

ORDINANCE NO. 95

AN ORDINANCE AUTHORIZING THE PERMITTING AND INSPECTION OF TATTOO AND CERTAIN BODY PIERCING STUDIOS; ESTABLISHING PERMITTING, SUSPENSION AND APPEAL PROCEDURES, DECLARING A PENALTY, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council of the City of Zavalla to protect the public health, safety and welfare; and

WHEREAS, Texas Health & Safety Code, Chapter 146 regulates tattoo and certain body piercing studios; and

WHEREAS, municipalities may, under their police powers, enact reasonable regulations to promote the health, safety and welfare of citizens; and

WHEREAS, Texas Local Government Code Section 51.001(1) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is for the good government, peace, or order of the municipality; and

WHEREAS, Texas Local Government Code Section 51.002(2) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality; and

WHEREAS, it is the desire of the City Council that Tattoo and Certain Body Piercing Studios be regulated for the safety and welfare of the citizens of Zavalla, Texas;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ZAVALLA, TEXAS:

SECTION 1 DEFINITIONS

1.1 The following definitions shall apply in the interpretation and the enforcement of this Ordinance:

a. *Artist*. A person who performs tattooing, intradermal cosmetics, and/or certain body piercing, and who is responsible for complying with the provisions of these sections.

b. *Operator*. An owner of a tattoo and/or body piercing studio or an agent of an owner of such studio.

c. *Person*. An individual, partnership, corporation, or association.

d. *Body piercing*. The creation of an opening in an individual's body, other than in an individual's earlobe, to insert jewelry or other decoration or adornment.

e. *Body piercing studio.* A permanent, nondwelling building or portion of a building, designated by a permit holder and located in accordance with applicable local zoning codes where body piercing is performed, completely separated from living quarters, hereafter referred to as a studio.

f. *Building official.* The Chief of Police, of the City of Zavalla, or his/her designee.

g. *Regulatory Authority.* The Director of the Angelina County & Cities Health District, or his/her designated representative having responsibility to enforce and administer this Ordinance.

h. *Permit holder.* A person who owns, operates, or maintains a tattoo studio, tattoo and body piercing studio, or body piercing studio, in compliance with these sections.

i. *Tattoo/tattooing.* The practice of producing an indelible mark or figure on the human body by scarring or inserting a pigment under the skin using needles, scalpels, or other related devices and including intradermal cosmetics.

j. *Tattoo studio.* A permanent, nondwelling building or portion of a building, designated by a permit holder and located in accordance with applicable local zoning codes where tattooing or intradermal cosmetic application is performed, completely separated from living quarters, hereafter referred to as a studio.

k. *Training.* The required course(s) to be attended by permit holder, owner or operator in charge is as identified and mandated by the regulatory authority.

SECTION 2 CONSOLIDATION OF REGULATORY LAWS

2.1 The following legislation, rules, and regulations as they presently exist, or as hereinafter amended, are incorporated herein as though set out verbatim:

a. Chapter 146 of the Texas Health & Safety Code; and

b. Title 25, Part 1, Chapter 229, Subchapter V, Rules §§ 229.403—411 of the Texas Administrative Code.

SECTION 3 COMPLIANCE AND PENALTIES

3.1 A tattoo and/or body piercing studio must comply with all applicable state and federal laws and regulations.

3.2 Upon inspection of a tattoo or body piercing studio that reveals a violation of this Ordinance, and/or its consolidated regulatory laws, a citation may be issued to the business or legal owner and the studio's permit may be revoked as set forth in Sections 9 and 10 of this Ordinance.

3.3 A person who owns, operates or maintains a tattoo or body piercing studio or practices tattooing or body piercing shall comply with the provisions of this Ordinance. To violate any provision of this Ordinance shall be deemed a Class C misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed five hundred dollars (\$500.00).

3.4 In addition to the penalty provided above, the city shall be entitled to pursue all other criminal and/or civil remedies to which it is entitled under the authority of other ordinances or state law.

SECTION 4 ISSUANCE OF PERMITS

4.1 It is unlawful for any person to conduct, operate or maintain a tattoo or body piercing studio within the City of Zavalla, Texas without a valid permit issued by the local regulatory authority.

4.2 A person operating a tattoo or body piercing studio shall display the permit issued by the regulatory authority in a prominent place within the facility and visible to the public.

4.3 It is unlawful to transfer any permit issued under this Ordinance to another person, firm, corporation, or location.

SECTION 5 PERMITTING PROCEDURES

5.1 Any person who desires a permit for a tattoo or body piercing studio shall apply for the permit on a form provided by the regulatory authority. To receive a tattoo or body piercing studio permit, a person must submit a completed application to the regulatory authority, proof of a valid state tattoo and certain body piercing studio permit issued by the Texas Department of Health and the required local application fee.

5.2 Upon receipt of the completed application, the regulatory authority is authorized to inspect the proposed tattoo or body piercing studio for compliance with the provisions of this Ordinance. The regulatory authority shall issue a local tattoo or body piercing studio permit after determining that the proposed studio is in compliance with all applicable health regulations.

5.3 The permit issued by the City of Zavalla or authorized regulatory authority shall be valid for one (1) year or unless otherwise revoked for cause as hereinafter prescribed. The permit fee will be two hundred dollars (\$200.00).

5.4 Whenever a tattoo or body piercing studio is constructed or remodeled so as to require a building permit, or an existing structure is converted in whole or part for use as a tattoo or body piercing studio, plans and specifications for such construction, remodeling or conversion with the applicable fees shall be submitted to the building official for review and approval in accordance with applicable city rules and regulations before construction, remodeling or conversion is begun. The building official shall approve the plans and specifications if they meet applicable city regulations.

5.5 The building official or his designee shall be allowed to perform an inspection of the tattoo or body piercing studio prior to the start of operations as a tattoo or body piercing studio to determine compliance with approved plans and requirements of this Ordinance.

SECTION 6 INSPECTIONS

6.1 Tattoo and body piercing studios may be routinely inspected and as frequently as necessary by the regulatory authority to determine compliance with the provisions of this Ordinance.

6.2 The regulatory authority shall be allowed access to any tattoo or body piercing studios, and to the records required by this Ordinance or as otherwise authorized by state law, at any reasonable time, for the purpose of enforcing the provisions of this Ordinance.

SECTION 7 TRAINING REQUIREMENTS

7.1 Annually each permit holder, owner or operator in charge, and any artist of the studio shall complete eight (8) hours of continuing education on the practice and safety regulations for tattoo and body piercing such as bloodborne pathogens, aseptic techniques, disease control, personal protection, signs of infection and cardio-pulmonary resuscitation (CPR). The permit holder, owner or operator in charge, and artist shall complete the required training within twelve (12) months from the date of issuance of the permit. Records of such education and training shall be maintained on site and shall be made available to the regulatory authority upon request.

SECTION 8 STERILIZATION OF EQUIPMENT AND RECORD KEEPING

8.1 The permit holder of the tattoo or body piercing studio shall test all equipment used for sterilization of instruments used for tattooing and/or body piercing on a biannual basis for proper operation.

8.2 Records of such testing shall be maintained on site and made available to the regulatory authority upon request. The permit holder shall remove from service equipment found to operate improperly until repaired or replaced.

SECTION 9 VIOLATIONS; NOTIFICATION AND ORDER TO CORRECT

9.1 **Authority to order correction.** If the regulatory authority determines that a tattoo or body piercing studio is in violation of this Ordinance or other law, it must notify the studio in writing of the violation and by written order direct the studio to correct the violation within a definite period of time.

9.2 **Immediate corrections.** If the regulatory authority determines that the violation constitutes an imminent and serious threat to the public health or safety, it shall order the permit holder to immediately correct the violation or to cease operations to the extent determined necessary to abate the threat until the violation is permanently corrected.

9.3 In addition to the authority listed above, the city shall be entitled to pursue all other remedies including the issuance of citations for municipal court or filing a complaint with the department of state health services.

9.4 The city attorney may pursue in the enforcement of the civil penalty and injunction order of the state law if requested by the Commissioner of the Texas Department of Health pursuant to Texas Health & Safety Code, § 146.020, Civil Penalty and Injunction. The City Attorney may perform such other activities as requested by the City of Zavalla.

SECTION 10 SUSPENSION OF PERMITS

10.1 The regulatory authority may suspend a permit issued under provision of this Ordinance if it determines that the owner, operator or person in charge, or artist of a tattoo or body piercing studio has:

- a. Been convicted twice within a twelve (12) month period for violation of this Ordinance;
- b. Failed to comply, within the time specified, with an order to correct or abate an imminent threat to the public health or safety;
- c. Intentionally or knowingly provided false information to the regulatory authority or his designee during a lawful inspection; or
- d. Intentionally or knowingly impeded a lawful inspection by the regulatory authority or his designee.

10.2 The regulatory authority shall suspend the permit for a definite period of time not to exceed one (1) year, or until the violations resulting in said suspension, have been corrected or abated.

10.3 Upon receipt of written notice of suspension issued by the regulatory authority, the permit holder shall immediately cease operation of the studio for which the permit is suspended. The notice of suspension must include:


- a. The name of the permit holder;
- b. The location or identification of the establishment for which the permit is suspended;
- c. The reason for the suspension; and
- d. A statement informing the establishment of its right to appeal the suspension.

SECTION 11 APPEAL

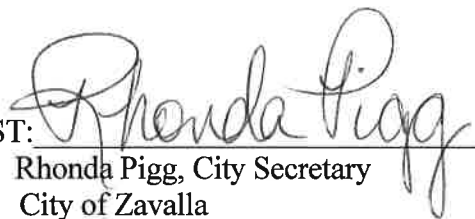
11.1 A decision by the regulatory authority invoking suspension of a permit is final unless an appeal is filed, in writing, with the city manager or his designated representative within ten (10) calendar days of the notice of suspension.

11.2 The city manager or his designated representative shall set a time and date for a hearing on the suspension and shall issue a decision, in writing, within ten (10) calendar days of the hearing date. The filing of an appeal in accordance with subsection 11.1 of this section enjoins or stays an action of the regulatory authority pending a final decision by the city manager or his designated representative, except in circumstances where the regulatory authority has determined that the suspension is due to an uncorrected or unabated imminent threat to the public health or safety.

PASSED AND APPROVED on First Reading by the City Council of the City of Zavalla, Texas, at its regular meeting this the 12 day of March, 2012.



Carlos Guzman, Mayor Pro-Tem
City of Zavalla

ATTEST: 

Rhonda Pigg, City Secretary
City of Zavalla

