquid blood or body fluids when compressed or does not release dried blood or body fluids when handled may be placed in a covered receptacle and disposed of through normal, approved disposal methods. Storage of contaminated waste onsite shall not exceed the period specified by the department or more than a maximum of thirty days, as specified in 29 CFR part 1910.1030, whichever is less

- 3.9 No person shall perform any body art procedure upon a person under the age of eighteen years without the presence, written consent, and proper identification of a parent, legal custodial parent, or legal guardian. The age of all patrons must be verified by photo identification and documentation establishing the patron's age prior to the body art procedure being performed. Photo identification or other proper identification of all patrons under the age of eighteen years must be photocopied by the operator and maintained in the patron's record. Nothing in this section is intended to require an operator to perform any body art procedure on a person under eighteen years of age with parental or guardian consent.
- 3.10 Any skin or mucosa surface to receive a body art procedure shall be free of rash or any visible infection.
- 3.11 The skin of the operator shall be free of rash or infection. No person or operator affected with boils, infected wounds, open sores, abrasions, keloids, weeping dermatological lesions, or acute respiratory infection shall work in any area of a body art establishment in any capacity in which there is a likelihood that the person could contaminate body art equipment, supplies, or working surfaces with body substances or pathogenic organisms.
- 3.12 The operator shall be vaccinated against the hepatitis B virus. The operator is responsible for ensuring that all individuals working at the operator's establishment initiate the hepatitis B vaccination series within thirty days of starting work unless the individuals have previously received the complete hepatitis B vaccination series and can provide documentation to the department, antibody testing has revealed that the individual is immune, or the vaccine is contraindicated for medical reasons.
- 3.13 The operator shall be certified in cardiopulmonary resuscitation.
- 3.14 The operator shall be certified in Bloodborne Pathogen training.

Section IV. Public Notification Requirements

- 4.1 Verbal and written public educational information, approved by the department, shall be required to be given to all clients wanting to receive body art procedures. Verbal and written instructions, approved by the department, for the aftercare of the body art procedure site shall be provided to each client by the operator upon completion of the procedure.

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The written instructions shall advise the client to consult a physician at the first sign of infection and shall contain the name, address, and telephone number of the establishment. These documents shall be signed and dated by both parties, with a copy given to the client and the operator retaining the original with all other required records. In addition, all establishments shall prominently display a disclosure statement, provided by the department, which advises the public of the risks and possible consequences of body art services. The facility license holder shall also post in public view the name, address, and telephone number of the local or state department that has jurisdiction over this program and the procedure for filing a complaint. The disclosure statement and the notice for filing a complaint shall be included in the establishment license application packet.

- 4.2 All infections, complications, or diseases resulting from any body art procedure that become known to the operator shall be reported to the department by the operator within twenty-four hours.

Section V. Client Records

So that the operator can obtain knowledge about the client's health status for receiving a body art procedure, the operator or technician shall ask for the information as follows:

- 5.1 So your body art procedure heals properly, we ask that you disclose if you have or have had any of the following conditions:
- 5.1.1 Diabetes;
 - 5.1.2 History of hemophilia (bleeding);
 - 5.1.3 History of skin diseases, skin lesions, or skin sensitivities to soaps, disinfectants, etc.;
 - 5.1.4 History of allergies or adverse reactions to pigments, dyes, or other skin sensitivities;
 - 5.1.5 History of epilepsy, seizures, fainting, or narcolepsy;
 - 5.1.6 Use of medications such as anticoagulants, which thin the blood or interfere with blood clotting;
 - 5.1.7 Use of medications other than routine antibiotics, allergy medication, or birth control pills;
 - 5.1.8 Hepatitis;
 - 5.1.9 HIV positive;
 - 5.1.10 High blood pressure or heart disease;

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- 5.1.11 Pregnancy;
 - 5.1.12 Contagious diseases;
 - 5.1.13 Immune system disorder; or
 - 5.1.14 Serious physical or mental health problems.
- 5.2 The operator shall ask the client to sign a release form confirming that the information described in subsection 5.1 was obtained or that the operator attempted to obtain the information. The client shall be asked to disclose any other information that would aid the operator in evaluating the client's body art healing process.
- 5.3 Each operator shall keep records of all body art procedures administered, including client name and signature, date of birth, date, time, identification and location of the body art procedure performed, and the operator's name. If the client is a minor, proof of parental or guardian presence and consent must be obtained and signed and the record retained. All client records shall be confidential and be retained for a minimum of three years and made available to the department upon notification.
- 5.4 Nothing in this section shall be construed to require the operator to perform a body art procedure upon a client.

Section VI. Records Retention

- 6.1 The body art establishment shall keep a record of all persons who have had body art procedures performed. The record shall include the name, date of birth, and address of the client; the date and time of the procedure; the name of the operator who performed the procedures; type and location of procedure performed; and the signature of the client; and, if the client is a minor, proof of parental or guardian presence and consent, i.e., signature. Such records shall be retained for a minimum of three years and shall be available to the department upon request. The department and the body art establishment shall keep such records confidential.

Section VII. Preparation and Care of the Body Art Area

- 7.1 Before a body art procedure is performed, the immediate skin area and the areas of skin surrounding where the body art procedure is to be placed shall be washed with soap and water or an approved surgical skin preparation, depending on the type of body art to be performed. If shaving is necessary, single-use disposable razors or safety razors with single-service blades shall be used. Blades shall be discarded after each use, and reusable holders shall be autoclaved after use. Following shaving, the skin and surrounding area shall be washed with soap and water. The washing pad shall be discarded after a single use.

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- 7.2 In the event of blood flow, all products used to check the flow of blood or to absorb blood shall be single-use and disposed of immediately after use in appropriate covered containers, unless the disposal products meet the definition of biomedical waste. The use of styptic pencils or alum solids shall not be used to check the flow of blood.

Section VIII. Sanitation and Sterilization Procedures

- 8.1 All nonsingle-use, nondisposable instruments used for body art shall be cleaned thoroughly after each use by scrubbing with an appropriate soap or disinfectant solution and hot water or by following the manufacturer's instructions, to remove blood and tissue residue, and shall be placed in an ultrasonic unit also operated in accordance with the manufacturer's instructions.
- 8.2 After being cleaned, all nondisposable instruments used for body art shall be packed individually in peel-packs and subsequently sterilized as specified in subsection 8.3. All Peel-packs shall contain either a sterilizer indicator or internal temperature indicator. Peel-packs must be dated with an expiration date not to exceed six months.
- 8.3 All cleaned, non-disposable instruments and jewelry used for body art or that directly aid in body art procedures shall be sterilized in a steam autoclave or dry-heat sterilizer. (if approved by the department). The sterilizer shall be used, cleaned, and maintained according to manufacturer's instruction. A copy of the manufacturer's recommended procedures for the operation of the sterilization unit must be available for inspection by the department. Sterile equipment may not be used if the package has been breached or after the expiration date without first repackaging and resterilizing. Sterilizers shall be located away from workstations or areas frequented by the public. If the body art establishment uses only single-use, disposable instruments and products, and uses sterile supplies, an autoclave shall not be required.
- 8.4 Each holder of a license to operate a body art establishment shall demonstrate that the sterilizer used is capable of attaining sterilization by monthly spore destruction tests. These tests shall be verified through an independent laboratory. The license shall not be issued or renewed until documentation of the sterilizer's ability to destroy spores is received by the department. These test records shall be retained by the operator for a period of three years and made available to the department upon request.
- 8.5 Tattoo needles and piercing needles are not reusable under any circumstances. After use, all needles, razors, and other sharps shall be immediately disposed of in red sharps containers, appropriately labeled with the international biohazard symbol. After sterilization, all reusable instruments used for tattooing or body piercing shall be stored in

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a dry, clean cabinet or other tightly covered container reserved for the storage of such instruments.

- 8.6 All instruments used for tattooing or body piercing shall remain stored in sterile packages until just prior to the performance of a body art procedure. When assembling instruments used for body art procedures, the operator shall wear disposable medical gloves and use medically recognized techniques to ensure that the instruments and gloves are not contaminated.
- 8.7 All inks, dyes, pigments, needles, and equipment shall be specifically manufactured for performing body art procedures and shall be used according to manufacturer's instructions. The mixing of approved inks, dyes, or pigments or their dilution with potable water is acceptable. Immediately before a tattoo is applied, the quantity of the dye to be used shall be transferred from the dye bottle and placed into single-use paper cups or plastic cups. Upon completion of the tattoo, these single cups or cups and their contents shall be discarded.

Section IX. Requirements for Single Use Items

- 9.1 Single-use items shall not be used on more than one client for any reason. After use, all single-use needles, razors, and other sharps shall be immediately disposed of in approved sharps containers.
- 9.2 Single-use prepackaged sterilized equipment must be obtained from reputable suppliers or manufacturers and packages must contain a temperature strip or sterilizer indicator.
- 9.3 Single-use wood spatulas used to remove all creams and other semi-solid substances from containers must be discarded after each use.
- 9.4 All products applied to the skin, including body art stencils, shall be single-use and disposable. If the department approves, acetate stencils shall be allowed for reuse if sanitization procedures as specified in subsection 24 of section 33-41-01-01 are performed between uses. Petroleum jellies, soaps, and other products used in the application of stencils shall be dispensed and applied on the area to be tattooed with sterile gauze or in a manner to prevent contamination of the original container and its contents. The gauze shall be used only once and then discarded.

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DISCLOSURE STATEMENT & NOTICE FOR FILING A COMPLAINT

THE BODY ART LICENSE SIGNIFIES THAT STANDARDS HAVE BEEN MET FOR SANITATION OF EQUIPMENT AND FOR SAFETY OF PROCEDURES ONLY.

As with any invasive procedure, body art procedures have risks and can lead to possible health issues; some of which may include the following:

- Pain, bleeding, swelling, infection, allergic reaction, scarring of the tattooing area, and nerve damage.

In order to avoid any possible health issues, we strongly recommend that you listen to your tattooist/piercer and follow all aftercare instructions closely.

If you have any concerns about your tattoo or piercing, contact your tattooist or piercer immediately.

If you think that you have an infection or any type of illness caused by your tattoo or piercing, contact a physician immediately. Failure to do so could result in serious injury, disease or possibly death.

If you believe that you have an infection or have become ill as a result of your tattoo or piercing, please contact:

**Fargo Cass Public Health
(701) 241-1360
1240 25th Street South
Fargo, ND 58103**

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The attached document; *ARTICLE 25-33, TATTOOS, BODY ART AND BODY PIERCING*, (Article 25-33) was presented to the City of Fargo Board of City Commissioners on November 15, 2018 and passed by the commissioners on December 3, 2018 with an effective date of December 10, 2018. Article 25-33 was presented by the Environmental Health Division at Fargo Cass Public Health, which is responsible for administration and enforcement of the regulations for tattoos, body art, and body piercing. Article 25-33 describes how Fargo Cass Public Health adopted the North Dakota Administrative Code Chapter 33-14-01 as their regulation for tattoos, body art and body piercing. This document also details the amendments to the N.D. Administrative Code that have been made and adopted as the ordinance for tattoos, body art and piercing.

Fargo Municipal Code Article 25-33 and
N.D. Administrative Code Chapter 33-41-01
are combined to make up the
Requirements for Body Art Establishments

For questions or comments, please contact:

Fargo Cass Public Health
(701) 476-6729
1240 25th Street South
Fargo, ND 58103

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ARTICLE 25-33

TATTOOS, BODY ART AND BODY PIERCING

Section

25-3301	Definitions.
25-3301.1	North Dakota Administrative Code Chapter 33-14-01 Adopted-Amendments
25-3301.2	Modification of North Dakota Administrative Code Chapter 33-41-01
25-3302	Unlawful to operate body art establishment without permit--Exemptions.
25-3303	Permit to operate body art establishment issued annually—permit for individual technician—temporary permits -- Fee--Application form--Display of permit required--Health Department to enforce regulations.
25-3304	Inspections of permitted premises.
25-3305	Licenses--Termination, suspension, revocation.
25-3306	Unlawful practices.
25-3307	Penalty.

25-3301. Definitions. As used in this ordinance, unless the context otherwise indicates, the following definitions shall apply:

1. “Bloodborne Pathogen” means a micro-organism that is present in human blood or in other bodily fluid or tissue which can cause a disease in humans, including the hepatitis B virus, the hepatitis C virus, and the human immunodeficiency virus, and for which testing is recommended by the United States public health service.
2. “Communicable disease” means a disease or condition that causes serious illness, serious disability, or death, the infectious agent or which may pass or be carried, directly or indirectly, from the body of one person to the body of another.
3. “Department” means Fargo Cass Public Health, or its authorized representatives.
4. “Gross incompetence” means any serious lack of ability or knowledge to perform one’s duty in a sanitary manner or failure to comply with these regulations. It shall also mean any conduct which endangers the public’s health or safety.
5. “License” means written approval issued by the director of public health or any designee of the director of public health to operate a body art establishment.
6. “Procedure room” means the physical space or room used for performing body art procedures.
7. “Scarification” means altering the skin texture by cutting the skin and controlling the body’s healing process in order to produce wounds, resulting in permanently raised wheals or bumps known as keloids.
8. “Temporary Body Art Event” means an event to promote body art, which lasts no longer than five consecutive days.

25-3301.1. North Dakota Administrative Code Chapter 33-41-01 Adopted-Amendments.– For the purpose of prescribing regulations governing public health and safety in the city of Fargo, relative to tattoos and body art, the provisions of chapter 33-41-01 of the North Dakota Administrative Code is hereby adopted and incorporated as fully as if set out in length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the limits of the city.

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25-3301.2. Modification of North Dakota Administrative Code Chapter 33-41-01.—
The North Dakota Administrative Code Ch. 33-41-01 as adopted in this article is hereby amended as follows:

1. Subsection 1 of Section 33-41-01-02 and Sections 33-41-01-10, -11, -12, -13 and -14 are hereby deleted in their entirety.
2. Section 33-41-01-03(5) is hereby amended to read as follows:
 5. The operator shall be free of communicable diseases that may be transmitted to a patron, maintain a high degree of personal cleanliness, conform to hygienic practices, and wear clean clothes when performing body art procedures. Before performing body art procedures, operators must thoroughly wash their hands in hot running water with liquid soap, then rinse hands and dry with disposable paper towels. This shall be done as often as necessary to remove contaminants.
3. Section 33-41-01-03(9) is hereby amended to read as follows:
 9. No person shall perform any body art procedure upon a person under the age of eighteen years without the presence, written consent, and proper identification of a parent, legal custodial parent, or legal guardian. The age of all patrons must be verified by photo identification and documentation establishing the patron's age prior to the body art procedure being performed. Photo identification or other proper identification of all patrons under the age of eighteen years must be photocopied by the operator and maintained in the patron's record. Nothing in this section is intended to require an operator to perform any body art procedure on a person under eighteen years of age with parental or guardian consent.
4. Section 33-41-01-03 is hereby amended to add a subsection to read as follows:

The operator shall be certified in Bloodborne Pathogen training.
5. Section 33-41-01-08(3) is hereby amended to read as follows:
 3. All cleaned, nondisposable instruments and jewelry used for body art or that directly aid in body art procedures shall be sterilized in a steam autoclave or dry-heat sterilizer. (if approved by the department). The sterilizer shall be used, cleaned, and maintained according to manufacturer's instruction. A copy of the manufacturer's recommended procedures for the operation of the sterilization unit must be available for inspection by the department. Sterile equipment may not be used if the package has been breached or after the expiration date without first repackaging and resterilizing. Sterilizers shall be

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located away from workstations or areas frequented by the public. If the body art establishment uses only single-use, disposable instruments and products, and uses sterile supplies, an autoclave shall not be required.

6. Section 33-41-01-09 is hereby amended to add subsections to read as follows:

Single-use prepackaged sterilized equipment must be obtained from reputable suppliers or manufacturers and packages must contain a temperature strip or sterilizer indicator.

Single-use wood spatulas used to remove all creams and other semi-solid substances from containers must be discarded after each use

25-3302. Unlawful to operate body art establishment without license--Exemptions.--It shall be unlawful to operate a body art establishment unless a permit is first obtained from the health department. The provisions of this article do not apply to physicians, or a person working under the direct supervision of a physician in the physician's office or clinic, nor to individuals who pierce only the non-cartilaginous perimeter and lobe of the ear with a presterilized single-use stud-and-clasp ear-piercing system are exempt from these regulations; provided, however, that such individuals shall not be exempt from the applicable U.S. Food and Drug Administration requirements.

25-3303. License to operate body art establishment issued annually—license for individual technician—temporary licenses -- Fee--Application form--Display of license required--Department to enforce regulations.—

- A. After an inspection and approval of the proposed body art establishment by the director of public health or designee of the director of public health, the license described in §25-3302 hereof shall be issued annually, January 1st, by the department. The fee therefor shall be as established by resolution of the board of city commissioners. The license shall be non-transferable. The license shall be displayed prominently in the body art establishment where it may be readily observed by clients.
- B. The department is authorized to promulgate regulations creating minimum standards for body art establishments pertaining to the facilities, preparation and care of the body art area, education and information for prospective clients, professional standards for the body art operators/technicians, sanitation and sterilization procedures, requirements for single use items, maintenance and retention of records of body art procedures, and requirements for posting of notices and information regarding body art, which regulations may be enforced by the director of health or any designee of the director of public health after such regulations are approved by the city commission, notice of which is to be given

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pursuant to the provisions of §13-0101 of the Fargo Municipal Code. A copy of such regulations shall be posted in all body art establishments in a prominent location so that they may be read by clients and by operators and technicians of a body art establishment.

- C. Each individual body art technician shall be required to first obtain a license from the department. The fee therefore shall be established by resolution of the board of city commissioners and applicants shall complete and sign an application form furnished by the department. Each individual body art technician must be working under a licensed body art establishment. If the body art establishment has only one technician, only the establishment license needs to be obtained.
- D. Body art establishments and individual body technicians, not otherwise licensed in the city, who wish to practice body art at a temporary body art event shall obtain a temporary license through the department. The fee therefore shall be established by resolution of the board of city commissioners and applicants shall complete and sign an application form furnished by the department. If the body art establishment has only one technician, only the establishment license needs to be obtained.

25-3304. Inspections of licensed premises.--The members of the board of city commissioners of the city of Fargo, the chief of police, or any officer of the health or police department may, at any time, enter upon any licensed premises for the purpose of inspection or to determine whether the licensed premises are in compliance with any and all ordinances of the city and regulations promulgated by the Department. A copy of the inspection report must be furnished to the license holder or operator of the body art establishment.

25-3305. Licenses--Termination, suspension, revocation.--All licenses issued under the provisions of this article, unless otherwise specifically provided, shall terminate on December 31st following the date of issuance; provided, however, that any license issued under the provisions of this article may, under certain circumstances, be terminated, suspended or revoked by the commission.

- A. The commission may, in its discretion, suspend or revoke for cause any license issued under the provisions of this article. The grounds for suspension or revocation shall, among others, include the following:
 - 1. The licensee has filed a petition in bankruptcy.
 - 2. The licensee does not remit the annual renewal fee.
 - 3. An individual licensee, one of the partners in a partnership permittee, or one of the officers in a corporation licensee, or any individual in active management of the licensed business is convicted of violating any of the provisions of this article.
 - 4. The licensee has been convicted of a felony under the laws of the United States or under the laws of one of the several states.
 - 5. The licensee has made any false statement in his application for a license.

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6. The licensee has demonstrated gross incompetence and/or has violated one or more of the regulations created pursuant to Fargo Municipal Code §25-3303(B).
 7. The licensee interferes with the department or its agents and assistants in the performance of its duties.
- B. The department may temporarily suspend the license and order the establishment immediately closed if immediate danger to the public health or safety is found, unless the danger is immediately corrected.
 - C. The grounds enumerated in subsection (A) and (B) of this section shall not be deemed to be exclusive and any license issued under the provisions of this article may be suspended or revoked by the commission for any other reason deemed by the commission to be sufficient in order to promote and protect the health, safety, and welfare of the public. When any license is suspended or revoked by the commission pursuant to the provisions of this section, or when the licensee voluntarily ceases business, no portion of the license fee previously paid shall be returned to the licensee or to anyone claiming under or through them.
 - D. No license issued under the provisions of this article shall be suspended or revoked for cause by the commission without a public hearing. In the event that the commission intends to consider the suspension or revocation of any license for cause, it shall direct the city auditor to notify the licensee of its intention to consider the same. The notice shall specify the time and place of the suspension or revocation hearing and shall be served upon the licensee or his managing agent in the same manner as provided by law for the service of a summons in a civil action. No suspension or revocation hearing shall be held before the expiration of 15 days after the date of the service of the notice upon the licensee.

If, upon such hearing, it appears to the commission that sufficient cause exists for the suspension or revocation of a license issued pursuant to the provisions of this article, the commission shall make its order suspending or revoking the said license.

25-3306. Unlawful practices.--In addition to such other prohibitions as are contained in this article:

- A. No person shall perform body art on any body part of a person under the age of 18 without the written consent of the parent or legal guardian of such minor and without said parent or legal guardian being present during such procedure.
- B. No person shall obtain or attempt to obtain any body art establishment license by means of fraud, misrepresentation or concealment.
- C. No person shall perform body art procedures unless such procedures are performed in a body art establishment with a current license.
- D. No person shall perform body art procedures unless they are at least 18 years of age.

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- E. No person shall interfere with the department in the performance of an inspection or in the performance of any other duties.
- F. Willful failure by the licensee to post regulations which are required to be posted pursuant to § 25-3303 of this article shall be unlawful.

25-3307. Penalty.— A person who willfully violates Fargo Municipal Code Article 25-33 is guilty of a Class B misdemeanor. Every person, firm or corporation violating an ordinance which is punishable as a Class B misdemeanor shall be punished by a fine not to exceed \$1,500.00, or by imprisonment not to exceed 30 days, or by both such fine and imprisonment, in the discretion of the court; the court to have power to suspend said sentence and to revoke the suspension thereof. In addition to such fine and/or imprisonment, the court, in its discretion, may assess a fee in an amount not to exceed \$25.00 as provided in section 27-01-10, N.D.C.C.

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