

BY-LAW NO. 6685

BEING A BY-LAW of The City of Brandon to regulate body art procedures involving minor aged children;

WHEREAS The Public Health Act R.S.M. 1987, c.P210 authorizes a municipality to establish rules and regulations pertaining to the health and safety of the public at large;

AND WHEREAS the City of Brandon has established and deems it expedient to adopt rules and regulations pertaining to the health, safety and welfare of the general public with regard to tattoos and body piercing;

NOW THEREFORE the Council of the City of Brandon duly assembled enacts as follows:

Definitions

1. Unless the context otherwise requires:
 - (a) "BODY ART" means the practice of physical body adornment by permitted establishments and operations using, but not limited to, the following techniques: body piercing, tattooing, branding and scarification. This definition does not include ear piercing and practices that are considered medical procedures by the Manitoba College of Physicians and Surgeons.
 - (b) "BODY ART ESTABLISHMENT" means any place or premise where the practice of body art, whether or not for profit are performed
 - (c) "BODY PIERCE" means puncturing or penetrating the body for the purpose of decorating with jewelry. Puncturing the lobe of the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system shall not be included in this definition.
 - (d) "OPERATOR/TECHNICIAN" means any person who owns, operates, manages, conducts, or practices body art activities at a body art establishment and who is responsible for compliance with this By-law, whether actually performing body art activities or not. This term includes technicians who work under the operator and performs body art activities.
 - (e) "TATTOO" means the placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa.

Application and Responsibility

2.
 - (a) No person shall operate a body art establishment in contravention of any provision of this By-law, and the owner or person in charge of a body art establishment shall be responsible for ensuring compliance with the terms of this By-law and shall be liable for any violation thereof.
 - (b) The operator or person in charge of a body art establishment shall in addition to the provisions of this By-law, follow the infection prevention and control practices outlined in Health Canada's "*Infection Prevention and Control Practices for Personal Services: Tattooing, Ear/Body Piercing and Electrolysis*". (<http://www.hc-sc.gc.ca/hpb/lcdc>)

Procedural Requirements

3. It shall be an offence for any operator/technician to perform a tattoo or body pierce procedure on any person under the age of eighteen (18) years unless accompanied by a custodial parent or legal guardian, with proper identification, on each occasion.

Operator / Technician Requirements

4. The following information for clients under the age of 18 shall be kept on file on the premises of a body art establishment and be available for inspection by any Law Enforcement Officer:
- (a) full name;
 - (b) home address;
 - (c) date of birth;
 - (d) home/work phone numbers;
 - (e) date of the procedure(s);
 - (f) name of the practitioner who performed the procedure(s);
 - (g) description of the procedure(s) performed and the location on the body;
 - (h) copy of signed consent form; and
 - (i) proof of individual's guardianship.
5. All client information will be clearly written in permanent ink and no entry made shall be erased, obliterated, defaced or removed for a minimum period of eighteen (18) months.

Conflict with Other By-laws

6. Where a provision of this By-law conflicts with a provision of another By-law or regulation in force in the City, the provision that establishes the higher standard to protect the health, safety and welfare of the general public prevails.

Penalties

7. (a) Any person who contravenes or disobeys or refuses or neglects to obey any provision of this By-law shall be liable, on summary conviction, to a fine not exceeding \$1,000.00 in the case of an individual or \$5,000.00 in the case of a corporation, together with costs or, in the case of an individual, to imprisonment for a term not exceeding six (6) months or to both such a fine and such imprisonment.
- (b) Where the contravention, refusal, neglect, omission or failure continues for more than one day, the person or corporation is liable for a separate offence for each day that it continues.

Enactment

8. If any provision of this By-law is held to be invalid by any court of competent jurisdiction, the remaining provisions of this By-law shall not be invalidated.
9. This By-law shall come into force and take effect on the day following its passage.

DONE AND PASSED by the Council of the City of Brandon in regular session assembled this 22nd day of April A.D. 2002.

MAYOR

CITY CLERK

Read a first time this 17th day of December A.D. 2001.
Read a second time this 11th day of February A.D. 2002.
Read a third time this 22nd day of April A.D. 2002.

I, Conrad Robert Arvisais, City Clerk of the municipality of the City of Brandon DO HEREBY CERTIFY the above to be a true and correct copy of By-law No. 6685.

C. R. Arvisais, City Clerk