

ORDINANCE NO. _____

1 AN ORDINANCE amending Title 8 of the Lincoln Municipal Code, Health and
2 Sanitation, to regulate body art establishments and practitioners within the City of Lincoln by adding
3 a new section numbered 8.08.010 to establish the purpose of this ordinance; adding a new section
4 numbered 8.08.020 to define terms used in the ordinance; adding new sections numbered 8.08.030
5 through 8.08.090 to require a body art establishment to have a permit to operate, to provide the
6 requirements for obtaining a permit, and to set forth the terms of the permit; adding new sections
7 numbered 8.08.100 through 8.08.150 to require a body art practitioner to have a permit to perform
8 body art procedures on another person, to provide the requirements for obtaining such a permit, and
9 to set forth the terms of the permit; adding new sections numbered 8.08.160 and 8.08.170 to regulate
10 a body art practitioner's procedures and use of instruments; adding a new section numbered 8.08.190
11 to restrict all body art, except for body piercing with parental consent, to be performed on minors;
12 adding new section numbered 8.08.200, 8.08.230, 8.08.240, 8.08.250, 8.08.270 to place require-
13 ments on a body art establishment; adding new sections numbered 8.08.300 through 8.08.320 to
14 create record keeping requirements for body art establishments and enforcement procedures; adding
15 new sections numbered 8.08.330 through 8.08.370 to establish the procedures for suspension or
16 revocation of body art establishment and practitioner permits, and applications for new permits;
17 adding a new section numbered 8.08.380 to establish enforcement hearings; adding a new section
18 numbered 8.08.400 to provide the right to appeal the Health Director's findings; adding a new
19 section numbered 8.08.410 to establish allowance of a variance under limited circumstances; adding
20 a new section numbered 8.08.430 to establish the liability of the operator; adding a new section

1 numbered 8.08.440 to provide penalties for violations of this chapter; adding a new Section 8.08.450
2 to protect other sections should one section become invalid; and reserving Sections 8.08.180,
3 8.08.210, 8.08.220, 8.08.260, 8.08.280, 8.08.290, 8.08.390, 8.08.420 for future amendments to this
4 chapter.

5 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

6 Section 1. That Title 8 of the Lincoln Municipal Code be amended by adding a new
7 section numbered 8.08.010 to read as follows:

8 **8.08.010 Purpose.**

9 The City Council finds that tattooing, branding, body piercing, and other similar body art
10 practices:

11 (a) Present significant health and safety risks if not performed in a safe and sanitary
12 manner;

13 (b) Often results in permanent markings or disfigurement of the person's body; and

14 (c) Minors currently are not restricted from accessing such services in any way.

15 It is therefore declared to be the public policy of this city to eliminate and prevent health and
16 safety risks posed by the practice of tattooing, branding, body piercing, and other similar body art
17 practices by regulating these practices, providing sanitation regulations, requiring body art
18 establishment permits in order to operate, requiring inspections, providing standards for
19 enforcement, requiring training and certification for body art practitioners, and restricting such acts
20 against minors. The City Council authorizes the Health Director to administer and enforce this
21 chapter.

1 Section 2. That Title 8 of the Lincoln Municipal Code be amended by adding a new
2 section numbered 8.08.020 to read as follows:

3 **8.08.020 Definitions.**

4 For the purposes of this chapter, the following words and phrases shall have the meanings
5 ascribed to them by this section:

6 **Antiseptic** shall mean an agent that inhibits the growth and multiplication of, or destroys,
7 disease-causing microorganisms on the skin or mucosa.

8 **Aseptic techniques** shall mean methods used in piercing procedures to prevent
9 contamination of a pierced area by microorganisms.

10 **Autoclave** shall mean a sterilization device which meets the standards of American Society
11 for Mechanical Engineering (ASME).

12 **Body art** shall mean the practice of physical body adornment by practitioners using, but not
13 limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding, and
14 scarification. This definition does not include practices that are considered medical procedures by
15 the Nebraska Medical Board, which shall not be performed in a body art establishment.

16 **Body art establishment** shall mean any place or premise, whether public or private, that is
17 permanent in nature or location, where the practices of body art are performed.

18 **Body art practitioner** shall mean a person who has obtained training, passed an examination
19 and holds a permit issued under this chapter to perform tattooing, branding, body piercing or other
20 similar body art procedures.

21 **Branding** shall mean any method of placing designs, letters, scrolls, figures, or any other
22 marks upon the skin by burning with a hot iron or instrument.

1 **Body piercing** shall mean puncturing and penetration of the skin of a person and the
2 insertion of jewelry or other adornment thereto in the opening, except that puncturing the outer
3 perimeter or lobe of the ear with a presterilized single-use and clasp-ear-piercing system shall not
4 be included in this definition.

5 **Contaminated** shall mean the presence of microorganisms on inanimate objects.

6 **Department** shall mean the Lincoln-Lancaster County Health Department.

7 **Disinfection** shall mean the destruction of pathogenic microorganisms on inanimate objects
8 or surfaces, thereby rendering these objects sanitary for use or handling.

9 **Establishment** shall mean body art establishment.

10 **Equipment** shall mean all machinery, including fixtures, containers, vessels, tools, devices,
11 implements, furniture, display and storage areas, sinks and all other apparatus and appurtenances
12 used in connection with the operation of a body art establishment.

13 **Gloves** shall mean single use, sanitary, disposable medical grade gloves, such as triple
14 washed latex examination gloves or vinyl gloves.

15 **Health care professional** shall mean any physician, osteopathic physician, advanced practice
16 registered nurse, physician assistant, or dentist licensed in the State of Nebraska.

17 **Health Director** shall mean the Director of the Lincoln-Lancaster County Health Department
18 or her/his authorized representative.

19 **Hot water** shall mean water which attains and maintains a temperature of at least one-
20 hundred and twenty degrees Fahrenheit (120° F).

21 **Imminent health risk** shall mean a significant threat or danger to health that is considered
22 to exist when there is evidence sufficient to show that a product, practice, circumstance, or event

1 creates a situation that requires immediate correction or cessation of operation to prevent injury,
2 illness or disease based on the number of potential affected persons and the nature, severity and
3 duration of the anticipated injury, illness or disease.

4 **Infectious waste** shall mean:

5 (a) Blood and body fluids in a liquid or semi-liquid state;

6 (b) Items contaminated with blood or body fluids, which, if compressed or disturbed, may
7 release liquid or semi-liquid blood or body fluids;

8 (c) Sharps which have been used in performing body art.

9 (d) Other waste which contains pathogenic microbial agents or other biologically active
10 materials in sufficient concentrations that exposure to the waste directly or indirectly creates a
11 significant risk of disease.

12 **Injury** shall mean any unexpected complication, damage, harm, hurt, or impairment to a
13 customer's body structure or function that is caused by a body art procedure.

14 **Instrument** shall mean hand pieces, needles, and other tools that may come in contact with
15 a customer's body or be exposed to body fluids during body art procedures.

16 **Minor** shall mean any person who has not attained the age of 18 years.

17 **Operator** shall mean an individual, firm, partnership, company, corporation, trustee,
18 association, organization or other public or private entity, including nonprofit groups or organiza-
19 tions that owns, operates, or manages a body art establishment.

20 **Oral piercing** shall mean a piercing in any portion of the mouth, including the tongue, lip
21 and cheeks.

1 **Notifiable disease** shall mean all communicable diseases required by the laws of the State
2 of Nebraska and the Lincoln Municipal Code to be reported to health officials.

3 **Parent** shall mean a natural parent, legal guardian, or legal custodian of a minor.

4 **Person** shall mean an individual, a corporation, an organization, a limited liability company,
5 or other legal entity.

6 **Practitioner** shall mean any person who has received a permit from the Health Director to
7 perform body art on another person.

8 **Procedure surface** shall mean any surface of an inanimate object or any associated work
9 area that may require sanitizing.

10 **Sanitary** shall mean free of contaminants and pathogenic microorganisms.

11 **Sanitation** shall mean the application cumulative heat or chemicals on cleaned surfaces that,
12 when evaluated for efficacy, yield a reduction of five (5) logs, which is equal to a 99.99% reduction
13 or pathogenic microorganisms.

14 **Sanitizer** shall mean disinfectant or germicide registered with the United States Environ-
15 mental Protection Agency.

16 **Sharps** shall mean any rigid object used for the purpose of puncturing, lacerating, or
17 penetrating the skin or mucosa.

18 **Sharps container** shall mean a rigid, leak and puncture resistant, and labeled container,
19 designed for the containment of sharps. Labeling must include the international biohazard symbol.

20 **Single use** shall mean products or items that are intended for one-time, one-person use and
21 are disposed of after use on each customer such as, cotton swabs or balls, tissues or paper products,

1 paper or plastic cups, gauze and sanitary coverings, razors, piercing and tattooing needles, scalpel
2 blades, and protective gloves.

3 **Sink** shall mean a lavatory equipped with hot and cold running water under pressure.

4 **Spore** shall mean a highly resistant dehydrated form of a bacterial cell, such as those of the
5 genus *Bacillus*.

6 **Station** shall mean any chair, table, or bench where body art procedures are performed.

7 **Sterile** shall mean free of live bacteria or other microorganisms including highly resistant
8 bacterial endospores.

9 **Sterilization** shall mean the destruction of all forms of microbial life.

10 **Support animal** shall mean a trained animal such as a Seeing Eye dog that accompanies a
11 person with a disability to assist in managing the disability and enables the person to perform
12 functions that the person would otherwise be unable to perform.

13 **Tattoo** shall mean designs, letters, scrolls, figures, symbols or any other marks upon or under
14 the skin with ink or any other substance resulting in the coloration of the skin by the aid of needles
15 or any other instruments designed to touch or puncture the skin.

16 **Tattooing** shall mean the method of placing a tattoo upon or under the skin of another
17 person.

18 **Universal precautions** shall mean a set of guidelines and controls, published by the Center
19 for Disease Control and Prevention (CDC), which includes specific recommendations for the use of
20 gloves, masks, protective eye wear and/or other protective equipment when contact with blood or
21 body fluids containing blood is anticipated.

1 Section 3. That Title 8 of the Lincoln Municipal Code be amended by adding a new
2 section numbered 8.08.030 to read as follows:

3 **8.08.030 Body Art Establishment; Permit Required.**

4 It shall be unlawful for any person to operate a body art establishment without first obtaining
5 a permit from the Health Director. The operation of a body art establishment without the required
6 permit is hereby declared unlawful. The operator of a body art establishment shall conspicuously
7 post or display the body art establishment permit so that it is readily viewable by customers of such
8 establishment.

9 Section 4. That Title 8 of the Lincoln Municipal Code be amended by adding a new
10 section numbered 8.08.040 to read as follows:

11 **8.08.040 Body Art Establishment Permit; Exemption.**

12 The puncturing of the outer perimeter or lobe of the ear with a presterilized single-use and
13 clasp-ear-piercing system shall not be regulated under this chapter.

14 Section 5. That Title 8 of the Lincoln Municipal Code be amended by adding a new
15 section numbered 8.08.050 to read as follows:

16 **8.08.050 Body Art Establishment Permit; Application.**

17 (a) An application for a permit to operate a body art establishment shall be submitted to
18 the Health Director on forms provided by the Health Director.

19 (b) Each application shall include:

20 (1) The operator's full name, mailing address, phone number, and a statement
21 identifying the operators;

1 (2) If the operator is a partnership, the name, mailing address and phone number
2 of each partner;

3 (3) The establishment name, location, and the types of body art and other services
4 offered;

5 (4) A to-scale drawing of all pertinent aspects of the establishment, including a
6 description of materials used for all surfaces and the establishment floor plan;

7 (5) The number of body art stations;

8 (6) The signature of the operator or operators; and

9 (7) Such other pertinent information as requested on such forms.

10 (c) If more than one establishment will be operated by the operator; a separate application
11 and fees shall be required for each location.

12 Section 6. That Title 8 of the Lincoln Municipal Code be amended by adding a new
13 section numbered 8.08.060 to read as follows:

14 **8.08.060 Body Art Establishment; Permit Fees.**

15 The fee for a body art establishment permit shall be as follows:

<u>Body Art Establishment</u>	<u>Initial</u>	<u>Renewal</u>
<u>One (1) to five (5) stations</u>	<u>\$300.00</u>	<u>\$200.00</u>
<u>Each additional five (5) stations</u>	<u>\$120.00</u>	<u>\$ 80.00</u>

19 Any initial body art establishment permit issued after the thirtieth of November of each
20 calendar year shall pay seventy percent (70%) of the yearly fee. Renewal of all body art
21 establishment permits shall be as required in Section 8.08.080. The fees shall be payable to the

1 Lincoln-Lancaster County Health Department and the Health Director shall deposit the fees at the
2 City Treasurer's Office. The City Treasurer shall credit the fees to the Health Fund.

3 Section 7. That Title 8 of the Lincoln Municipal Code be amended by adding a new
4 section numbered 8.08.070 to read as follows:

5 **8.08.070 Body Art Establishment Permit; Issuance.**

6 Upon receipt of a complete application for a new permit and the applicable fees, the Health
7 Director shall make an inspection of the operator's establishment within fourteen days to determine
8 if the proposed establishment complies with the provisions of this chapter and any other applicable
9 law or standard.

10 (a) If the application and establishment inspection results comply with the provisions of
11 this chapter, a permit to operate a body art establishment shall be issued within a reasonable time not
12 to exceed fourteen days.

13 (b) Upon receipt of an application for a permit renewal and the applicable fees, the Health
14 Director may issue the permit without conducting an inspection.

15 (c) A permit issued hereunder is strictly limited to the operator and establishment
16 specified in the permit.

17 (d) A permit shall be non-transferable from one operator to another or from one
18 establishment to another.

19 (e) Any change of operator or establishment location shall require a new application and
20 permit, with payment of fees therefor.

21 (f) The Health Director may refuse to issue or may suspend or revoke a permit if the
22 operator:

1 (1) Has been convicted in this or any other state of a crime related to the practice
2 of body art;

3 (2) Has violated provisions of this chapter which are determined by the Health
4 Director to pose imminent health risk to the operator, practitioners, employees or the public.

5 Section 8. That Title 8 of the Lincoln Municipal Code be amended by adding a new
6 section numbered 8.08.080 to read as follows:

7 **8.08.080 Body Art Establishment Permit; Term and Expiration.**

8 All body art establishment permits granted under the provisions of this chapter, shall expire
9 on the thirtieth day of June following the date of their issuance, unless revoked prior thereto as
10 provided in this chapter.

11 Section 9. That Title 8 of the Lincoln Municipal Code be amended by adding a new
12 section numbered 8.08.090 to read as follows:

13 **8.08.090 Body Art Establishment Permit; Renewal Late Fees.**

14 (a) An operator who fails to renew the permit before it expires, but within thirty days of
15 the date of expiration shall pay a late fee of \$100.00 in addition to the renewal fee.

16 (b) An operator who fails to renew the permit before it expires and fails to renew the
17 permit within thirty days from the date of expiration shall pay a late fee of \$200.00 in addition to the
18 renewal fee.

19 (c) An operator who fails to renew the permit before it expires is operating without a
20 valid permit and shall be subject to closure or other appropriate enforcement action determined by
21 the Health Director.

1 Section 10. That Title 8 of the Lincoln Municipal Code be amended by adding a new
2 section numbered 8.08.100 to read as follows:

3 **8.08.100 Body Art Practitioner Permit; Required.**

4 Every person who performs body art shall hold a valid body art practitioner permit. The
5 performance of body art procedures without the required permit is hereby declared unlawful. A body
6 art practitioner shall conspicuously post or display practitioner permit so that it is readily viewable
7 by customers of such practitioner. A body art practitioner must follow the requirements of body art
8 establishments that are provided for by this chapter and other applicable laws. A failure to follow
9 these requirements are grounds for suspension or revocation of practitioner permit in addition to any
10 other penalty provided for by law. It shall be unlawful for any person to perform body art except in
11 a body art establishment holding a current permit.

12 Section 11. That Title 8 of the Lincoln Municipal Code be amended by adding a new
13 section numbered 8.08.110 to read as follows:

14 **8.08.110 Body Art Practitioner Permit; Application.**

15 An application for a body art practitioner permit shall be submitted to the Health Director on
16 forms provided by the Health Director. Each application shall include:

- 17 (a) The practitioner's full name, mailing address, and telephone number;
18 (b) The name of the establishments where they will perform body art;
19 (c) The signature of the practitioner;
20 (d) Verification of completing training and testing requirements specified in this chapter;
21 and
22 (e) Such other pertinent information as requested on such forms.

1 Section 12. That Title 8 of the Lincoln Municipal Code be amended by adding a new
2 section numbered 8.08.120 to read as follows:

3 **8.08.120 Body Art Practitioner Permit; Training and Testing Requirements.**

4 Before a body art practitioner permit shall be issued by the Health Director, the practitioner
5 shall satisfactorily complete training and testing programs approved by the Health Director. At a
6 minimum, such training and testing shall include: aseptic technique; cleaning, sanitization, and
7 disinfection; personal hygiene; universal precautions; disease prevention; injury prevention; disease
8 reporting; and requirements of this chapter.

9 Section 13. That Title 8 of the Lincoln Municipal Code be amended by adding a new
10 section numbered 8.08.130 to read as follows:

11 **8.08.130 Body Art Practitioner Permit; Issuance.**

12 (a) Upon receipt of an application for a body art practitioner permit, the Health Director
13 shall review the application to determine compliance with this chapter and any other applicable law.

14 (b) The Health Director shall complete the review and issue or deny the permit within
15 a reasonable time, not to exceed thirty days.

16 (c) A permit shall be issued if the Health Director determines that the practitioner
17 complies with this chapter and any other applicable law or standard.

18 (d) A body art practitioner permit is not transferable from one person to another.

19 Section 14. That Title 8 of the Lincoln Municipal Code be amended by adding a new
20 section numbered 8.08.140 to read as follows:

21 **8.08.140 Body Art Practitioner Permit; Term and Expiration.**

22 (a) A body art practitioner permit shall be valid for three years from the date of issuance.

1 (b) Failure to comply with the body art practitioner permit requirements may be grounds
2 for suspension or revocation of the body art practitioner permit and/or the body art establishment
3 permit.

4 Section 15. That Title 8 of the Lincoln Municipal Code be amended by adding a new
5 section numbered 8.08.150 to read as follows:

6 **8.08.150 Body Art Practitioner Permit; Fees.**

7 (a) The fee for a body art practitioner permit shall be as follows:

8 Initial Fee \$50.00

9 Renewal Fee \$25.00

10 (b) The fees shall be payable to the Lincoln-Lancaster County Health Department and
11 the Health Director shall deposit the fees at the City Treasurer’s Office. The City Treasurer shall
12 credit the fees to the Health Fund.

13 Section 16. That Title 8 of the Lincoln Municipal Code be amended by adding a new
14 section numbered 8.08.160 to read as follows:

15 **8.08.160 Body Art Practitioner; Body Art Procedure Requirements.**

16 (a) At all times during body art procedures, body art practitioners must use aseptic
17 techniques, universal precautions, sanitary, single use items, and sterile instruments. Before and after
18 body art procedures, practitioners must thoroughly wash their hands in warm running water with
19 liquid soap, rinse their hands and dry them with single-use disposable paper towels.

20 (b) When performing body art procedures, practitioners shall wear gloves. Gloves shall
21 be disposed after the completion of each procedure on an individual customer. Should gloves

1 become torn, punctured, or otherwise contaminated, practitioners shall remove and dispose the
2 gloves, wash their hands, and put on a new pair of gloves before resuming the body art procedure.

3 (c) If the Health Director or practitioners determine that spattering is likely to occur,
4 practitioners performing body art shall wear protective eyewear.

5 (d) Only jewelry and single use needles that are sterilized shall be used in body art
6 procedures.

7 (e) Single use items contaminated prior to or during the procedure shall be discarded
8 immediately and replaced with new ones before the procedure may resume.

9 (f) Any skin or mucous membrane surface to receive body art shall be free of rash,
10 infection or any other visible disease condition.

11 (g) Practitioners performing body art shall be free of any infection or any other visible
12 disease condition that may be transmitted as a result of carrying out the procedure.

13 (h) Preparation and care of the body art area:

14 (1) Before performing a body art procedure, the skin and surrounding area where
15 the body art is to be placed shall be thoroughly cleansed with a Health Director approved pre-surgical
16 scrub in accordance with the manufacturer's directions. A single-use sterile gauze pad or other
17 suitable sanitary product may be used for washing the skin.

18 (2) If shaving is necessary, the skin shall be gently scrubbed with Health Director
19 approved pre-surgical scrub in accordance with the manufacturer's directions before and after the
20 shaving. Razors used for shaving shall be single-use.

21 (3) Before an oral body art procedure, customers must rinse their mouths with an
22 antiseptic mouthwash.

1 (4) In the event of blood flow, all products used to check the flow of blood or to
2 absorb blood shall be sanitary single-use products.

3 (5) Upon completion of the body art, the practitioner must apply an antiseptic
4 solution to the area.

5 Section 17. That Title 8 of the Lincoln Municipal Code be amended by adding a new
6 section numbered 8.08.170 to read as follows:

7 **8.08.170 Body Art Practitioner; Use of Instruments.**

8 Sterilized needles and instruments shall be so used, handled and temporarily placed during
9 body art procedures in a way to avoid contamination.

10 Section 18. That Title 8 of the Lincoln Municipal Code be amended by adding a new
11 section numbered 8.08.200 to read as follows:

12 **8.08.200 Body Art Establishment; Requirements.**

13 (a) Structural, electrical, mechanical, ventilation, and plumbing components of buildings
14 shall comply with all applicable building and zoning codes. Walls, floors, ceilings, and equipment
15 in all areas shall be maintained in a clean condition and in good repair.

16 (b) Walls, floors, and procedure surfaces of equipment in areas where body art
17 procedures are conducted, where equipment and instruments are cleaned, and in restrooms shall be
18 smooth, non-absorbent and washable. After use by each customer, all procedure surfaces shall be
19 cleaned and sanitized with a sanitizer that has a demonstrated tuberculocidal activity, as indicated
20 by the product label.

21 (c) Effective measures shall be taken by the operator to protect against the entrance,
22 breeding or presence of insects, vermin and rodents. Openings to the outside shall be protected by

1 such means as self-closing doors, screened or closed windows. Screening material shall not be less
2 than sixteen mesh to the inch.

3 (d) There shall be a minimum of forty-five square feet per station, and each establishment
4 shall have an area that can be screened from public view for customers requesting privacy or for all
5 genitalia body art procedures.

6 (e) A minimum of twenty foot candles of light, measured three feet off the floor, shall
7 be provided in all areas of the establishment. A minimum of 100 foot candles of light shall be
8 provided at the level where body art is being performed, and where instruments and sharps are
9 cleaned and handled.

10 (f) In addition to sinks in restrooms and the equipment washing sink required below in
11 (i), sinks shall be provided at a ratio of no less than one sink per every three practitioners. Each sink
12 shall be readily accessible to each practitioner. Each sink shall be supplied with hot and cold running
13 water which passes through a mixing type faucet, and with liquid soap and disposable single-use
14 paper towels.

15 (g) Restrooms shall be available in the establishment. Each restroom shall be supplied
16 with a sink with hot and cold running water which passes through a mixing type of faucet. Each
17 restroom shall be supplied with liquid soap, toilet tissue, single-use paper towels, and a waste
18 receptacle. Restrooms shall have self-closing doors.

19 (h) At least one waste receptacle shall be provided in each station area. Solid waste,
20 including infectious waste, shall be collected, stored, and disposed of in a manner and frequency in
21 compliance federal regulations, with Lincoln Municipal Code and in such a way that does not create
22 a nuisance, as defined in the Lincoln Municipal Code.

1 (i) Other equipment and supplies necessary for providing body art services and for
2 cleaning and sterilizing instruments shall include: at least a separate one-compartment sink with hot
3 and cold running water under pressure for cleaning instruments; an autoclave; instruments and single
4 use supplies for performing body art; work tables or counters; customer chairs; and storage cabinets
5 or containers for storing clean and sterilized instruments and supplies.

6 (j) All surfaces of equipment shall be made of smooth, non-absorbent and non-porous
7 material.

8 (k) Each one-compartment sink and autoclave must have an adequate size, depth or
9 capacity to submerge or otherwise accommodate the instruments being cleaned or autoclaved.

10 (l) Ultrasonic cleaning units shall be used and maintained in accord with manufacturer's
11 recommendations and shall be kept clean and sanitary.

12 (m) Animals shall not be allowed in a body art establishment. Support animals or
13 aquariums with fish shall be allowed in waiting rooms and nonprocedural areas.

14 (n) Smoking is prohibited in areas where body art is performed or where instruments and
15 supplies are cleaned or stored.

16 (o) Practitioners may not eat or drink in areas where body art is performed or where
17 instruments and supplies are cleaned or stored.

18 (p) Water supplies shall comply with the provisions of the Lincoln Municipal Code.

19 (q) Sewage disposal shall comply with the provisions of the Lincoln Municipal Code.

20 (r) There shall not be a direct opening between an establishment and any building or
21 portion of a building used as living or sleeping quarters or as a food, liquor, or tobacco

1 establishment. This shall be accomplished, at a minimum, by a solid floor to ceiling wall of
2 separation.

3 (s) An establishment not in full compliance with the building and equipment
4 requirements of this section on the effective date of this chapter, shall have six months from the
5 effective date of this chapter to comply with requirements that are not determined by the Health
6 Director to pose imminent health risk.

7 Section 19. That Title 8 of the Lincoln Municipal Code be amended by adding a new
8 section numbered 8.08.230 to read as follows:

9 **8.08.230 Body Art Establishment; Requirements for Sterilizing Instruments and**
10 **Jewelry.**

11 (a) All non-disposable instruments used for body art shall be cleansed and sterilized after
12 each use. Autoclave sterilization shall be conducted for the cycle of time and corresponding
13 operating pressure recommended by the manufacturer of the autoclave. Sanitizers used in the
14 cleaning process must have demonstrated tuberculocidal activity, as indicated by the product label,
15 and be registered with the U.S. Environmental Protection Agency.

16 (b) Jewelry used for a new body piercing must be sterilized with a liquid chemical
17 sterilant approved by the Health Director or as required by the product label. Jewelry used in healed
18 body piercing does not have to be sterilized, but must be used according to the product label.

19 (c) Unless otherwise specified by the autoclave manufacturer, instruments that are to be
20 autoclaved must be packed individually in single use paper peel-packs or other containers designed
21 for sterilizing instruments and marked with the expiration date. The expiration date shall not exceed
22 thirty days from the date autoclaved.

23 (d) A log shall be kept to document the hours of autoclave operation.

1 (e) All sterilized instruments shall remain stored in sterilized containers until just prior
2 to performing a body art procedure. Where several instruments are sterilized at the same time in the
3 same container, such as in a single use setup, once the container is opened, any instruments not used
4 immediately in a procedure must be resterilized.

5 (f) Every batch of sterilized equipment shall be monitored for sterilization by use of a
6 heat sensitive indicator that is capable of indicating approximate time and temperature achieved.
7 In addition to the indicator requirements, spore destruction tests shall be performed to prove that
8 autoclaves are capable of attaining the minimum operating standards. Spore tests shall be performed
9 at a minimum of once for each autoclave every thirty days and shall be verified through an
10 independent laboratory.

11 (g) Autoclaves shall be cleaned at the frequency recommended by the manufacturer.
12 Autoclaves shall be serviced at the frequency recommended by the manufacturer. A copy of the
13 manufacturer's instructions for cleaning and servicing the autoclave must be maintained in operator's
14 file.

15 (h) All clean or packaged sterilized instruments and supplies shall be stored in clean, dry
16 closed cabinets, tightly covered containers, or in such a way that they remain sterile until used.

17 Section 20. That Title 8 of the Lincoln Municipal Code be amended by adding a new
18 section numbered 8.08.240 to read as follows:

19 **8.08.240 Body Art Establishment; Treatment, Storage and Disposal of Wastes.**

20 (a) All infectious waste and sharps waste shall be handled and stored so that human
21 exposure is prevented. Sharps shall be stored and disposed of in approved sharps containers.

22 (b) Infectious waste shall be:

1 (1) Autoclaved at a minimum pressure of fifteen pounds per square inch and at
2 least 250°Fahrenheit for a minimum of fifteen minutes prior to disposal; or

3 (2) Discarded in double-lined plastic bags in covered waste receptacles or an
4 approved "red" bag marked with the international biohazard symbol and stored safely until
5 transported by a licensed infectious waste hauler to an appropriate treatment or disposal facility; or

6 (3) Treated prior to disposal by a method approved by the Health Director.

7 (c) Non-infectious waste shall be placed in covered waste receptacles and disposed of
8 by a licensed refuse hauler.

9 Section 21. That Title 8 of the Lincoln Municipal Code be amended by adding a new
10 section numbered 8.08.250 to read as follows:

11 **8.08.250 Body Art Establishment; Bandages and Surgical Dressings.**

12 All bandages, tapes, and surgical dressings used in connection with body art procedures shall
13 be sanitary.

14 Section 22. That Title 8 of the Lincoln Municipal Code be amended by adding a new
15 section numbered 8.08.270 to read as follows:

16 **8.08.270 Body Art Establishment; Pigments and Dyes.**

17 All pigments, dyes, colors, etc. used in body art shall be free from bacteria, virus particles
18 and noxious agents and substances. Pigments, dyes and colors used from stock solutions for each
19 customer or patron shall be placed in a single-service receptacle and such receptacle and remaining
20 solution shall be discarded and disposed of after each use.

21 Section 23. That Title 8 of the Lincoln Municipal Code be amended by adding a new
22 section numbered 8.08.290 to read as follows:

1 **8.08.290** **Body Art Restrictions; Minors; Person Under the Influence or Mentally**
2 **Incompetent.**

3 (a) Limitations of Body Art on Minors.

4 (1) No practitioner or any other person shall perform body art, except body
5 piercing, on a minor under the age of eighteen.

6 (2) No practitioner or any other person shall perform body piercing on a minor
7 without parental consent.

8 (3) No practitioner or any other person shall accept the consent of a parent who
9 appears to be under the influence of alcohol, narcotic drugs, stimulant, or depressants, or who
10 appears to be mentally incompetent.

11 (4) No practitioner or any other person shall perform body art on a minor who
12 appears to be under the influence of alcohol, narcotic drugs, stimulant, or depressants, or who
13 appears to be mentally incompetent.

14 (5) No practitioner or any other person shall perform body piercing on a minor
15 without the presence of the minor's parent.

16 (6) Parent must be aware of the location of the body piercing to be performed in
17 advance of the procedure.

18 (7) Body piercing may be performed on all areas of a minor's body except for
19 genital areas and female breast.

20 (8) It shall be unlawful for any person to misrepresent themselves as the parent
21 of said minor.

1 **(b) No practitioner or any other person shall perform body art on person who appears to**
2 **be under the influence of alcohol, narcotic drugs, stimulants, or depressants, or who appears to be**
3 **mentally incompetent.**

4 Section 24. That Title 8 of the Lincoln Municipal Code be amended by adding a new
5 section numbered 8.08.300 to read as follows:

6 **8.08.300 Body Art Establishment; Informed Consent and Information Requirements.**

7 **(a) Informed consent for body art procedures on adults.**

8 **(1) Verbal and written educational information, approved by the Health Director,**
9 **shall be given to customers wanting to receive body art before the procedures begin. The information**
10 **shall provide, at a minimum:**

11 **(i) A brief description of the procedure;**

12 **(ii) Any precautions to be taken by the customer before the procedure;**

13 **(iii) A description of the risks and possible consequences of the procedure;**

14 **(iv) Instructions for care and restrictions following the procedure.**

15 **(2) Prior to the procedure, customers shall sign and date a statement indicating**
16 **they received and discussed the information with the operator or practitioner.**

17 **(3) Operators or practitioners shall sign and date the statements, and retain the**
18 **originals with all other required records. A copy of the statement shall be provided to the customer.**

19 **(b) Informed consent for body piercing procedures on a minor.**

20 **(1) Verbal and written educational information, approved by the Health Director,**
21 **shall be given to parent of minor and minor before body piercing procedures begin. The information**
22 **shall provide, at a minimum:**

- (i) A brief description of the procedure;
- (ii) Any precautions to be taken by the minor and parent of minor before the procedure;
- (iii) A description of the risks and possible consequences of the procedure;
- (iv) Instructions for care and restrictions following the procedure, and
- (v) Any restrictions against performing body piercing procedures on minors as prescribed by this chapter.

(2) Prior to the procedure, the minor and parent of minor shall sign and date a statement indicating they received and discussed the information with the operator or practitioner, and that the parent gives permission to the practitioner to perform body piercing on said minor.

(3) Operators or practitioners shall sign and date the statements, and retain the originals with all other required records. A copy of the statement shall be provided to the minor and parent of minor.

Section 25. That Title 8 of the Lincoln Municipal Code be amended by adding a new section numbered 8.08.310 to read as follows:

8.08.310 Body Art Establishment; Record Procedures and Requirements.

(a) Reporting infections, complaints of injuries. Any injury or complaint of injury, suspected infections that required treatment by a health care professional, or any notifiable diseases resulting from the body art procedure that become known to the operator or practitioner shall be reported to the Lincoln-Lancaster County Health Department by the operator or practitioner within twenty-four hours.

1 **(b) Customer records. Records must be maintained and shall include the following:**

2 **(1) The customer's full name, address and telephone number;**

3 **(2) Their date of birth, race and sex;**

4 **(3) A list of medical conditions;**

5 **(4) A list of allergies, including allergies to medicines or topical solutions used**

6 **by the establishment;**

7 **(5) History of bleeding disorders, or diseases;**

8 **(6) The date of the customer's initial visit and any subsequent visits;**

9 **(7) The body part or location the body art was performed;**

10 **(8) A description of the jewelry used in the piercing; or a description of design**
11 **of the tattoo, brand, or other body art;**

12 **(9) If an existing tattoo, brand, or other body art was altered, a description of the**
13 **original and its alteration must be recorded;**

14 **(10) A description of any complications that occurred at the time of the body art**
15 **procedure;**

16 **(11) Copies of the signed statement for receipt of educational information required**
17 **by this chapter;**

18 **(12) The signature and printed name of the practitioner that performed the**
19 **procedure at each visit.**

20 **(c) Additional customer records for body piercing procedures performed on a minor.**
21 **These records shall be kept with other records for the minor. Records must be maintained and shall**
22 **include the following:**

1 (1) A copy of a state issued driver’s license or identification card of the parent.
2 A copy of a school issued identification card or state issued driver’s license or identification card of
3 the minor;

4 (2) A copy of any legal documents required to establish parent’s legal relationship
5 with minor;

6 (3) A copy of the signed consent by minor and parent.

7 (4) A single legible fingerprint taken from the right index finger of the parent, or
8 if the right index finger is missing, then from the left index finger of the parent.

9 (d) Other body art establishment records. The following records must also be maintained
10 by the establishment operator:

11 (1) Autoclave maintenance records and spore test results required of this chapter;

12 (2) A copy of this chapter;

13 (3) Records of employees. Such records shall include the following employee
14 information: full names, dates of birth, sex, home addresses and telephone numbers, their dates of
15 hire, and their duties and responsibilities. Such records shall be maintained for at least two years after
16 a person's employment ends;

17 (4) Records of practitioners. Such records shall include the following practitioner
18 information: full name, mailing address, telephone number; permit number and expiration date.
19 Such records shall be maintained for at least five years after a person’s employment end;

20 (5) Documentation of training required by this chapter;

21 (6) A complete description of all body art procedures provided by the body art
22 establishment.

1 (e) Records required by this section shall be maintained at each establishment for the
2 current permitting period. Records may be stored elsewhere after that time frame, but they must be
3 stored for a period of five years and be made available for review by the Health Director upon
4 request.

5 Section 26. That Title 8 of the Lincoln Municipal Code be amended by adding a new
6 section numbered 8.08.320 to read as follows:

7 **8.08.320 Body Art Establishment; Enforcement, Inspection.**

8 (a) The Health Director shall conduct an inspection of each body art establishment before
9 an initial permit is issued.

10 (b) The Health Director shall conduct periodic inspections of each body art establishment.

11 (c) An operator shall permit the Health Director to inspect at any reasonable time for the
12 purpose of determining compliance with the provisions of this chapter.

13 (d) The Health Director shall record the inspection findings on an inspection report. The
14 Health Director shall furnish the original inspection report to the body art establishment operator.

15 (e) The inspection report shall:

16 (1) Set forth specific conditions found;

17 (2) Establish a specific and reasonable period of time for correction of violations
18 of the provisions of this chapter, if any;

19 (3) State that failure to correct the violations within the period of time specified
20 may result in immediate suspension or revocation of the permit and prosecution for violation of this
21 chapter;

1 (4) State that the operator may request a hearing before the Health Director upon
2 such inspection findings by filing a written request with the Health Director.

3 (f) A warning notice may be issued for violations that the Health Director determines
4 pose an imminent health risk. Such warning notice shall:

5 (1) Set forth specific conditions found,

6 (2) Establish a specific and reasonable period of time for correction of such
7 violations;

8 (3) State that failure to comply with the warning notice may result in immediate
9 suspension or revocation of the permit and prosecution for violation of this chapter;

10 (4) State that operator may request a hearing before the Health Director upon such
11 inspection findings and warning notice by filing a written request with the Health Director.

12 (g) After the time period given for correction in the inspection report or warning notice,
13 the Health Director shall reinspect the establishment to determine compliance.

14 (h) The completed inspection report form and the warning notice are public documents
15 that shall be made available for public disclosure to any person who requests it according to law.

16 Section 27. That Title 8 of the Lincoln Municipal Code be amended by adding a new
17 section numbered 8.08.330 to read as follows:

18 **8.08.330 Body Art Establishment or Practitioner Permit; Suspension, Revocation.**

19 It shall be a condition of any permit issued under this chapter that it may be suspended or
20 revoked at any time by the Health Director for the violation of the statutes of the State of Nebraska
21 or any of the provisions of this chapter or ordinances of the City by causing an immediate and

1 substantial hazard to the public health. Any permits granted under this chapter shall be subject to
2 suspension or revocation in the following manner:

3 (a) The Health Director shall notify the operator or practitioner as provided in Section
4 8.08.370.

5 (b) The Health Director may suspend the permit for an appropriate period of time not to
6 exceed ninety days.

7 (c) The suspension or revocation shall be effective immediately upon notice.

8 (d) The operator or practitioner shall have a right to a hearing in which the Health Director
9 shall conduct in accordance with Section 8.08.380.

10 (e) It shall be unlawful to continue to operate or cause, permit or allow body art procedures
11 after the operator receives notice of suspension or revocation. It shall be unlawful for the practitioner
12 to perform body art procedures on another person after receiving notice of suspension or revocation.

13 (f) Actions for reinstatement, hearing, or appeal shall not stay or delay the suspension or
14 revocation in any manner.

15 Section 28. That Title 8 of the Lincoln Municipal Code be amended by adding a new
16 section numbered 8.08.340 to read as follows:

17 **8.08.340 Body Art Establishment or Practitioner Suspended Permit; Reinstatement.**

18 (a) Any operator or practitioner whose permit has been suspended may apply for
19 reinstatement of such permit. The application shall provide the same information as for a new permit
20 and shall also include a statement signed by the operator or practitioner that the conditions causing
21 suspension of the permit have been corrected.

1 **(b) The Health Director shall inspect or review the application as for a new permit, except,**
2 **the Health Director shall make the establishment inspection within three days after receiving the**
3 **application for reinstatement and the reinstatement fee. The Health Director shall make a**
4 **determination if a practitioner permit shall be reinstated within five days after receiving the**
5 **application for reinstatement and the reinstatement fee.**

6 **(c) The Health Director shall reissue or reinstate the permit if the conditions causing**
7 **suspension of the permit have been corrected and upon payment of any reinstatement fee provided**
8 **for in this chapter.**

9 Section 29. That Title 8 of the Lincoln Municipal Code be amended by adding a new
10 section numbered 8.08.350 to read as follows:

11 **8.08.350 Body Art Establishment or Practitioner Suspended Permit; Reinstatement Fee.**

12 **Any person eligible for reinstatement as provided in Section 8.08.240, shall pay a**
13 **reinstatement fee of \$150.00 in addition to any other applicable fees. The Health Director shall not**
14 **reinstate the permit until the reinstatement fee is paid.**

15 Section 30. That Title 8 of the Lincoln Municipal Code be amended by adding a new
16 section numbered 8.08.360 to read as follows:

17 **8.08.360 Body Art Establishment or Practitioner Revoked Permit; Application for**
18 **New Permit.**

19 **Any operator or practitioner who has had their permit revoked by the Health Director does**
20 **not qualify for reinstatement. The operator or practitioner must make an application for a new**
21 **permit and cannot obtain a new permit until at least ninety days have passed since the date of the**
22 **revocation notice.**

1 Section 31. That Title 8 of the Lincoln Municipal Code be amended by adding a new
2 section numbered 8.08.370 to read as follows:

3 **8.08.370 Notice; Service.**

4 (a) The Health Director may serve notice as follows:

5 (1) By personal service to the operator or practitioner; or

6 (2) By certified mail, postage prepaid, return receipt requested to the operator or
7 practitioner's last known address.

8 (b) The person making personal service may provide a written declaration under penalty
9 of perjury identifying the person served and the time, date, and manner of service as proof of service.

10 (c) If the service on a body art establishment is to a person other than the operator, the
11 Health Director may send a copy of the notice to the operator by regular mail. The copy is not
12 required as part of the notice, and receipt of the copy does not affect the notice.

13 Section 32. That Title 8 of the Lincoln Municipal Code be amended by adding a new
14 section numbered 8.08.380 to read as follows:

15 **8.08.380 Enforcement Hearings.**

16 (a) The Health Director shall conduct hearings no later than:

17 (1) Three days after a request for a hearing after a suspension or revocation.

18 (2) Fourteen days after any other request.

19 (b) The Health Director may appoint a suitable hearing officer to hear the matter. Such
20 hearing officer shall make recommendations based on the evidence adduced at the hearing for the
21 Health Director's final determination of the matter.

1 (c) The hearing need not be conducted according to the technical rules relating to evidence
2 and witnesses. The person requesting the hearing and the Health Director may:

3 (1) Call and examine witnesses on any matter relevant to the issues of the hearing;

4 (2) Introduce documentary and physical evidence;

5 (3) Cross examine opposing witnesses on any matter relevant to the issues of the
6 hearing; and

7 (4) Rebut evidence.

8 (d) The Health Director may uphold, reverse, or modify the act or findings prompting the
9 request of the Health Director may take such other reasonable action as the Health Director may
10 determine proper in relation to the request.

11 (e) The Health Director shall make a final determination within ten days after the hearing.

12 (f) The Health Director's decision shall be final and binding upon the City and upon the
13 person making the request. The Health Director's decision may be appealed to the district court as
14 provided by law.

15 Section 33. That Title 8 of the Lincoln Municipal Code be amended by adding a new
16 section numbered 8.08.400 to read as follows:

17 **8.08.400 Appeals.**

18 (a) If the Health Director denies any application or fails or refuses to issue a permit under
19 this chapter within forty-five days from the date of application, such decision may be appealed to the
20 district court as provided for by state law.

21 (b) Any person aggrieved by a final decision of the Health Director in the administration
22 or enforcement of this chapter may appeal such decision to the district court as provided by state law.

1 Section 34. That Title 8 of the Lincoln Municipal Code be amended by adding a new
2 section numbered 8.08.410 to read as follows:

3 **8.08.410 Variances**

4 Requests for variances for requirements in this chapter must be submitted to the Health
5 Director in writing. A variance may be only be issued in relation to Sections 8.08.160, 8.08.200,
6 8.08.230, 8.08.240 in order to allow for improvements and changes to the industry. Only variances
7 must comply with all applicable laws. The Health Director shall act on the request for variance
8 within thirty days.

9 Section 35. That Title 8 of the Lincoln Municipal Code be amended by adding a new
10 section numbered 8.08.430 to read as follows:

11 **8.08.430 Liability of Operator.**

12 Every act or omission of whatsoever nature constituting a violation of any of the provisions
13 of this chapter, by an officer, director, manager or other agent or employee of any operator if said
14 act is committed or omission is made with the authorization, knowledge, or approval of the operator,
15 shall be deemed and held to be the act of such operator, and said operator shall be punishable in the
16 same manner as if said act or omission had been done or omitted by such operator personally.

17 Section 36. That Title 8 of the Lincoln Municipal Code be amended by adding a new
18 section numbered 8.08.440 to read as follows:

19 **8.08.440 Penalty for Violations.**

20 (a) The violations of any of the provisions of this chapter, or the violation of any other
21 ordinances of the City of Lincoln, or the laws of the State of Nebraska, in connection with the
22 operation of the business by the operator or any employees or agents of the operator, shall be cause

1 sufficient to justify the revocation or suspension of the permit by the Lincoln-Lancaster County
2 Health Department. Such revocation or suspension shall be cumulative with to any other penalty or
3 fine imposed by the Lincoln Municipal Code, or the laws of the State of Nebraska.

4 (b) It shall be unlawful for any person to intentionally, knowingly, or willingly to commit
5 any offense in violation of this chapter. Any penalty for violation of this chapter shall be cumulative
6 with to any other penalty or fine imposed by the Lincoln Municipal Code, or the laws of the State
7 of Nebraska.

8 Section 37. That Title 8 of the Lincoln Municipal Code be amended by adding a new
9 section numbered 8.08.450 to read as follows:

10 **8.08.450 Severability and Savings Clause.**

11 (a) Each section and each subdivision of a section of this title is hereby declared to be
12 independent of every other section or subdivision of a section so far as inducement for the passage
13 of this ordinance is concerned and invalidity of any section or subdivision of a section of this title
14 shall not invalidate any other section or subdivision of a section thereof.

15 (b) This title shall in no manner affect pending actions, either civil or criminal, founded
16 on or growing out of any ordinance or part of any ordinance hereby repealed; and this title shall in
17 no manner affect rights or causes of action, either civil or criminal, not in suit that may have already
18 accrued or grown out of any ordinance or part of any ordinance hereby repealed.

19 Section 38. That Sections 1 through 37 hereof be codified in the Lincoln Municipal
20 Code as Chapter 8.08, Body Art Establishments.

1 Section 39. Pursuant to Article VII, Section 7 of the City Charter, this ordinance shall
2 be posted on the official bulletin board of the City in lieu of and in place of newspaper publication
3 with notice of passage and such posting to be given by publication one time in the official newspaper
4 by the City Clerk. This ordinance shall take effect and be in force from and after its passage and
5 publication as herein and in the City Charter provided.

Introduced by:

Approved as to Form & Legality:

City Attorney

Staff Review Completed:

Administrative Assistant

Approved this ___ day of _____,
2002:

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Mayor