

**ORDINANCE NO. 907
(AS AMENDED THROUGH 907.1)
AN ORDINANCE OF THE COUNT OF RIVERSIDE
REGULATING BODY ART FACILITIES, PERMANENT COSMETICS
AND BODY PIERCING FACILITIES AND INCORPORATING BY
REFERENCE HEALTH AND SAFETY CODE SECTIONS 119300 ET SEQ.**

Section 1. FINDINGS. The Board of Supervisors finds that there are significant health concerns implicated by the practice of Body Art, including the danger of spreading infectious diseases through the use of unsterilized equipment. Because of these dangers inherent in the practice of Body Art, Body Art Practitioners must protect themselves and their clients by following safe and healthy practices. Additionally, California Penal Code Section 653 prohibits tattooing individuals under the age of 18, and Penal Code Section 652 prohibits body piercing on minors without a parent's consent as specified in that section. Further regulation of the practice of Body Art is necessary for health and safety purposes and to ensure that it does not unduly attract minors.

Section 2. PURPOSE. The purpose of this Ordinance is to establish minimum standards that apply to Body Art Facilities and Body Art Practitioners for the safe practice of Body Art in Riverside County. These regulations are intended to protect both the Body Art Practitioner and the client from transmission of infectious diseases through the application of proper Body Art procedures and the control of cross-contamination of instruments and supplies.

Section 3. JURISDICTION. This Ordinance shall apply to all individuals performing Body Art procedures and all Body Art Facilities located within the County of Riverside. Riverside County hereby adopts, and incorporates by reference, the provisions related to Body Art as codified in California Health and Safety Code Section 119300, *et seq.* Additionally, pursuant to the authority granted in California Health and Safety Code Section 119324, all Body Art Practitioners and all Body Art Facilities located within the County of Riverside shall meet the additional requirements listed below. This ordinance shall be administered and implemented by the Riverside County Department of Environmental Health.

Section 4. DEFINITIONS. The following definitions shall apply in the interpretation and enforcement of this ordinance

- A. "Body Art" shall have the same definition as in California Health and Safety Code Section 119301, subdivision (c).
- B. "Body Art Facility" shall have the same definition as in California Health and Safety Code Section 119301, subdivision (d).
- C. "Body Art Practitioner" shall have the same definition as in California Health and Safety Code Section 119301, subdivision (t)
- D. "Department" shall mean the Riverside County Department of Environmental Health
- E. "Enforcement Officer" shall mean the Director of Environmental Health and his or her duly authorized designees.

Section 5. INSPECTION RESULTS.

- A. All Body Art Facilities shall be inspected using an Official Inspection Form. The results of each inspection shall be represented by a placard posted by the Enforcement Officer. The placards shall be presented as either "PASS" or "RE-INSPECTION DUE".
1. The "PASS" placard shall be used to indicate that the Body Art Facility has been inspected to the standards of the California Health and Safety Code Sections 119300, et seq. and this ordinance, and no items on the most recent inspection form are noted as requiring re-inspection.
 2. The "RE-INSPECTION DUE" placard shall be used to indicate the Body Art Facility has conditions that require additional inspection(s) by the Enforcement Officer.
 3. The placards shall be provided by the Enforcement Officer.
 4. The placards shall be posted in a conspicuous place within the Body Art Facility as determined by the Enforcement Officer, shall be publicly viewable and shall be removed only by the Enforcement Officer.
 5. The placards shall contain the Signature of the Enforcement Officer and date of the most recent inspection.
- B. The Body Art Facility shall make a copy of the most recent Inspection Report available to the public upon request. The public report availability shall be noted on the placard.

Section 6. FACILITY AND PRACTITIONER REQUIREMENTS.

Notwithstanding the operational requirements set forth in California Health and Safety Code Section 119300, et seq, a Body Art Facility or Body Art Practitioner operating within Riverside County shall also comply with the following requirements:

- A. Sterile gloves shall be used by a Body Art Practitioner at the point of puncturing the skin and inserting the pre-sterilized jewelry in the pierced area.
- B. The Body Art Facility owner or operator shall be responsible to report to the Department any accidental needle or device penetration of the skin affecting a Body Art Practitioner, employee, customer or any other member of the public within 72 hours of the incident.
- C. The Body Art Facility owner or operator shall be responsible for notifying the Department, in writing, within seven (7) days of a Body Art Practitioner leaving or a new Body Art Practitioner beginning work at the facility.
- D. The Body Art Facility owner or operator shall maintain records on site related to medical waste disposal for three years from date of generation.

Section 7. PERMITS. No person shall act as a Body Art Practitioner or own or operate a Body Art Facility without holding a valid permit issued by the Department, except where excluded by California Health and Safety Code. Application for a permit shall be made to the Department upon a form issued by the Department, and shall be accompanied by a fee as listed below:

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| • Permanent Body Art Facility Annual Permit | \$200.00 |
| • Mobile Body Art Facility Annual Permit | \$200.00 |
| • Body Art Practitioner Annual Registration | \$50.00 |
| • Body Art Practitioner Initial Registration (one time) | \$50.00 |
| • Temporary Body Art Facility Permit (per event) | \$150.00 |

In addition to the fees listed above, the following fees shall also apply to any Body Art Practitioner or Body Art Facility:

- Body Art Re-Inspection – Charged at the current rate listed in Ordinance 640.
- Duplicate Practitioner Registration Card \$30.00

The fees listed in this Section shall be valid until such time as Ordinance 640 is amended to revise or include the fees set forth above. Any annual permit or registration shall be valid for no more than one year from the month of issue.

Section 8. ENFORCEMENT. Notwithstanding the remedies set forth in California Health and Safety Code Section 119300 et seq., the Department reserves the right to issue administrative citations in accordance with Government Code Section 53069.4. An administrative citation may be issued for any violation of this ordinance. The following procedures shall govern the imposition, enforcement, collection and administrative review of administrative citations and penalties.

- A. Notice of Violation. If the violation is not corrected within the period stated in the notice of violation, or if the violation creates an immediate danger to health or safety, an administrative citation may be issued by the Enforcement Officer. The notice of violation shall specify the manner in which the conditions of the Body Art Facility or the actions of the Body Art Practitioner violate the provisions of this ordinance and the corrective actions required to correct the condition or conduct. The notice shall also state that failure to come into compliance with this ordinance could subject the permittee, Body Art Practitioner, or other person who owns, controls or operates a Body Art Facility to civil, administrative and criminal penalties. The failure of the notice to set forth all required contents shall not affect the validity of the proceedings.
- B. Content of Citation. The administrative citation shall be issued on a form approved by County Counsel and shall contain the information listed below. The failure of the citation to set forth all required contents shall not affect the validity of the proceedings.
 1. Date, location and approximate time the violation was observed.
 2. The ordinance section violated and a brief description of the violation.
 3. The amount of the administrative penalty imposed for the violation.
 4. Instructions for the payment of the penalty, the time period by which it shall be paid, and the consequences of failure to pay the penalty within this time period.
 5. Instructions on how to appeal the citation.
 6. The signature of the Enforcement Officer.
- C. Service of Citation.
 1. If the permittee, Practitioner, or other person who has violated the ordinance is present at the scene of the violation, the Enforcement Officer shall attempt to obtain their signature on the administrative citation and shall deliver a copy of the administrative citation to them.
 2. If the permittee, Practitioner, or other person who has violated the ordinance is a business, and the business owner is on the premises, the Enforcement Officer shall attempt to deliver the administrative citation to them. If the Enforcement Officer is unable to serve the business owner on the premises, the administrative citation may be left with the manager or employee of the business. If left with the manager

or employee of the business, a copy of the administrative citation shall also be mailed to the business owner by certified mail, return receipt requested.

3. If the permittee, Body Art Practitioner, business owner or other person cannot be located at the property, then the administrative citation shall be posted in a conspicuous place on or near the property and a copy mailed by certified mail, return receipt requested to the owner, permittee, Body Art Practitioner, or other person who has violated the Ordinance. The citation shall be mailed to the property address and/or the address listed for the Owner on the last County Equalized Assessment Roll.
4. The failure of any interested person to receive the citation shall not affect the validity of the proceedings.

D. Administrative Penalties.

1. The penalties assessed for each violation shall not exceed the following amounts:
 - a. \$100.00 for a first violation;
 - b. \$200.00 for a second violation of the same ordinance within one year; and
 - c. \$500.00 for each additional violation of the same ordinance within one year.
2. Notwithstanding the penalty scheme outlined above, a Body Art Practitioner who fails to register with the Department or who violates any sterilization, sanitation, and safety standards adopted under Health and Safety Code Section 119301, shall be subject to a civil penalty of one thousand dollars (\$1,000) per violation (California Health & Safety Code Section 119323).
3. If the violation is not corrected, additional administrative citations may be issued for the same violation. The amount of the penalty shall increase at the rate specified above.
4. Payment of the penalty shall not excuse the failure to correct the violation nor shall it bar further enforcement action.
5. The penalties assessed shall be payable to the County of Riverside.

E. Administrative Appeal.

1. Notice of Appeal. The recipient of an administrative citation may appeal the citation by filing a written notice of appeal with the Department. The written notice of appeal must be filed within twenty (20) days of the service of the administrative citation. Failure to file a written notice of appeal within this time period shall constitute a waiver of the right to appeal the administrative citation. The notice of appeal shall contain the following information:
 - a. A brief statement setting forth the appellant's interest in the proceedings;
 - b. A brief statement of the material facts which the appellant claims supports his/her contention that no administrative penalty should be imposed or that an administrative penalty of a different amount is warranted;
 - c. An address at which the appellant agrees notice of any additional

proceeding or an order relating to the imposition of the administrative penalty may be received by mail.

d. The notice of appeal must be signed by the appellant.

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

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

b. Hearing Officer. The administrative hearing shall be held before the Board of Supervisors, the County Hearing Officer or the County Hearing Board. The hearing officer shall not be the Enforcement Officer who issued the administrative citation or their immediate supervisor or subordinate. The Board of Supervisors, the County Hearing Officer or the County Hearing Board may contract with a qualified provider to conduct administrative hearings or to process administrative citations.

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

d. Hearing Officer's Decision. The hearing officer's decision following the administrative hearing shall be delivered to the person requesting the hearing personally or sent by mail. The hearing officer may allow payment of the administrative penalty in installments, if the person provides evidence satisfactory to the hearing officer of an inability to pay the penalty in full. The hearing officer's decision shall contain instructions for obtaining review of the decision by the superior court.

F. Review of Administrative Hearing Officer's Decision.

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

2. Conduct of Hearing. The conduct of the appeal is a subordinate judicial duty and may be performed by traffic trial commissioners and other

subordinate judicial officials at the direction of the presiding judge of the court. The appeal shall be heard de novo, except that the contents of the issuing agency's file in the case shall be received in evidence. A copy of the document or instrument of the issuing agency providing notice of the violation and imposition of the administrative penalty shall be admitted into evidence as prima facie evidence of the facts stated therein. The court shall request that the issuing agency's file on the case be forwarded to the court, to be received within fifteen (15) days of the request.

3. Judgment. The court shall retain the twenty-five dollar (\$25.00) fee regardless of the outcome of the appeal. If the court finds in favor of the contestant, the amount of the fee shall be reimbursed to the contestant by the Department. Any deposit of the fine or penalty shall be refunded by the issuing agency in accordance with the judgment of the court. If the fine or penalty has not been deposited and the decision of the court is against the contestant, the issuing agency may proceed to collect the penalty pursuant to any manner provided by law.

Section 9. PUBLIC NUISANCE DECLARATION. Any Body Art Facility or Body Art Practitioners found in violation of this ordinance are hereby declared to be a public nuisance and dangerous to the health and safety of Riverside County.

Section 10. CIVIL ACTIONS.

- A. Injunctive Relief and Abatement. Whenever, in the judgment of the Enforcement Officer, any person is engaged in or about to engage in any act or practice which constitutes or will constitute a violation of any provision of this Ordinance, or any rule, regulation, order, permit or conditions of approval issued thereunder, upon the request of the Enforcement Officer, the County Counsel or District Attorney may commence proceedings for the abatement, removal, correction and enjoinder thereof, and require the violator to pay civil penalties and/or abatement costs.
- B. Civil Remedies and Penalties. Any person, whether acting as principal, agent, employee, Owner, lessor, lessee, tenant, occupant, operator, contractor or otherwise, who willfully violates the provisions of this ordinance or any rule, regulation, order or conditions of approval issued thereunder, shall be liable for a civil penalty not to exceed \$1,000.00 for each day or portion thereof, that the violation continues to exist. In determining the amount of the civil penalty to impose, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of such conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the violator, whether corporate or individual, and any corrective action taken by the violator.

Section 11. COSTS AND DAMAGES. Any person, whether acting as a principal, agent, employee, Owner, lessor, lessee, tenant, occupant, operator or contractor, or otherwise, violating any provisions of this Ordinance or the rules, regulations, orders, Permits or conditions of approval issued thereunder, shall be liable to the County of Riverside for costs of abatement and any damages suffered by the County, its agents and

agencies, as a result of such violations.

Section 12. RECOVERY OF ATTORNEYS' FEES IN NUISANCE ABATEMENT CASES. In any action, administrative proceeding, or special proceeding to abate a nuisance, attorneys' fees may be recovered by the prevailing party. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the County in the action or proceeding.

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

Section 14. SEVERABILITY. If any provision, clause, sentence or paragraph of this ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or applications of the provisions of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are hereby declared to be severable."

Section 2. This ordinance shall take effect thirty (30) days after its adoption.

Adopted: 907 Item 3.13 of 08/16/2011 (Eff: 09/15/2011)
907.1 Item 9-1 of 01/29/2013 (Eff: 02/28/2013)