

**ORDINANCE NO. 2020-12
INTRODUCED BY: ADMINISTRATION**

**AN ORDINANCE ENACTING CHAPTER 779 OF THE
CODIFIED ORDINANCES OF THE CITY OF LYNDHURST,
OHIO, TITLED “TATTOO AND BODY PIERCING
BUSINESSES,” AND DECLARING AN EMERGENCY**

WHEREAS, tattoo and body piercing business, operations and procedures are becoming more common among residents of the State of Ohio; and

WHEREAS, the reasonable regulation of the tattoo parlor business and body piercing business is in the best interest of the residents of Lyndhurst, and is necessary to promote the health, welfare and safety of the residents of the City; and

WHEREAS, an improperly operated or unclean tattoo parlor or body piercing business location may have serious and detrimental effects upon the citizens of Lyndhurst; and

WHEREAS, there exists a very real and distinct possibility of the transmission of serious infectious diseases from the tattooing or body piercing of a person if a tattoo artist or body piercer is not sufficiently skilled and knowledgeable of the dangers associated with said activity; and

WHEREAS, the City of Lyndhurst is empowered to protect the health, safety and welfare of its citizens; and

WHEREAS, the City of Lyndhurst can best inspect and oversee the operation of tattoo parlors and body piercing businesses in the City; and

WHEREAS, the Council of the City of Lyndhurst believes that tattoo and body piercing businesses should be permitted and subjected to reasonable inspections by the City; and

WHEREAS, the State of Ohio and Cuyahoga County have adopted reasonable rules to regulate the sanitary operation of tattoo parlors and body piercing facilities; and

WHEREAS, this Council desires to adopt an Ordinance to enforce the regulations of the operation of tattoo parlors and body piercing facilities in the City by making such business a conditional use; and

WHEREAS, an amendment to the City’s Planning and Zoning Code with regard to Tattoo and Body Piercing Businesses has been referred to the Planning Commission for review; and

WHEREAS, the Planning Commission reviewed the proposed amendment on January 24, May 16 and June 27, 2019, and unanimously approved this amendment to the City’s Planning and Zoning Code; and

WHEREAS, the same has been submitted to this Council for consideration, and for adoption pursuant to the recommendation of the Lyndhurst Planning Commission; and

WHEREAS, all public hearings have been conducted, and all necessary public notices have been made and copies provided for public review. Now, therefore,

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNDHURST,
CUYAHOGA COUNTY, STATE OF OHIO, THAT:**

SECTION 1. Chapter 779 of the Codified Ordinances of the City titled "TATTOO AND BODY PIERCING BUSINESSES" is hereby enacted to read as follows:

779.01 DEFINITIONS

As used in this Chapter 779:

- (a) "Board of Health" means the Cuyahoga County Board of Health.
- (b) "Body pierce", "body pierced", or "body piercing" refer to any method of invasive penetration of the skin for decorative purposes, including ear piercing except when the ear-piercing procedure is performed with an ear piercing gun.
- (c) "Building Commissioner" shall mean the administrative official charged with the duty of administering the regulations of this Chapter, which promote the health, safety and welfare of the citizens of the City of Lyndhurst.
- (d) "Business" means any entity that provides tattoo and/or body piercing services.
- (e) "Certificate of Inspection" shall mean written approval from the Building Commissioner, or his authorized representative, that said tattooing and/or body piercing establishment has been inspected and meets all of the terms of this Chapter.
- (f) "Conditional Use Permit" shall mean a Permit approved by Council pursuant to Chapter 1156 of these Codified Ordinances.
- (g) "Ear piercing gun" means a mechanical device that pierces the ear by forcing a disposable single-use stud or solid needle through the ear.
- (h) "Health Officer" shall mean a duly authorized employee of the Division of Environmental Health for the Cuyahoga County Health Department.
- (i) "Operator" shall mean any individual, firm, company, corporation or association that owns or operates an establishment where tattooing and/or body piercing is performed, and/or any individual who performs or practices the art of tattooing and/or body piercing on the person of another.
- (j) "Tattoo", "tattooed", or "tattooing" refer to any method of placing designs, letters, scrolls, figures, symbols or any other marks upon or under the skin with ink or any other substance resulting in the coloration of the skin by the aid of needles and/or any other instruments designed to touch or puncture the skin.
- (k) "Tattoo parlor and/or body piercing establishment" means the location wherein tattooing and/or body piercing is performed.

779.02 LOCATION REQUIREMENTS

The location for a tattoo parlor or body piercing establishment shall be governed by the following provisions:

- (a) Separation. No such use shall be established within one thousand feet (1,000) feet of a day care center, kindergarten, elementary or secondary school, public library, church, outdoor or indoor playground, public or nonprofit recreation center or community center, and shall have a minimum set back of one hundred fifty feet (150.)
- (b) Spacing. No such use shall be established within five hundred (500) feet of another such use.
- (c) Appeals. The Board of Zoning Appeals may recommend approval of an application which does not meet the regulations of this Section if, after public notice and hearing, the Board determines that the proposed use, by virtue of its nature and location, will not adversely affect nearby residential areas or other protected uses listed in paragraph (a) of this section. The Board may impose any conditions deemed necessary to prevent potential adverse impacts. Council shall make the final determination of such appeal.
- (d) Loitering prohibited. No person shall be permitted to loiter in or around the establishment subject to Lyndhurst codified ordinance 648.18

779.03 TATTOO AND BODY PIERCING BUSINESS AS CONDITIONAL USE; PERMIT REQUIRED

A tattoo and/or body piercing business is hereby classified as a conditional use which may be permitted in all Community Business Districts in accordance with the corresponding standards and requirements of the Planning and Zoning Code. A Conditional Use Permit issued pursuant to Chapter 1156 of these Codified Ordinances shall be required in order to operate a tattoo parlor and/or body piercing business; said permit shall be effective for one (1) year, and said permit shall be automatically voided by operation of law without further notice or hearing upon the sale or transfer of the real property upon which the tattoo parlor and/or body piercing business is located. In

submitting an application for a Conditional Use Permit, and with every re-application, the applicant shall provide to the Planning Commission a floor plan illustrating the proposed operation, a site plan indicating all on-site improvements, if any, and any additional information as required by the Planning Commission. Notification of the request for the Conditional Use Permit shall be given by the Secretary of the Planning Commission to all record title holders of real property lying within 500 feet of the property line of the parcel upon which the conditional use is requested. Said notice shall be by first class mail, postage prepaid.

779.04 PERMIT REQUIREMENTS

(a) It shall be unlawful for any person to engage in the business of operating a tattoo parlor and/or body piercing establishment without first obtaining a Conditional Use Permit to engage in such business in accordance with the provisions hereof.

(b) The annual permit fee for engaging in the business of operating a tattoo parlor and/or body piercing establishment within the City of Lyndhurst shall be \$300.00. An application for a permit shall be accompanied by said fee. Said permit shall expire on December 31st of each calendar year, and the fee shall not be prorated. Any change of ownership shall require a new application, with payment of fees therefor.

(c) A tattoo parlor and/or body piercing establishment shall not be operated as a Home Occupation, but shall be a conditional use in a Community Business District only.

(d) A copy of valid Cuyahoga County Department of Health tattoo and/or body piercing license is required prior to issuance of a City of Lyndhurst tattoo and/or body piercing permit.

(e) The provisions of Chapters 3730 and 3734 of the Ohio Revised Code regulating tattooing and body piercing in the State of Ohio shall be applicable along with the provisions of this Chapter.

779.05 ESTABLISHMENT REQUIREMENTS

Each person, firm or corporation who operates a tattooing or body piercing establishment within the City of Lyndhurst shall comply with the following requirements:

(a) Tattooing and Body Piercing Room.

(1) The room in which tattooing or body piercing is done shall have an area of not less than one hundred (100) square feet. Each room in which tattooing or body piercing is performed shall accommodate only one customer at a time. The walls and floors shall have impervious, smooth and washable surfaces, and shall not be subject to public view.

(2) Toilet facilities shall be located within the tattoo parlor or body piercing establishment and shall be accessible at all times during operating hours. The lavatory shall have hot and cold running water, soap, and single use towels available at all times.

(3) All tables and other equipment shall be constructed of impervious materials, with smooth, washable surfaces, and shall be separated from waiting customers or observers. No procedure may be performed in public view.

(4) The entire premises and all equipment shall be maintained in a clean, sanitary condition and in good repair. Sufficient spotlight illumination shall be used to highlight the area to be tattooed or pierced.

(5) A minimum of forty (40) foot candles of light must be provided at the level where tattooing is being performed.

(b) Preparation and Procedure for Tattooing or Body Piercing.

(1) Written inquiry shall be made of the customer for a history of the following conditions: jaundice or hepatitis, swelling of the lymph nodes, AIDS or positive HIV test, skin disease or skin cancer at the site, hemophilia, allergies or anaphylactic reaction to dyes. Any individual indicating a history of any of the above shall not be tattooed nor have their body pierced.

(2) Any individual who is inebriated or obviously under the effect of alcohol and/or drugs shall not be tattooed or have their body pierced.

(3) The operator shall scrub hands for two minutes with soap and water prior to starting a tattoo or body pierce; the hands shall be dried with individual, single use towels. The operator shall wear a clean, new pair of disposable latex gloves for each new customer.

(4) Tattooing shall not be performed on the hands below the wrist line, on the feet below the ankle line, on genitalia, scrotum or in the anal area. Tattooing shall not be undertaken over the site of a recent hypodermic injection.

(5) No skin area shall be treated with chemicals for the purpose of removing, camouflaging or altering any blemish, birthmark, scar or tattoo.

(6) Single service razors, safety razors and straight edge razors are to be used in preparation for the procedure and must be properly discarded after use.

(7) The area of the body to be tattooed or pierced shall first be thoroughly washed with warm water to which an antiseptic liquid soap has been added.

(8) Petroleum jelly in a collapsible metal or plastic tube shall be used on the area to be tattooed and it shall be applied with a sterile gauze, tissue or paper towel.

(9) The use of styptic pencils, alum blocks or other solid styptic to check the flow of blood is prohibited.

(10) Single service containers, pigments, inks, dyes, needles and other paraphernalia shall be properly discarded immediately after each procedure. Excessive pigment, dye, ink, liquids or solutions shall be removed with individual sterile sponge or gauze and shall be immediately discarded in an approved manner. After completing the tattoo or body piercing procedure on any person, the tattooed area shall be washed with sterile gauze, cotton balls, tissue or paper towels saturated with an antiseptic soap solution or a seventy percent alcohol solution. The tattooed area shall be allowed to dry and a topical cream or an antiseptic from a collapsible tube shall be applied using sterile gauze, tissue or paper towel. A sterile gauze dressing or saran covering shall then be fastened to the tattooed area.

(11) Operators performing tattooing or body piercing procedures shall be immunized against the Hepatitis B virus in accordance with OSHA regulations for health care workers.

(12) Written instructions on the care of the tattoo or the body piercing, approved by the Health Commissioner, shall be given to each person who has received a tattoo or has been the subject of a body piercing.

(13) Needles and other instruments used for body piercing shall be of the same gauge as the ornaments, jewelry or similar items that are or can be inserted through the opening created by the body piercing.

(14) Tattooing or body piercing shall only be performed between the hours of 9:00 a.m. and 9:00 p.m.

(c) Sterilization of Equipment and Storage.

(1) A steam sterilizer (autoclave) shall be provided for sterilizing multi-use instruments such as needle bars, grips and tubes and other tattoo and body piercing equipment needing sterilization. Sterilization of equipment shall be accomplished by exposure to live steam for at least thirty (30) minutes at a minimum pressure of fifteen pounds per square inch (15 psi) with a temperature of two hundred fifty degrees Fahrenheit (250F) or one hundred twenty-one degrees Celsius (121C). Autoclave indicator temperature strips or other similar devices shall be utilized to monitor autoclave performance with each use. Alternative sterilizing equipment and procedures may be used if specifically approved by the Board of Health.

(2) Preparation of instruments for sterilization. After each tattoo procedure, the tattoo machine shall be placed in an ultrasonic type machine to remove the excess dye from the tubes and the needle bars. When this process is completed, the tubes and needle bars shall be removed from the tattoo machines. The tubes, grips and needle bars shall then be placed into sterilizer bags or wrappers for sterilization by autoclaving.

(3) All ready to use needles, needle bars, grips and tubes and instruments shall be left in the wrappers or sterilizer bags used during the autoclaving process. These wrapped items shall be stored in a closed cabinet or container when not in use. Such storage equipment shall be maintained in a safe and sanitary condition at all times.

(4) The needles and instruments required to be sterilized shall be handled and used in such a way as to prevent contamination during the tattooing procedure.

779.06 KEEPING OF RECORDS

Permanent records of each patron or customer shall be maintained by the operator of the establishment. Before the tattooing and/or body piercing operation begins, the patron or customer shall be required to enter, on a record form provided for such establishment, the date, his or her name, address, age, and his or her signature. This data will be verified by requiring the patron to produce a valid state driver's license or other form of picture identification. The operator of the tattoo and/or body piercing establishment must affix his/her name to the record form and sign a statement verifying the performance of the duties required under this Chapter. Such records shall be maintained in the tattoo and/or body piercing establishment and shall be available for examination upon request by the Building Commissioner. Records shall be retained by the operator for a period of not less than five (5) years. In the event of a change of ownership or closing of the business, all such records shall be retained by the operator and made available to the Building Commissioner upon request.

779.07 DISPOSAL

(a) All pigments, dyes, inks or colors used in tattooing shall be sterile and free from bacteria, virus particles and noxious agents and substances. The pigments, dyes and colors used from stock solutions for each customer or patron shall be obtained from an approved source, and shall be placed in a single-service receptacle. Such receptacle and the remaining solution shall be discarded after use on each customer or patron.

(b) All bandages and surgical dressings used in connection with the tattooing and/or body piercing of a person shall be sterile and disposed of in a manner which complies with Chapter 3734 of the Ohio Revised Code pertaining to infectious waste.

779.08 CERTIFICATE OF INSPECTION, RENEWAL, ANNUAL INSPECTION

(a) An applicant for a license to operate a tattooing and/or body piercing establishment shall first obtain a Conditional Use Permit from the Building Commissioner indicating the establishment has been inspected and is in compliance with the provisions of this Chapter.

(b) The Building Commissioner shall engage the Health Officer for the purpose of conducting annual and other periodic inspections, as may be necessary, of any tattooing and/or body piercing establishment for the purpose of determining whether or not said establishment, and the persons performing the art of tattooing and/or body piercing therein, are in compliance with all applicable provisions contained within this regulation and other pertinent regulations of the Health District. It shall be unlawful for any person or operator of a tattooing and/or body piercing establishment to willfully prevent or restrain the Health Officer, or his designee, from entering any licensed establishment where tattooing and/or body piercing is being performed for the purpose of inspecting said premises, after proper identification is presented to the operator.

(c) The Conditional Use Permit shall be posted within the tattoo and/or body piercing establishment to serve as public notice that said establishment has been inspected and is in compliance with the provisions of this Chapter.

779.09 LIMITATIONS ON PERSONS

(a) It shall be unlawful to tattoo and/or body pierce any person who is known to have, or who shows signs of having, any communicable disease or any disease of the skin. This includes but is not limited to rashes, pimples, boils, infections or any manifestation or evidence of other unhealthy conditions.

(b) It shall be unlawful to tattoo and/or body pierce any individual who is under the influence of alcohol, and/or any narcotic drug or drug of abuse.

(c) It shall be unlawful for any tattoo and/or body piercing operator to be under the influence of alcohol and/or narcotic drug or drug of abuse when tattooing and/or body piercing.

(d) It shall be unlawful to tattoo and/or body pierce any individual who is under eighteen (18) years of age, regardless of whether the operator knows this person to be less than eighteen (18) years of age, without the prior express written consent of such person's parent or guardian. The operator shall be considered strictly liable for any violation of this Chapter 779.

779.99 PENALTY

(a) The City of Lyndhurst may suspend or revoke a Tattoo and/or Body Piercing Establishment Conditional Use Permit for violation of any provision of this Chapter.

(b) The provisions of this Chapter shall apply to all tattoo and/or body piercing establishments and/or tattoo and/or body piercing operators which are currently in existence, or which may come into existence after the effective date of this Chapter. The provisions of this chapter shall not apply to a Physician licensed to practice medicine in the State of Ohio who is tattooing for a medical purpose.

(c) In the event of conflict between any provisions of this Chapter or the Ohio Revised Code, including any rules and regulations adopted pursuant to this Chapter or the Ohio Revised Code, and any provisions of City ordinances, including any rules and regulations adopted pursuant to such ordinance, that provision which establishes the higher standard for the promotion or protection of the health or safety of the people shall govern.

(d) Whoever violates any provision of this Chapter shall be guilty of a misdemeanor of the first degree. Such person and/or business shall be deemed guilty of a separate offense for each and every day or portions thereof during which any violation of any of the provisions of this Chapter is committed, permitted or continued. This Section shall be enforced by the Director of Public Safety or designee, the Division of Police, and/or any public health official.

SECTION 2. The Council finds and determines that all formal actions of this Council relating to the adoption of this Ordinance have been taken at open meetings of this Council; and that deliberations of this Council and of its committees, resulting in such formal action, took place in meetings open to the public, in compliance with all statutory requirements including the requirements of Section 121.22 of the Ohio Revised Code.

SECTION 3. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, welfare and safety of the City of Lyndhurst and its residents in order to enforce the requirements immediately. Therefore, this Ordinance shall take effect immediately upon the affirmative vote of not less than five (5) members elected to Council, and signature by the Mayor, or otherwise at the earliest time allowed by law.

PASSED: March 2, 2020

MAYOR

VICE MAYOR

ATTEST: _____
Clerk of Council

I, the undersigned Clerk of Council of the City of Lyndhurst, hereby certify that there is no newspaper published or having an office of publication in said City, and that I published the foregoing Ordinance by advertising the same by title on one day in each of two consecutive weeks in a newspaper of general circulation in said City on March 12, 2020 and March 19, 2020.

Clerk of Council

First Reading: February 3, 2020

Second Reading: February 17, 2020

Third Reading: March 2, 2020