

File No. 130402

Committee Item No. 10

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Rules Committee

Date October 3, 2013

Board of Supervisors Meeting

Date _____

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
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OTHER

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Completed by: Linda Wong Date September 30, 2013

Completed by: _____ Date _____

1 [Health, Business and Tax Regulations Codes - Safe Body Art]

2
3 **Ordinance amending the Health Code by repealing miscellaneous sections relating to**
4 **tattooing and adding Article 40 to require body art practitioners to register with the**
5 **Department of Public Health (DPH) and to annually renew registration, and to require**
6 **permanent and temporary body art facilities to obtain and annually renew permits with**
7 **DPH; amending the Business and Tax Regulations Code by adding fees relating to**
8 **body art permits and licenses; and making environmental findings.**

9 NOTE: Additions are *single-underline italics Times New Roman*;
10 deletions are *strike-through italics Times New Roman*.
11 Board amendment additions are double-underlined;
12 Board amendment deletions are ~~strikethrough normal~~.

13 Be it ordained by the People of the City and County of San Francisco:

14 Section 1. The Planning Department has determined that the actions contemplated in
15 this ordinance comply with the California Environmental Quality Act (California Public
16 Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the
17 Board of Supervisors in File No. ___ and is incorporated herein by reference.

18 Section 2. The San Francisco Health Code is hereby amended by adding Article 40, to
19 read as follows:

20
21
22
23
24
25 **ARTICLE 40: SAFE BODY ART**

1 ARTICLE 40: SAFE BODY ART

2
3 Sec. 4001

Findings

4 Sec. 4002

Definitions

5 Sec. 4003

Permit Required for Body Arts Facility

6 Sec. 4004

Investigation and Inspections

7 Sec. 4005

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8 Sec. 4006

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9 Sec. 4007

Nontransferability of Permit and Registration Card

10 Sec. 4008

Body Art Temporary Demonstration Booth

11 Sec. 4009

Mechanical Stud and Clasp Ear Piercing

12 Sec. 4010

Permit and Registration Fees

13 Sec. 4011

Body Art Facility Permits and Practitioner's Registration Cards

14 Sec. 4012

Suspension or Revocation of Permit or Registration Card

15 Sec. 4013

Imminent Health Hazard

16 Sec. 4014

Violations—Penalties

17 Sec. 4015

Rules and Regulations

18 Sec. 4016

Undertaking for the General Welfare

19 Sec. 4017

Severability

20
21 SEC. 4001. PURPOSE.

22 The Board of Supervisors finds and declares the following:

23 The purpose of this ordinance is to implement California Health & Safety Code Sections 119300 et
24 seq., the Safe Body Art Act, to provide minimum standards for the regulation of persons engaged in
25 California in the business of tattooing, body piercing, branding, and the application of permanent

1 cosmetics. These standards are intended to protect both the practitioner and the client from
2 transmission of infectious diseases through the application of proper body art procedures, and the
3 prevention of cross-contamination of instruments and supplies.

4 **SEC. 4002. DEFINITIONS.**

5 For purposes of this Article 40, the following definitions apply.

6 "Aftercare" means written and oral instructions (sometimes called "post procedure
7 instructions") given to the client, that are specific to the body art procedure the client has undergone
8 or will undergo, and that pertain to caring for the body after the procedure.

9 "Antimicrobial " means agents that disinfect, sanitize, reduce, or mitigate growth or
10 development of microbiological organisms.

11 "Autoclave" means a container (sometimes called a "steam sterilizer") specifically made for
12 sterilizing instruments or other materials by superheated steam (at least 250 degrees Fahrenheit) under
13 pressure for a specified period of time to insure sterilization of all contents.

14 "Blood" means human blood, human blood components, and products made from human blood.

15 "Bloodborne pathogen" means a disease-causing microorganism that, when present in the
16 blood, can be transmitted to humans, including, but not limited to, hepatitis B virus (HBV), hepatitis C
17 virus (HCV), and human immunodeficiency virus (HIV).

18 "Bodily fluids" means any fluid in the body including blood, urine, saliva, sputum, tears, semen,
19 milk, or vaginal secretions. Blood may be released from the body when the skin of any human surfaces
20 including but not limited to the lip, tongue, mouth or nose, is punctured, torn, cut, or abraded.

21 "Body art" means body piercing, tattooing, branding, or applying permanent cosmetics to the
22 human body, as those terms are defined below.

23 (1) "Body piercing" means the creation of an opening in a human body for the purpose
24 of inserting jewelry or other decoration. "Body piercing" includes, but is not limited to, the piercing of
25 an ear, including the tragus, lip, tongue, nose, or eyebrow; provided, however, that "body piercing"

1 does not include the piercing of an ear, except for the tragus, with a disposable, single-use, pre-
2 sterilized stud and clasp or solid needle that is applied using a mechanical device to force the needle or
3 stud through the ear.

4 (2) "Tattooing" means the insertion of pigment in human skin tissue by piercing with a
5 needle.

6 (3) "Branding" means the process in which a mark or marks are burned into human skin
7 tissue with a hot iron or other instrument, with the intention of leaving a permanent scar.

8 (4) "Permanent cosmetics" means the application of pigments in human skin tissue for
9 the purpose of permanently changing the color or other appearance of the skin. This includes, but is not
10 limited to, permanent eyeliner, eyebrow, or lip color.

11 "Body art facility" means the building, section of a building, or vehicle in which a practitioner
12 performs body art, including reception areas, the procedure area, and the decontamination and
13 sterilization area, as those terms are defined below.

14 (1) "Reception area" means the room, or portion of the building where clients,
15 potential clients, and members of the public, are greeted and wait to be admitted to the procedure area.

16 (2) "Procedure area" means a room, or designated portion of a room, or designated
17 portion of a vehicle, that is set apart and only used to perform body art.

18 (3) "Decontamination and sterilization area" means a room, or specific section of a
19 room, or specific section of a vehicle, that is set apart and used exclusively to decontaminate and
20 sterilize instruments.

21 "Body art temporary demonstration booth" means the temporary area in which practitioners
22 may work under the conditions delineated in Section 4008, below.

23 "Client" means an individual upon whom a practitioner performs body art.

1 "Decontaminate" means the use of physical or chemical means to remove, inactivate, or destroy
2 bloodborne pathogens on a surface or item to the point where the pathogens are no longer capable of
3 transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.

4 "Department" means the San Francisco Department of Public Health.

5 "Director" includes the Director of Public Health, and any designee of the Director of Public
6 Health.

7 "Instrument" means a nonmedical application device used in performing body art, including,
8 but not limited to, needles, needle bars, needle tubes, forceps, hemostats, tweezers, razors, or razor
9 blades.

10 "Owner" means either of the following:

11 (1) The person or persons whose name or names appear on the health permit, business
12 license, property deed, or rental agreement of the body art facility.

13 (2) A person, acting as a principal of a corporation or partnership, who employs
14 practitioners to perform body art.

15 "Practitioner" means a person who performs body art on a client.

16 "Sterilize" means the complete destruction of all microbial life forms, including spores.

17 **SEC. 4003. PERMIT REQUIRED FOR BODY ART FACILITY.**

18 (a) All body art facilities must obtain a permit issued by the Director.

19 (b) Every applicant for a body art facility permit shall file a written application with the
20 Department, which shall state the name and address of the applicant, a description of the body art
21 facility by street and number, the number of practitioners to be employed in the body art facility,
22 together with a description of the experience and qualifications of each practitioner, and such other
23 pertinent information as the Department may require. Such information shall be updated annually.

24 (c) A body art facility permit shall be subject to suspension or revocation by the Director,
25 following a hearing, upon a showing satisfactory to the Director of a violation by the practitioner of

1 state law, this Article 40, other local law, or the Director's rules and regulations implementing this
2 Article, in accordance with the procedures set forth in Section 4012 of this Article.

3 **SEC. 4004. INVESTIGATION AND INSPECTION.**

4 The Director shall investigate the statements made in the application for a body art facility
5 permit, and shall inspect the proposed body art facility. If the Director determines that the statements
6 contained in the application are true, and that the sanitary conditions of the body art facility comply
7 with state law, this Article 40, local zoning, fire and building code requirements, and the Director's
8 rules and regulations implementing this Article, a permit shall be granted for the body art facility.

9 **SEC. 4005. REGISTRATION CARD REQUIRED FOR BODY ART PRACTITIONER.**

10 (a) It shall be unlawful for any person to employ a body art practitioner without such
11 practitioner having first secured a practitioner's registration card issued by the Director.

12 (b) The issuance of the body art practitioner's registration card shall be subject to the
13 applicant's compliance with state law, the provisions of this Article 40, and the Director's rules and
14 regulations implementing this Article, including passing any required examination.

15 (c) A practitioner's registration card shall be subject to suspension or revocation by the
16 Director, following a hearing, upon a showing satisfactory to the Director of a violation by the
17 practitioner of state law, this Article 40, other local law, or the Director's rules and regulations
18 implementing this Article, in accordance with the procedures set forth in Section 4012 of this Article.

19 **SEC. 4006. EXPIRATION DATE OF PERMIT AND REGISTRATION CARD.**

20 A permit for a body art facility or a body art practitioner's registration card may be granted at
21 any time during the year, but all body art facility permits and body art practitioner's identification
22 cards issued, regardless of the date of issuance, shall expire at the end of the thirtieth day of the June
23 following the date of issuance.

24 **SEC. 4007. NONTRANSFERABILITY OF PERMIT AND REGISTRATION CARD.**

25 (a) A permit for a body art facility is not transferable.

1 (b) A body art practitioner's registration card is not transferable.

2 **SEC. 4008. BODY ART TEMPORARY DEMONSTRATION BOOTH.**

3 (a) A registered body art practitioner may practice in a temporary demonstration booth for no
4 more than 7 days in a 90-day period, if the demonstration booth meets all of the following
5 requirements:

6 (1) Is located in a building that has, at a minimum, hand washing facilities with hot and
7 cold running water, containerized liquid soap, single-use paper towels, a five-gallon or larger
8 container of potable water accessible via spigot, and a wastewater collection and holding tank of
9 corresponding size, to which the practitioner has direct, unobstructed access. Potable water shall be
10 refilled and the holding tank evacuated at least every four procedures or every four hours, whichever
11 occurs first., while the temporary demonstration booth is in operation

12 (2) Is constructed with a partition of at least 3 feet in height separating the procedure
13 area from the public.

14 (3) Is free from both insect and rodent infestation.

15 (4) Is used exclusively for performing body art.

16 (5) Is equipped with adequate light at the level where the practitioner is performing
17 body art.

18 (6) Prohibits animals.

19 (7) Operates with all necessary permits to conduct business at that site.

20 (b) All body art temporary demonstration booths must meet the requirements listed in
21 subsection (a), above, and obtain a permit from the Department.

22 (c) In addition to the penalties authorized in Section 4014, if a body art practitioner violates this
23 section, the Department shall close the body art event and shall impose a penalty not to exceed three
24 times the cost of the permit.

1 **SEC. 4009. MECHANICAL STUD AND CLASP EAR PIERCING.**

2 Facilities that use a pre-sterilized single-use mechanical stud and clasp device to pierce an ear
3 shall conduct such services in a safe and sanitary manner. The operator of a mechanical stud and
4 clasp facility, or facilities, shall register the facility, or facilities, with the Department annually. Such
5 registration shall include a contact person responsible for compliance with state and local law, and the
6 address, or addresses, of the facility or facilities, respectively, and a statement that the operator will
7 conduct such services in conformance with state law.

8 **SEC. 4010. PERMIT AND REGISTRATION FEES.**

9 (a) The following fees shall be paid for issuance of a facility permit and/or practitioner
10 registration:

11 <u>Body Art Facility Application</u>	<u>\$315.00</u>
12 <u>Body Art Facility-- new construction, deposit for remodel plans</u> 13 <u>review, and inspection</u>	<u>\$800.00</u>
14 <u>Body Art Facility—inspection, re-inspection, consultation, per hour</u>	<u>\$186.00</u>
15 <u>Body Art Mobile Facility—annually</u>	<u>\$800.00</u>
16 <u>Body Art Practitioner Registration Application</u>	<u>\$ 75.00</u>
17 <u>Body Art Practitioner Photo ID card</u>	<u>\$ 40.00</u>
18 <u>Body Art Practitioner Replacement Photo ID card</u>	<u>\$ 25.00</u>
19 <u>Body Art Temporary Demonstration Booth</u>	<u>\$130.00</u>
20 <u>Body Art Temporary Event Demonstration Booth Sponsor</u>	<u>\$300.00</u>
21 <u>Body Art Temporary Event Practitioner Application</u>	<u>\$100.00</u>
22 <u>Mechanical Stud and Clasp Piercing Facility Registration</u>	<u>\$ 45.00</u>

23
24 (b) Upon approval of an application by an owner or operator of a body art facility for a permit
25 to engage in the practice of body art, the Director shall forward the permit to the Tax Collector, who,

1 upon payment of the permit fee by the applicant shall issue a license and upon showing proof of
2 payment to the Department, the Department shall issue the permit to the designated permittee.

3 (c) Beginning with fiscal year 2013-2014, the fee set forth in the Section may be adjusted each
4 year, without further action by the Board of Supervisors, as set forth in this Section. Not later than
5 April 1, the Director shall report to the Controller the revenues generated by the fee for the prior fiscal
6 year and the prior fiscal year's costs of operation, as well as any other information that the Controller
7 determines appropriate to the performance of the duties set forth in this Section.

8 (d) Not later than May 15, the Controller shall determine whether the current fee has produced
9 or is projected to produce revenues sufficient to support the costs of providing the services for which
10 the fee is assessed and that the fee will not produce revenue which is significantly more than the costs
11 of providing the services for which the fee is assessed. The Controller shall, if necessary, adjust the fee
12 upward or downward for the upcoming fiscal year as appropriate to ensure that the program recovers
13 the costs of operation without producing revenue which is significantly more than such costs. The
14 adjusted fee shall become operative on July 1.

15 **SEC. 4011. BODY ART FACILITY PERMITS AND PRACTITIONER'S REGISTRATION**
16 **CARDS -NOTICE TO CLIENTS AND PROSPECTIVE CLIENTS.**

17 (a) The body art facility permit, current body art facility license and Director's regulations
18 shall be posted at all times in a conspicuous place in the body art facility so as to be readily visible to
19 clients and prospective clients.

20 (b) The body art practitioner registration card must be conspicuously worn by the practitioner
21 or otherwise clearly displayed to clients and prospective clients, at all times while the practitioner is on
22 duty.

1 **SEC. 4012. SUSPENSION OR REVOCATION OF PERMIT OR REGISTRATION CARD**

2 (a) A body art facility permit or body art practitioner registration card may be suspended or
3 revoked by the Director for violation of state laws regulating body art, or violation of this Article 40,
4 other local law, or any Director's regulations implementing this Article 40.

5 (b) Prior to any action to suspend or revoke a body art facility permit or body art practitioner
6 registration card, the Director shall issue a written Notice of Violation setting forth the basis for such
7 action and notifying the body art facility permit holder or registered body art practitioner of the right
8 to a hearing prior to suspension or revocation.

9 (c) A body art facility permit holder or registered body art practitioner may request a hearing
10 within 15 days after receipt of the Notice of Violation. Failure to request a hearing within 15 days
11 shall be deemed a waiver of the right to a hearing, with the result that the permit or registration card
12 will be suspended or revoked consistent with the notice provided with the issuance of the Notice of
13 Violation.

14 (d) If the body art facility permit holder or registered body art practitioner timely requests a
15 hearing, the hearing shall be held. Following the hearing, the hearing officer, as designated by the
16 Director, shall issue written notice of decision to the permit holder or practitioner within 5 working
17 days after the hearing, stating the basis for any suspension or revocation. Such decisions may be
18 appealed to the Board of Appeals in accordance with the San Francisco Charter and the Municipal
19 Code.

20 **SEC. 4013. IMMINENT HEALTH HAZARD.**

21 If the Director finds an imminent health hazard, the Director may suspend a body art facility
22 permit and/or body art practitioner registration card, and order the body art facility or the body art
23 practitioner to cease operation until the hazard is corrected. The Director shall issue a written Notice
24 of Violation setting forth the basis for such action, and provide the permit holder or practitioner with
25

1 the right to a hearing, as set forth in Section 4012, above, except that the hearing may be held at the
2 request of the body art facility permittee or body art practitioner registrant as soon as practicable.

3 **SEC. 4014. VIOLATIONS – PENALTIES.**

4 Performing body art without being registered, owning or operating a body art facility without a
5 health permit, or operating a temporary body art booth in violation of the requirements set forth in
6 Section 4008, above, shall be a misdemeanor under state law. Additionally, the Department may assess
7 an administrative penalty of not less than \$25 and not more than \$1000.00, to be used for the
8 enforcement of this Article 40.

9 **SEC. 4015. RULES AND REGULATIONS.**

10 The Director is authorized but not required to issue rules and regulations for the
11 implementation of this Article 40.

12 **SEC. 4016. UNDERTAKING FOR THE GENERAL WELFARE.**

13 In enacting and implementing this Article, the City is assuming an undertaking only to promote
14 the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation
15 for breach of which it is liable in money damages to any person who claims that such breach
16 proximately caused injury.

17 **SEC. 4017 SEVERABILITY.**

18 If any section, subsection, sentence, clause, phrase, or word of this Article is for any reason
19 held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision
20 shall not affect the validity of the remaining portions of this Article. The Board of Supervisors hereby
21 declares that it would have adopted this Article, and each and every section, subsection, sentence,
22 clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other
23 portion of this Article would be subsequently declared invalid or unconstitutional.

24 Section 3. The San Francisco Health Code is hereby amended by repealing Sections
25 255, 256, 257, 258, 259, 260, 261, 262, and 263, as follows:

1 **~~SEC. 255. TATTOOING.~~**

2 ~~—Definitions. For the purpose of this ordinance certain words and phrases shall be construed~~
3 ~~as hereafter defined. Words in the singular include the plural, and words in the plural shall include the~~
4 ~~singular. Words in the present tense shall include the future.~~

5 ~~—(a) Director of Public Health. The term "Director of Public Health" shall include the~~
6 ~~Director of Public Health, his assistant, or any regularly qualified employee or inspector of the~~
7 ~~Department of Public Health in the City and County of San Francisco.~~

8 ~~—(b) Tattooing. Tattooing shall mean any method of placing designs, letters, scrolls,~~
9 ~~figures, symbols, or any other marks upon or under the skin with ink or colors, by the aid of needles or~~
10 ~~instruments.~~

11 ~~—(c) Person. Person shall mean any individual, firm or corporation, owner or operator of a~~
12 ~~tattooing establishment.~~

13 **~~SEC. 256. PERMIT.~~**

14 ~~—It shall be unlawful for any person, firm or corporation, owning, controlling and leasing,~~
15 ~~acting as agent for, conducting, managing or operating any establishment to practice the art of~~
16 ~~tattooing or to engage in the practice of tattooing, without first applying for and receiving a permit~~
17 ~~from the Director of Public Health of the City and County of San Francisco in the manner hereinafter~~
18 ~~provided.~~

19 ~~—Every applicant for such permit shall file with the Department of Public Health of the City~~
20 ~~and County of San Francisco a written application, which shall state the name and address of the~~
21 ~~applicant, a description of the property by street and number, wherein and whereon it is proposed to~~
22 ~~conduct the tattooing establishment, the number of persons to be employed in such establishment,~~
23 ~~together with a description of the experience and qualifications of each person engaged in the practice~~
24 ~~of tattooing, and such other pertinent information as the Department of Public Health may require.~~
25

1 **~~SEC. 257. INVESTIGATION AND INSPECTION.~~**

2 ~~—It shall be the duty of the Director of Public Health of the City and County of San Francisco~~
3 ~~to investigate the statements made in the application, and the premises where it is proposed to practice~~
4 ~~the business of tattooing, and if it shall appear to the Director of Public Health that the statements~~
5 ~~contained in the application are true and that the sanitary conditions prevailing upon the premises~~
6 ~~comply with the provisions of this ordinance and State laws and conform to the rules and regulations of~~
7 ~~the Director of Public Health of the City and County of San Francisco, a permit therefore shall be~~
8 ~~granted for the establishment. Such permit shall be granted only upon the express condition that it shall~~
9 ~~be subject to suspension or revocation by the Director of Public Health upon a showing satisfactory to~~
10 ~~said Director of a violation by the holder of such permit, or person or employee, acting with his~~
11 ~~consent or under this authority, of any provision of this ordinance or any law of the State of California,~~
12 ~~or any rule or regulation of the Director of Public Health of the City and County of San Francisco~~
13 ~~regulating tattooing establishments, which rules or regulations the Director of Public Health is hereby~~
14 ~~authorized to make.~~

15 **~~SEC. 258. LICENSE FEES.~~**

16 ~~(a) Upon approval of an application for a permit to engage in the practice of tattooing,~~
17 ~~the Director of Public Health shall forward the permit therefore to the Tax Collector, who, upon~~
18 ~~payment of the license fee hereinafter provided shall issue the permit to the designated permittee.~~

19 ~~—Every person engaged in the business of conducting, managing or operating any~~
20 ~~establishment for the practice of the art of tattooing shall pay a license fee of \$1,372 per year, or for~~
21 ~~any portion of a year. The Fee shall be due annually on March 31 of each year, pursuant to Section~~
22 ~~76.1, Article 2 of the San Francisco Business and Tax Regulations Code.*~~

23 ~~(b) Beginning with fiscal year 2008-2009, the fee set forth in the Section may be adjusted~~
24 ~~each year, without further action by the Board of Supervisors, as set forth in this Section.~~

1 ~~— Not later than April 1, the Director shall report to the Controller the revenues generated~~
2 ~~by the fee for the prior fiscal year and the prior fiscal year's costs of operation, as well as any other~~
3 ~~information that the Controller determines appropriate to the performance of the duties set forth in this~~
4 ~~Section.~~

5 ~~— Not later than May 15, the Controller shall determine whether the current fee has~~
6 ~~produced or is projected to produce revenues sufficient to support the costs of providing the services~~
7 ~~for which the fee is assessed and that the fee will not produce revenue which is significantly more than~~
8 ~~the costs of providing the services for which the fee is assessed.~~

9 ~~— The Controller shall, if necessary, adjust the fee upward or downward for the upcoming~~
10 ~~fiscal year as appropriate to ensure that the program recovers the costs of operation without producing~~
11 ~~revenue which is significantly more than such costs. The adjusted fee shall become operative on July 1.~~

12 ~~**SEC. 259. QUALIFICATIONS OF OPERATOR.**~~

13 ~~— It shall be unlawful for any person to employ an operator in the practice of tattooing without~~
14 ~~such operator having first secured an operator's card. The issuance of the operator's card herein~~
15 ~~provided shall be subject to the applicant's compliance with the regulations and passage of the physical~~
16 ~~examination required by the rules and regulations of the Director of Public Health. An operator's card~~
17 ~~shall be granted only on the express condition that it shall be subject to suspension or revocation by the~~
18 ~~Director of Public Health upon a showing satisfactory to the Director of Public Health of a violation by~~
19 ~~the holder of said operator's card of any rule of the Director or provision of this ordinance or of State~~
20 ~~law or upon a satisfactory showing that the operator does not possess sufficient skill or that he is~~
21 ~~negligent and has been responsible for communication of infections.~~

22 ~~**SEC. 260. SUSPENSION OR REVOCATION OF OPERATOR'S PERMIT.**~~

23 ~~— Suspension or revocation of a permit for an operator's card shall automatically suspend or~~
24 ~~revoke any license issued to such person under the provisions of this or any other ordinance of the City~~
25

1 ~~and County of San Francisco. Upon the making of any order of suspension or revocation, the Director~~
2 ~~of Public Health shall in writing notify the Tax Collector and the Police Department.~~

3 ~~**SEC. 261. EXPIRATION DATE OF PERMIT.**~~

4 ~~—A permit for a tattooing establishment or an operator's card under the provisions of this~~
5 ~~ordinance may be granted at any time during the year, but all permits and operators' cards issued~~
6 ~~hereunder shall expire on the thirtieth day of the next succeeding June. Said permit or operator's card~~
7 ~~shall not be transferable.~~

8 ~~**SEC. 262. PERMITS AND OPERATOR'S CARDS — POSTING OF.**~~

9 ~~—All permits, operators' cards and regulations of the Director of Public Health shall be posted~~
10 ~~at all times in a conspicuous place in the establishment.~~

11 ~~**SEC. 263. VIOLATIONS — PENALTY.**~~

12 ~~—Any person, firm or corporation who shall violate any of the provisions of this ordinance or~~
13 ~~fail to comply with any order or regulation made thereunder shall be deemed guilty of a misdemeanor,~~
14 ~~and upon conviction thereof shall be punished by a fine of not less than \$50 nor more than \$500, or by~~
15 ~~imprisonment in the County Jail for a period of not less than 10 days or more than six months or by~~
16 ~~both such fine and imprisonment.~~

17 Section 4. The San Francisco Business and Tax Regulations Code is hereby amended
18 by adding Section 249.25, to read as follows:

19 **SEC. 249.25. BODY ART LICENSE FEES**

20 (a) Every body art facility shall pay a license fee of \$1,372 per year, or for any portion of a
21 year. Every person registered as a body art practitioner shall pay a license fee of \$175. The fees shall
22 be due annually on March 31 of each year, pursuant to Section 76.1, Article 2 of the San Francisco
23 Business and Tax Regulations Code.

24 (b) Beginning with fiscal year 2013-2014, the fee set forth in this Section may be adjusted each
25 year, without further action by the Board of Supervisors, as set forth in this Section. Not later than

1 April 1, the Director shall report to the Controller the revenues generated by the fee for the prior fiscal
2 year and the prior fiscal year's costs of operation, as well as any other information that the Controller
3 determines appropriate to the performance of the duties set forth in this Section.

4 (c) Not later than May 15, the Controller shall determine whether the current fee has produced
5 or is projected to produce revenues sufficient to support the costs of providing the services for which
6 the fee is assessed and that the fee will not produce revenue which is significantly more than the costs
7 of providing the services for which the fee is assessed. The Controller shall, if necessary, adjust the fee
8 upward or downward for the upcoming fiscal year as appropriate to ensure that the program recovers
9 the costs of operation without producing revenue which is significantly more than such costs. The
10 adjusted fee shall become operative on July 1.

11 Section 5. Effective Date. This ordinance shall become effective 30 days from the
12 date of passage.

13 Section 6. Scope of Ordinance. In enacting this Ordinance, the Board intends to
14 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
15 punctuation marks, charts, diagrams, or any other constituent parts of the Health Code that
16 are explicitly shown in this Ordinance as additions, deletions, Board amendment additions,
17 and Board amendment deletions in accordance with the "Note" that appears under the official
18 title of the Ordinance.

19
20 APPROVED AS TO FORM:

21 DENNIS J. HERRERA, City Attorney

22
23 By: 

24 VIRGINIA DARIO ELIZONDO
25 Deputy City Attorney

n:\health\as2013\1200534\00843716.doc

LEGISLATIVE DIGEST

[Health, Business and Tax Regulations Codes - Safe Body Art]

Ordinance amending the Health Code by repealing miscellaneous sections relating to tattooing and adding Article 40 to require body art practitioners to register with the Department of Public Health (DPH) and to annually renew registration, and to require permanent and temporary body art facilities to obtain and annually renew permits with DPH; amending the Business and Tax Regulations Code by adding fees relating to body art permits and licenses; and making environmental findings.

Existing Law

Under existing law, every tattoo establishment or person engaged in the practice of tattooing must have a permit from DPH. Tattoo establishments must pay an annual license fee, subject to yearly adjustment. Additionally, any person employed as an operator in the practice of tattooing must secure an operator's card. Both the operator's card and the DPH permit are subject to suspension or revocation upon a showing satisfactory to the DPH Director of a violation of state or local law. Suspension or revocation of an operator's card automatically suspends or revokes any license issued to such person under City and County of San Francisco ordinances. A person who fails to register or who violates the sterilization, sanitation, and safety standards is guilty of a misdemeanor, punishable by up to a \$500 civil penalty and 6 month imprisonment in County jail.

Amendments to Current Law

These amendments would repeal the existing tattoo provisions from the Health Code and add Article 40, in order to conform to newly enacted state law, the Safe Body Art Act, California Health & Safety Code § 119300 *et seq.* The Act defines body art to include piercing, tattooing, branding and the application of permanent cosmetics, and requires body art practitioners to comply with specified requirements, including, client information and questionnaires, vaccination, bloodborne pathogen training, and sanitation. Article 40 would require body art practitioners to register with DPH and renew this registration annually; it also requires all body art facilities to obtain a permit from DPH and renew this permit annually. All body art practitioners and facilities, including mobile facilities, temporary demonstration booths, and mechanical piercing facilities, must pay annual fees, subject to yearly adjustment. Permits and registrations would be subject to suspension or revocation, following a hearing, upon a showing satisfactory to the Director that the practitioner violated state or local law. Imminent health hazards may require immediate suspension, with a hearing to follow.

This ordinance would exempt from the definition of body art the piercing of an ear with a disposable, single-use, presterilized stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear, but would require that such practices be conducted in a safe and sanitary manner, and that the operator of a mechanical stud and

clasp facility, or facilities, shall register with DPH annually. Registered body art practitioners would be permitted to practice in a temporary body art demonstration booth for no more than 7 days in a 90-day period, provided the booth meets certain minimum sanitary conditions and all required fees are paid.

The ordinance would make performing body art without being registered, operation of a body art facility without a health permit, or operation of a temporary body art event without a permit a misdemeanor and would authorize DPH to assess an administrative penalty up to \$1,000. The ordinance would also authorize DPH to impose an additional penalty of up to three times the cost of the permit on a practitioner who violates temporary body art demonstration booth requirements.

Background

The Safe Body Art Act (AB 300) became effective July 1, 2012, and set statewide health and safety standards for practitioners of piercing, tattooing, branding and the application of permanent cosmetics. These San Francisco Health Code amendments conform to the new state law.



SMALL BUSINESS COMMISSION
OFFICE OF SMALL BUSINESS



CITY AND COUNTY OF SAN FRANCISCO
EDWIN M. LEE, MAYOR

July 12, 2013

Ms. Angela Calvillo, Clerk of the Board
Board of Supervisors
City Hall room 244
1 Carlton B. Goodlett Place
San Francisco, CA 94102-4694

File No. 130402 [Health, Business and Tax Regulations Codes - Safe Body Art]

Small Business Commission Recommendation: **Approval**

Dear Ms. Calvillo:

On June 10, 2013 the Small Business Commission (SBC) voted 7-0 to recommend approval of BOS File No. 130402.

The Commission supports Department of Public Health repealing miscellaneous sections relating to tattooing and adding a new section to the Health Code regulating the Tattoo and Permanent Cosmetic industries.

The Commission recognizes that this legislation brings the San Francisco Department of Public Health into conformity with state law and does not go above and beyond what is prescribed in those California State Health Codes.

The Commission has two recommendations to the Department. First, the Commission directs the Department to perform outreach to the Permanent Cosmetic industry, which has not previously been regulated. This industry, which requires outreach in languages other than English, will now be facing new permit fees and oversight. Sufficient outreach is necessary to ensure that these businesses and individuals are aware of the regulations which now govern their businesses.

Second, the Commission is concerned with the increased fees that are associated with the ordinance. These fees, which include an annual \$1372 facility fee and a \$150 fee per practitioner, add to the operating costs of our small businesses. The Commission recognizes that cost recovery is necessary and generally places a high degree of confidence in each department's process of determining fees. The Commission recommends that the Board of Supervisors carefully review the fees proposed under this program and that the Department of Public Health presents reasonable justification to the Board at the Budget and Finance Committee.

Sincerely,

Regina Dick-Endrizzi
Director, Office of Small Business

Cc: Jason Elliott, Mayor's Office
Richard Lee, Department of Public Health

SMALL BUSINESS ASSISTANCE CENTER/ SMALL BUSINESS COMMISSION
1 DR. CARLTON B. GOODLETT PLACE, ROOM 110 SAN FRANCISCO, CALIFORNIA 94102-4681
(415) 554-6408

Wong, Linda (BOS)

From: Dick-Endrizzi, Regina
Sent: Tuesday, August 13, 2013 1:11 PM
To: Wong, Linda (BOS)
Cc: Lee, Richard; Elliott, Jason
Subject: RE: Responses File No's 130400 and 130402
Attachments: 130400_SBC_ legislative response.pdf; 130402_SBC_ legislative response.pdf

Linda,
My apologies, Here are the correct responses.

Kindly,

Regina Dick-Endrizzi | Executive Director | Office of Small Business
regina.dick-endrizzi@sfgov.org | D: 415.554.6481 | O: 415.554.6134 | c: 415.902-4573

From: Wong, Linda (BOS)
Sent: Tuesday, August 13, 2013 10:37 AM
To: Dick-Endrizzi, Regina
Subject: FW: Responses File No's 130400 and 130402

Hi Regina,

The following email from Chris indicates that the document attached is regarding two Health Code amendments. However, the document attached is regarding San Francisco Friendly Workplace Ordinance.

Could you please let me know if that was attached by mistake?

Thanks,

Linda Wong
Board of Supervisors

From: Schulman, Chris
Sent: Friday, August 09, 2013 4:52 PM
To: Wong, Linda (BOS)
Cc: Dick-Endrizzi, Regina; Lee, Richard; Elliott, Jason
Subject: SBC: Responses File No's 130400 and 130402

Linda,

Attached are the SBC responses to BOS Files No:

130400 [Health Code - Massage Practitioners]

130402 [Health, Business and Tax Regulations Codes - Safe Body Art]

The Commission recommends approval of both ordinances.

Thank you for including the responses in the committee and board packets.

Regards,

Chris

Chris Schulman | Senior Policy Analyst/Commission Secretary | Office of Small Business

chris.schulman@sfgov.org | D: 415.554.6408 | O: 415.554.6134 | F: 415.558.7844

City Hall, Suite 110 | San Francisco, CA 94102

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

May 14, 2013

File No. 130402

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Jones:

On May 2, 2013, the Department of Public Health submitted to our office the following proposed legislation:

File No. 130402

Ordinance amending the Health Code by repealing miscellaneous sections relating to tattooing and adding Article 40 to require body art practitioners to register with the Department of Public Health (DPH) and to annually renew registration, and to require permanent and temporary body art facilities to obtain and annually renew permits with DPH; amending the Business and Tax Regulations Code by adding fees relating to body art permits and licenses; and making environmental findings.

This legislation is being transmitted to you for environmental review, pursuant to Planning Code Section 306.7(c).

Angela Calvillo, Clerk of the Board

A handwritten signature in black ink, appearing to read "Linda Wong".

By: Linda Wong, Committee Clerk
Rules Committee

Attachment

c: Monica Pereira, Environmental Planning
Joy Navarrete, Environmental Planning

Wong, Linda (BOS)

To: Jones, Sarah
Cc: Pereira, Monica; Navarrete, Joy
Subject: Board of Supervisor Ordinances requiring CEQA Review
Attachments: 130400-1.pdf; 130402-1.pdf; 130401-1.pdf

Hi Sarah,

Please see attached three newly submitted Board of Supervisors Ordinances. They are being transmitted to your office for environmental review pursuant to Planning Code Section 306.7(c).

Should you have any questions, please feel free to contact me at the number listed below.

Thank you in advance.

Sincerely,

Linda Wong
Board of Supervisors
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
Telephone No. 415-554-7719 Fax No. 415-554-7714

Complete a Board of Supervisors Customer Satisfaction form by clicking: <http://www.sfbos.org/index.aspx?page=104>.



Edwin M. Lee
Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

Barbara A. Garcia, MPA
Director of Health

2013 MAY -2 PM 2:59

[Handwritten signature]

May 2, 2013

Angela Calvillo, Clerk of the Board
Board of Supervisors
1 Dr. Carlton B Goodlett Place, Room 244
San Francisco, CA 94102-4689

Dear Ms. Calvillo:

Attached please find an original and four copies of three proposed ordinances for Board of Supervisors approval, which are intended to conform the San Francisco Health Code and Business and Tax Regulation Code to California Business and Professions Code and California Health and Safety Code.

The following is a list of accompanying documents (five sets):

- Ordinance amending the Health Code, to exempt massage practitioners who are certified by the State of California and massage establishments that employ only state-certified massage practitioners from requirements for obtaining a permit from the San Francisco Health Department; and making environmental findings.
- Legislative Digest for Ordinance amending the Health Code, to exempt massage practitioners who are certified by the State of California and massage establishments that employ only state-certified massage practitioners from requirements for obtaining a permit from the San Francisco Health Department; and making environmental findings.
- Ordinance amending the Health Code to require electronic applications for registration of hazardous materials and for underground storage tanks to be filed through the California Environmental Reporting System, to eliminate the requirement that registration of hazardous materials plans to include a program for reduction of hazardous materials, and to provide for fee adjustment; and making environmental findings.
- Legislative Digest for Ordinance amending the Health Code to require electronic applications for registration of hazardous materials and for underground storage tanks to be filed through the California Environmental Reporting System, to eliminate the requirement that registration of hazardous materials plans to include a program for reduction of hazardous materials, and to provide for fee adjustment; and making environmental findings
- Ordinance amending the Health Code by repealing miscellaneous sections relating to tattooing and adding Article 40 to require body art practitioners to register with the San Francisco Department of Public Health (DPH) and annually renew registration, and to require permanent and temporary body art facilities to obtain and annually renew permits with DPH; amending the San Francisco Business and Tax

130402

Regulations Code by adding fees relating to body art permits and licenses; and making environmental findings.

- Legislative Digest for Ordinance amending the Health Code by repealing miscellaneous sections relating to tattooing and adding Article 40 to require body art practitioners to register with the San Francisco Department of Public Health (DPH) and annually renew registration, and to require permanent and temporary body art facilities to obtain and annually renew permits with DPH; amending the San Francisco Business and Tax Regulations Code by adding fees relating to body art permits and licenses; and making environmental findings.

There is no requirement for a special timeline for these items.

The following persons may be contacted regarding this matter: Richard Lee, DPH Director of Environmental Health Regulatory Program at 252-3992 or Jim Soos, DPH Assistant Director of Policy and Planning at 554-2633.

Sincerely,

A handwritten signature in black ink, appearing to read "Barbara A. Garcia". The signature is stylized and cursive.

Barbara A. Garcia, MPA
Director of Health