

**ORDINANCE NO. 173 3<sup>RD</sup> SERIES**

**AN ORDINANCE OF THE CITY OF WADENA, MINNESOTA CREATING  
REGULATIONS AND LICENSING REQUIREMENTS FOR THE BUSINESS OF  
TATTOOING, BODY PIERCING, BODY BRANDING, AND BODY SCARIFICATION**

**THE CITY COUNCIL OF THE CITY OF WADENA, ORDAINS:**

**SECTION 6.34. TATTOOS, BODY PIERCING, BODY BRANDING AND BODY  
SCARIFICATION**

**Subd. 1. Purpose.**

The purpose of this section is to regulate the business of tattooing, body piercing (excluding ear piercing), body branding, and body scarification to protect the health and welfare of the general public. The Wadena City Council finds that the experience of other cities indicates that there is a connection between these types of activities and hepatitis and other health issues. The City Council further finds that regulation of these activities can minimize the hepatitis and disease risk and therefore, protect the general health and welfare of the community.

**Subd. 2. Definitions.**

The following definitions apply to this section of the Code.

- A. "Tattooing" means the marking of the skin of a person by insertion of permanent colors by introducing the colors through puncture of the skin.
- B. "Body Piercing" means a method of puncturing the skin of a person by the aid of needles, or any other instrument designed or used to puncture the skin, for the purpose of inserting jewelry or other objects in or through the human body. "Body Piercing" shall not refer to any medical procedure performed by a licensed physician or medical specialist.
- C. "Ear Piercing" means the puncturing of the non-cartilaginous perimeter of lobe of the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system following manufacturer's instructions.
- D. "Body Branding" means the use of heat, cold or any chemical compound to imprint permanent markings on human skin by means other than tattooing.
- E. "Body Scarification" means any method by which a scar is applied to, or left on the human body for the purpose of creating a permanent mark or design on the skin. "Body Scarification" shall not refer to any medical procedure performed by a licensed physician or medical specialist.

- F. "Person" means an individual, any form of business or social organization or any other non-governmental legal entity, including but not limited to, a corporation, a partnership, a limited liability company, a trust or an unincorporated organization.

**Subd. 3. License Requirements and Procedures.**

- A. No person or entity shall operate any establishment where tattooing, body piercing, body branding, or body scarification is practiced, nor engage in such practice, without being licensed pursuant to this section. A license is required for both the person and the premises.  
A licensed medical physician or medical specialist who engages in these activities shall be exempt from these license requirements. Ear piercing as defined in this section does not require a license.
- B. All licenses shall be issued for one (1) calendar year. If a portion of a year has elapsed when an application is made, a license may be issued for the remainder of that year at a pro-rated fee. Once a license has been granted, no part of the fee paid by the licensee shall be refunded in the event of the complete closure of the business and secession of business activities.
- C. Each license shall be issued to the named applicant only and shall not be transferable to another holder. If the licensee is a partnership or corporation, a change in the identity of any of the principles of the partnership or corporation shall be deemed a transfer of the license. Each license shall be issued only for the premises described in the application. Transfer of a license to another premise cannot occur without specific approval of the Wadena City Council.
- D. The City of Wadena/Chief of Police or designee shall complete a license review and investigation within thirty (30) days of receipt of the complete application and all required license fees. If after such investigation, it appears that the applicant and the place proposed for the business are eligible for licensure under these provisions, then the license shall be approved for issuance by the City Council at its next regular meeting following the completion of the license review investigation process. Otherwise, the license shall be denied.
- E. If the license application is denied, the applicant may request a hearing before the City Council by filing a written request with the City Administrator within fifteen (15) days after the applicant has received written notice of the denial. The hearing shall be conducted by the City Council within thirty (30) days after receipt of the written request for a hearing.

#### **Subd. 4. License Application.**

- A. Every application for a license under this section shall be made on a form supplied by the City of Wadena/Administrators Office.
- B. The license application shall include:
  - 1. If the applicant is an individual:
    - Name, address, telephone number and birth date of the applicant;
  - If the applicant is a partnership:
    - Name, address, telephone number and birth date of each general and limited partner;
  - If the applicant is a corporation:
    - Name, address, telephone number and birth date of all persons holding more than 5% of the issued and outstanding stock of the corporation.
  - 2. The name, address, telephone number and birth date of the manager of said business, if different from the owner(s).
  - 3. The address and legal description of the premises where the business is to be located.
  - 4. A statement detailing any conviction relating to tattooing, body piercing, body branding or body scarification, or the operation of a tattoo, body piercing, body branding or body scarification establishment by the applicant or manager, and whether or not the applicant or manager has ever applied for or held a license to operate a similar type of business in other communities. In the case of a corporation, a statement detailing any felony convictions by the owners of more than 5% of the issued and outstanding stock of the corporation and whether or not those owners have ever applied for or held a license to operate a similar type of business in other communities.
  - 5. The types of activities to be conducted.
  - 6. The hours and days of operation.
  - 7. A building plan of the premises detailing all internal operations and activities.
  - 8. Whether the applicant has previously been denied a license of this type by any governmental entity.

9. All license applications shall be signed by the person applying for the license if any individual, by an officer of the corporation, or by one of the general partners for a partnership.
  10. License fee, investigation fee, and Health Department fee, and other required fees, as set by the City of Wadena.
  11. Such other information as the City of Wadena may require.
- C. Any falsification on the license application shall result in the denial of the license.

**Subd. 5. Application Review and Investigation.**

All application information shall be verified and investigated by the City of Wadena/Chief of Police or designee, including any necessary criminal background checks to assure compliance.

- A. No license application shall be reviewed by the City of Wadena until the application fee, as set by the City of Wadena, is paid in full.
- B. Upon receipt of an application and the prescribed license fee, the City of Wadena shall inspect the premises identified in the application as the place or location at which the business is to be conducted to determine whether it is in clean and sanitary condition.

**Subd. 6. Local Restrictions.**

No person shall engage in the practice of tattooing, body piercing, body branding or body scarification at any place other than the place or location identified and described in the application and license.

- A. No license shall be granted or renewed if the property on which the business is to be located is not properly zoned or does not have a valid conditional use permit or variance granted by the City of Wadena.
- B. No location used for the practice of tattooing, body piercing, body branding or body scarification shall be used or occupied for living or sleeping quarters or for any purpose other than tattooing, body piercing, body branding or body scarification.
- C. Every location where tattooing, body piercing, body branding or body scarification is done shall be equipped with a sewer and water connected toilet and hand basin or sink. The hand basin or sink shall be supplied with

hot and cold running water under pressure and shall be maintained in good working order at all times and shall be kept in a clean and sanitary condition.

- D. All tables, chairs and operating furniture shall be constructed of smooth, easily cleanable, non-absorbent material and shall be kept in a clean and sanitary condition.
- E. No license shall be granted or renewed if the premises to be used for the business is licensed for the furnishing of alcoholic beverages or is an adult use or sexually oriented business establishment as defined in the Wadena City Code.

**Subd. 7. Persons Not Eligible For License.**

No license under this Section shall be issued to an applicant who is a natural person, general or managing partner of a partnership, or manager, proprietor or agent of a corporation or other organization if such applicant:

- A. Is under eighteen (18) years of age at the time the application is filed with the City of Wadena.
- B. Has been convicted of a felony or any crime directly related to the occupation licensed as prescribed by Minn. Stat. 364.03, Subd. 2, as amended, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of the licensed occupation as prescribed in Minn. Stat. 364.03, Subd. 3 as amended.
- C. Who has been denied a license by the City of Wadena, or any other Minnesota government entity, to operate a tattoo, body piercing, body branding, and/or body scarification business or whose license for said business has been suspended or revoked within the preceding twelve (12) months.
- D. Who has not paid the license and/or investigation fees required by this section.

**Subd. 8. Conditions of License.**

- A. Any license issued under this provision is subject to the applicable sections of the City Code regarding zoning, building code, fire code, County health regulations and all provisions of state and federal law.
- B. No person shall tattoo, pierce, brand, or scar any person under the age of eighteen (18) years, except in the presence of, or with the written permission of the parents or the legal guardians of such minor. The written permission must be from both the custodial and non-custodial parents, where applicable.

- C. All licensed premises shall have the license issued by the City of Wadena posted in a conspicuous place where any customer can easily view and read the license at all times.
- D. No establishment licensed under these provisions shall operate between the hours of 10:00 p.m. and 7:00 a.m.
- E. All licensees shall at all times have a valid certificate of insurance issued by an insurance company licensed to do business in the State of Minnesota with minimum liability coverage of \$200,000 for each claim and \$500,000 for each aggregate claim. Said certificate of insurance shall be filed with the City of Wadena as a condition of approval of the license by the Wadena City Council, with the City of Wadena listed as an additional insured.

**Subd. 9. Inspections.**

The City of Wadena/Police Department through its designated staff or contract agent shall conduct random inspections of each licensed premise at least annually to verify compliance with City requirements.

**Subd. 10. Health and Sanitation Requirements.**

- A. No person shall engage in the practice of tattooing, body piercing, body branding and/or body scarification at any place in the City of Wadena without complying with health requirements, including, but not limited to:
  - 1. Every premise shall have covered State-approved receptacles for the disposal of needles.
  - 2. Every premise shall have appropriate procedures and equipment for the storage and disposal of waste materials.
  - 3. No person having any communicable blood or skin infection or other communicable disease of the blood or skin shall practice tattooing, body piercing, body branding or body scarification.
  - 4. All disposable needles, razor blades, sharps or other equipment utilized for penetrating the skin shall be individually prepackaged and pre-sterilized and stored in a self-sealing sterilizing pouch. No such equipment shall be used for more than one customer.
  - 5. All biohazard waste shall be disposed of in accordance with state and federal law.

6. All bandages and surgical dressings used in connection with tattooing, body piercing, body branding and/or body scarification of any person shall be individually prepackaged, pre-sterilized and disposable.
7. Anyone performing tattooing, body piercing, body branding and/or body scarification procedures shall use protective disposable gloves at all times during the procedures.
8. Pigments used in tattooing shall be pre-made and commercially prepared and free from bacteria and noxious agents and substances, including mercury.
9. Any jewelry shall be pre-sterilized and in individually sealed packages.
10. No person shall practice tattooing, body piercing, body branding and/or body scarification while under the influence of alcoholic beverages or illegal drugs.
11. The person performing the tattooing, body piercing, body branding or body scarification shall provide the individual with printed instructions on the approved care of the skin during the healing process.

**Subd. 11. Penalty.**

- A. Any person violating this section is guilty of a misdemeanor and upon conviction shall be punished according to the penalties proscribed for a misdemeanor by law.
- B. The City Council may revoke or suspend a license for any violation of these code provisions including the submission of false information on the license application, and for any violation of state or federal law, which adversely affects the ability of the licensee to safely, and lawfully conduct business.
  1. The Police Chief thru the City Administrator shall advise the licensee of the revocation or suspension in writing. The licensee may request a hearing on the revocation or suspension by notifying the city Administrator within ten (10) days of the notice of revocation or suspension that the licensee is requesting a hearing. The hearing shall be conducted by the City Council within thirty (30) days of the receipt of the hearing request. No revocation or suspension shall become effective until (1) the completion of a hearing and a decision by the City Council to proceed with revocation or suspension, or (2) the expiration of ten (10) days from the date of the written notification to the licensee without receipt of a written request for a hearing.

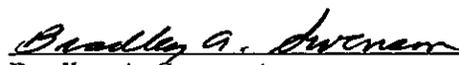
**Subd. 12. Severability.**

If any Section, subsection, sentence or clause, or phrase of this Code provision is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Code provision.

Adopted by the City Council of the City of Wadena this 13<sup>th</sup> day of May 2008.

ATTESTATION:

  
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Wayne Wolden  
Mayor

  
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Bradley A. Swenson  
City Administrator

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