

**CITY OF MANHATTAN BEACH
DEPARTMENT OF COMMUNITY DEVELOPMENT**

TO: Planning Commission

FROM: Richard Thompson, Director of Community Development

BY: Esteban Danna, Assistant Planner

DATE: September 28, 2011

SUBJECT: Continuation of Public Hearing to Consider Amendment to Title 10 Planning and Zoning of the Manhattan Beach Municipal Code (MBMC) to Establish Regulations for Tattoo Studios within the City.

RECOMMENDATION

Staff recommends that the Planning Commission **CONDUCT** the continued Public Hearing, **DISCUSS** the information presented, and **PROVIDE DIRECTION**.

BACKGROUND

At its 2011-2012 Work Plan meeting the City Council directed Staff to review and make recommendations concerning regulation of tattoo studios in the City. At its July 19, 2011 regular meeting, the City Council adopted Ordinance No. 2148U establishing a 45 day moratorium for tattoo studios. On August 2, 2011, through Ordinance No. 2151U, the City Council extended the moratorium and directed that the Planning Commission review and make recommendations on tattoo studio regulations (Exhibit B). The moratorium maintains the status quo by prohibiting the approval of Tattoo Studios and gives Staff time to develop regulations that will allow the operation of such uses.

At its August 24, 2011 regular meeting, the Planning Commission held a public hearing and discussed the Zoning text amendment to allow tattoo studios to operate within the City. The Commission directed Staff to create code language that regulates tattoo studios as follows:

- Limiting the hours of operations.
- Establishing a minimum distance between tattoo studios and other tattoo studios.
- Establishing a minimum distance between tattoo studios and schools.
- Establishing a minimum distance between tattoo studios and residences.
- Restricting spectators from being able to watch people get tattoos.
- Prohibiting animals within the businesses.
- Address the public health issues in the regulations.
- Address the issue of body piercing.
- Provide a clear statement of the legal standard that the Commission is to use on placing time, place, and manner restrictions on tattoo businesses.

DISCUSSION

For the purpose of this report as proposed draft Zoning text amendments, tattoo and body piercing studios are referred to as “Body Art Studios”. Currently, body art studios are not listed as a permitted use under the City’s Zoning Ordinance. MBMC Section 10.08.020 states that any new use or any use that cannot be clearly determined to be in an existing use classification may only be incorporated into the zoning regulations through a Zoning Ordinance text amendment.

The following regulations are based on Planning Commission direction as discussed at the August 24, 2011 regular meeting. Staff is working with the City Attorney to ensure the proposed regulations provide a balance between the community’s interests and comply with all applicable laws. Further research is needed to support regulations and justify any related restrictions to body art studios.

Legal Standard

Ordinarily, the City has broad discretion to determine what types of businesses may operate and where they may operate. For example, the City may ban heavy industrial or manufacturing uses because they are incompatible with the small, primarily residential beach community. Courts will uphold zoning determinations if they are rationally related to the City’s legitimate interests in creating certain types of neighborhoods or promoting a certain aesthetic atmosphere or other legitimate government goal. Certain businesses however, such as tattoo studios, implicate First Amendment rights. A different legal standard applies where the First Amendment is concerned. Any regulation that affects the freedom of speech must be content neutral, must not amount to a complete ban and must be narrowly tailored to serve a significant government interest. In this context, that means that the City may not regulate the type of message that tattoo studios apply. The regulation also cannot amount to a total ban and must allow tattoo studios in the City. In other words, the City cannot choose a set of standards that, as a practical matter, result in no viable places for tattoo studios to open and operate.

If the regulation does not amount to a total ban and is content neutral, it is constitutional if it serves a substantial government interest. The court has determined that cities have no substantial interest in limiting tattoo studios just because they are in the business of applying tattoos. The process of tattooing and tattoo businesses are forms of pure speech entitled to full First Amendment protection. While cities have an interest in public health and considerable evidence supports the conclusion that Hepatitis C and other health hazards are associated with tattooing in unsterile conditions¹, a ban on the use is too broad given the constitutional right to conduct the business. Instead, cities may impose narrowly tailored regulations that mandate sanitation and health standards with which tattoo studios must comply. Requiring that tattoo artists wear gloves, sterilize equipment, keep surfaces clean and submit to random inspections are regulations of the manner that

¹ See Centers for Disease Control and Prevention, Body Art: Tattoos and Piercings (Jan. 21, 2008), available at <http://www.cdc.gov/features/bodyart> (noting risks of infection, tuberculosis, Hepatitis B and C, and HIV); United States Food and Drug Administration, Tattoos & Permanent Makeup (Nov. 29, 2000), available at <http://www.fda.gov/cosmetics/productandingredientsafety/productinformation/ucm108530.htm> (discussing risks of infection, removal problems, potential allergic reactions, and MRI complications).

the business is conducted that are narrowly tailored to address specific health concerns without unduly burdening the protected speech. Any regulation of tattoo studios would be constitutional only if it is a reasonable “time, place, or manner” restriction tailored to address a substantial interest.

To satisfy the time, place, and manner test, the predominate purpose of the regulation must serve a significant government interest. For example, in the case of adult businesses, courts have determined that a regulation prohibiting adult motion picture theaters from locating within 1000 feet of residential neighborhoods was valid because the predominate intent was to prevent crime and preserve the quality of the City’s neighborhoods and commercial districts and not to eliminate adult films in the community. However, the secondary impacts of adult uses have been well documented. Crime, especially prostitution and drug trade, have gravitated to areas with a high concentration of adult uses.

Reasonable regulations that are warranted due to specific secondary impacts are permissible. Regulations relating to the cleanliness of tattoo studios, training of tattoo artists, insurance and licenses, advance the City’s substantial interest in the health related issues. Traffic safety and avoiding congregation on sidewalks justifies a regulation prohibiting the tattooing from being visible from the street.

Use Classification

The Planning Commission considered incorporating body art studios into the Personal Service use classification which is defined as the provision of recurrently needed services of a personal nature. Instead, the Commission supported the creation of a new body art studio use classification.

Staff recommends that the Planning Commission distinguish the difference between incidental and non-incidental body piercings. Body piercing services are typically considered incidental when, for instance, a jewelry retailer will offer ear piercing services to their customers, but piercings are not the main function of their business. Body piercing services are typically not considered incidental when piercings are more complex and are performed to specific parts of the body. Non-incidental body piercing is generally a companion use to tattooing and the City may impose the same regulations on both or include the two activities in the same use classification.

Zoning Districts

The Commission supported allowing tattoo studios as its own use classification within the CG (Commercial General), CC (Community Commercial, which is the Manhattan Village Mall), PD (Planned Development), and IP (Industrial Park) zones. MBMC Sections 10.16.010, 10.20.010, and 10.32.010 define these districts as follows:

CG General Commercial District. To provide opportunities for the full range of retail and service businesses deemed suitable for location in Manhattan Beach, including businesses not permitted in other commercial districts because they attract heavy vehicular traffic or have certain adverse impacts; and to provide opportunities for offices and certain limited

industrial uses that have impacts comparable to those of permitted retail and service uses to occupy space not in demand for retailing or services.

CC Community Commercial District. *To provide sites for planned commercial centers, such as Manhattan Village, which contain a wide variety of commercial establishments, including businesses selling home furnishings, apparel, durable goods, and specialty items and generally having a City-wide market area. Support facilities such as entertainment and eating-and-drinking establishments are permitted, subject to certain limitations to avoid adverse effects on adjacent uses.*

PD Planned Development District.

- A. Establish a procedure for the development of parcels of land in order to reduce or eliminate the rigidity, delays, and inequities that otherwise would result from application of zoning standards and procedures designed primarily for small parcels.*
- B. Ensure orderly and thorough planning and review procedures that will result in quality urban design.*
- C. Encourage variety and avoid monotony in large developments by allowing greater freedom in selecting the means to provide access, light, open space, and amenity.*
- D. Provide a mechanism whereby the City may authorize desirable developments consistent with the General Plan without inviting speculative rezoning applications, which, if granted, often could deprive other owners of development opportunities without resulting in construction of the proposed facilities.*
- E. Encourage allocation and improvement of common open space in residential areas, and provide for maintenance of the open space at the expense of those who will directly benefit from it.*
- F. Encourage the preservation of serviceable existing structures of historic value or artistic merit by providing the opportunity to use them imaginatively for purposes other than that for which they were originally intended.*
- G. Encourage the assembly of properties that might otherwise be developed in unrelated increments to the detriment of surrounding neighborhoods.*

IP Industrial Park District.

- A. Provide appropriately located areas consistent with the General Plan for specialized industrial and related uses, and protect them from the adverse impacts of inharmonious uses.*
- B. Strengthen the city's economic base, and provide employment opportunities close to home for residents of the city and surrounding communities.*
- C. Ensure that the appearance and effects of industrial uses are compatible with the character of the area in which they are located.*
- D. Minimize the impact of industrial uses on adjacent residential districts.*
- E. Ensure the provision of adequate off-street parking and loading facilities.*

Body art studios are proposed to be listed as permitted uses in the CG, CC, and IP districts. Staff, however, is concerned that allowing body art studios in some commercial lots zoned CG with parking areas oriented towards Oak Avenue may impact the surrounding residential neighborhood through increased traffic and noise. Therefore, Staff recommends that RS-D6 (Residential Single Family—Oak Avenue Design Review) zoned lots and the corresponding adjacent CG lots not be included as part of the body art studio permitted properties.

The PD district is different in that pursuant to MBMC 10.32.020, “no use other than an existing use shall be permitted in a PD district except in accord with a valid PD Plan or Specific Plan. Any permitted or conditional use authorized by this title may be included in an approved PD Plan or an adopted Specific Plan, consistent with the General Plan land-use designation(s) for land within the PD district.” All new uses in the PD district must be approved by the Planning Commission through a specific plan for a specific property. Since a body art studio use is proposed to be added to the list of use classifications (MBMC 10.08.050), such use may be considered by the Commission as one of the eligible uses. Thus, as proposed, body art studios in the PD district will be subject to discretionary approval by the Planning Commission.

Minimum Distance Requirements

The Commission supported establishing minimum distance requirements between body art studios and schools, residences, and other body art studios.

The Commission discussed implementing a minimum distance between body art studios to avoid an overconcentration of this type of use within a certain section or property in the City. Staff recommends considering a 500-foot minimum distance between body art studios. The Cities of Hawthorne and Hermosa Beach require a minimum of 1,000 feet between tattoo establishments; the City of Lawndale is in the process of adopting tattoo studio regulations and is proposing a 100-foot minimum distance.

The Planning Commission also discussed implementing minimum distances to schools. Staff recommends considering a 200-foot minimum distance between body art studios and schools. The Cities of Hermosa Beach and Hawthorne have a 200- and 600-foot minimum distance to schools, respectively. The City of Lawndale is proposing a 500-foot minimum distance. Staff will work with the City Attorney and conduct further research and report any secondary effects that are associated with proximity of body arts studios to schools.

Minimum distance between body art studios and residences was also discussed by the Planning Commission. Due to the close proximity of residential areas to commercial areas, however, implementing a minimum distance would result in excessive elimination of properties eligible for use as body art studios within the City’s commercial zones.

Furthermore, the City’s commercial areas are typically oriented towards the arterial streets serving them and have adequate buffers to residential areas. There are, however, some residential areas that

are directly impacted by commercial properties within the City. Typically, these are in the Downtown and North Manhattan Beach areas, which are not being considered by the Planning Commission for body art studio uses. There are other areas, such as the Oak Avenue corridor, running parallel to Sepulveda Boulevard, where commercial uses are directly across the street from residential uses. As previously stated, Staff recommends that the Planning Commission consider restricting body art uses in the RS-D6 (Residential Single Family-Oak Avenue Design Review) Overlay District to continue to minimize traffic and noise impacts of commercial areas to the surrounding residential neighborhoods. Staff will work with the City Attorney and conduct further research and report any secondary effects that are associated with proximity of body arts studios to residences.

Other Regulations

Commissioners also indicated that they would support limiting the hours of operations for body art studios, restricting spectators from being able to watch people get tattoos, and not allowing any animals within the businesses. Staff recommends that the Commission consider: body art studio hours of operations be allowed only between 10 a.m. and 10 p.m.; that studios be required to have a separate waiting area and private areas in which to provide services; and that live animals, except service animals, not be permitted on the premises. Staff will work with the City Attorney and conduct further research and report any secondary effects that are associated with the regulations described above.

Health Regulations

The Los Angeles County Health and Safety Code requires that owners and/or operators of body art studios obtain public health facility permits and public health operator permits. The City of Manhattan Beach adopted the Los Angeles County public health codes by reference (effective October 15, 1998) as written in MBMC Section 5.44.010 (Adoption of Los Angeles County Health and Safety and Operation of Facilities Codes). The County health and safety code has since been amended (July 1999). Since the City adopted the County Codes only as amended as of March 1, 1998, subsequent pertinent County Code amendments in 1999 addressing body art establishments will be incorporated into the City's Municipal Code. Once adopted by the City, the County will have authority to issue public health facility permits.

Even though amending MBMC Title 5 (Sanitation and Health) is not within the jurisdiction of the Planning Commission, Staff attached Los Angeles County Health and Safety code Chapter 11.36 (Exhibit C) to this report since it specifically addresses body art uses. Staff will prepare amendments to MBMC Title 5 and present them to the City Council in order to incorporate Los Angeles County's body art health and safety regulations into the MBMC.

Authority of the Planning Commission

Before the City Council may adopt a Zoning Ordinance text amendment, pursuant to MBMC 10.96 the Planning Commission must hold a duly noticed public hearing and make a recommendation to the City Council. The Commission is required to make specific findings as to whether the proposed zoning regulation is consistent with the policies of the General Plan and the

purposes of the title. The Planning Commission has authority recommend amendments to MBMC Title 10 (Planning and Zoning). The City Council has the authority to amend all other MBMC Titles.

General Plan Goals and Policies

The General Plan of the City of Manhattan Beach poses certain goals and policies which reflect the expectations and wishes of the City with respect to land uses. The proposed amendment to Title 10 of the Municipal Code is consistent with and will advance the following goals of the Manhattan Beach General Plan:

- Goal LU-6: Maintain the Viability of the Commercial areas of Manhattan Beach.*
- Goal LU-6.1: Support and encourage small businesses throughout the City.*
- Goal LU-6.2: Encourage a diverse mix of businesses that support the local tax base, are beneficial to residents, and support the economic needs of the community.*
- Goal LU-6.3: Recognize the need for a variety of commercial development types and designate areas appropriate for each. Encourage development proposals that meet the intent of these designations.*

ENVIRONMENTAL REVIEW

Pursuant to California Environmental Quality Act (CEQA) and the Manhattan Beach CEQA Guidelines, the subject amendment is exempt in that it is covered by the general rule that CEQA [Section 15061 (3)] only applies to projects which have the potential for causing a significant effect on the environment, and since it can be seen with certainty that there is no possibility that the activity will have a significant effect on the environment, the activity is not subject to CEQA.

CONCLUSION

Staff recommends that the Planning Commission conduct the continued Public Hearing, discuss the information presented, and provide direction.

Next Steps

Through Planning Commission direction and Staff research, new code language will be prepared to allow the operation of body art studios and Staff will present the proposed language to the Planning Commission when it is completed. The Planning Commission Resolution with the recommended code amendments will then be forwarded to City Council. The City Council will also conduct a public hearing and may take action on the Zoning Code text amendments. In order to avoid a violation of the United States Constitution’s First Amendment, the City must make every effort to avoid any unreasonable delay in establishing reasonable time, place, and manner regulations for body art studios.

Public Input

A one-quarter page public notice for the Zoning Ordinance amendment was published in the Beach Reporter newspaper. Staff did not receive any additional comments at the writing of this report (Exhibit D).

Attachments:

- A. Draft Code Amendments
- B. Ordinance Nos. 2148U and 2151U
- C. Los Angeles County Health and Safety Code Chapter 11.36
- D. Planning Commission Meeting Notice
- E. Planning Commission Staff Report and Minutes dated August 24, 2011

**MBMC Title 10 (Planning and Zoning) Working Draft
Code Amendments September 28, 2011
Underline/Strikeout Text**

The following regulations are based on Planning Commission direction as discussed at the August 24, 2011 regular meeting. Staff is working with the City Attorney to ensure the proposed regulations provide a balance between the community's interests and comply with all applicable laws. Further research is needed to support regulations and justify any related restrictions to body art studios.

Chapter 10.04—DEFINITIONS

10.04.030—Definitions

Body Art: Term for any activity or combination of activities defined herein as tattooing and/or body piercing. It shall not include activities such as, or similar to, cutting of the skin or subcutaneous tissue, cutting or modification of cartilage or bone, implantation, branding, deep tissue penetration, threading, stapling or any other invasive procedure, which constitutes the practice of medicine requiring license as a physician and a business operated as a medical clinic.

Body Piercing: Penetration of the skin to make, generally permanent in nature, a hole, mark, or scar.

Body Piercing, Incidental: The provision of ear-piercing or similar services as an incidental part of a retail sales establishment, with majority of the business consisting of related retail sales.

Tattoo: An art form in which pigments are inserted under the surface of the skin of a human being by pricking with a needle or otherwise to produce an indelible mark or figure visible through the skin. Tattooing does not include application of permanent make-up that is performed as an incidental service in a beauty shop, day spa, or other retail or service establishment.

Body Art Studio: A business located on a permanent premises or facility used or operated in whole or in part as a tattoo or body piercing studio.

Chapter 10.08—USE CLASSIFICATIONS

10.08.050--Commercial Use Classifications.

AA. Body Art Studios. Establishments providing body art services such as tattoos and/or body piercing.



Chapter 10.16—C COMMERCIAL DISTRICTS

10.16.020—CL, CC, CG, CD, CNE Districts: Land Use Regulations.

In the following schedules, the letter "P" designates use classifications permitted in commercial districts. The letter "L" designates use classifications subject to certain limitations prescribed by the "Additional Use Regulations" that follow. The letter "U" designates use classifications permitted on approval of a use permit. The letters "P/U" for an accessory use mean that the use is permitted on the site of a permitted use, but requires a use permit on the site of a conditional use. Use classifications that are not listed are prohibited. Letters in parentheses in the "Additional Regulations" column refer to regulations following the schedule or located elsewhere in this title. Where letters in parentheses are opposite a use classification heading, referenced regulations shall apply to all use classifications under the heading.

CL, CC, CG, CD, and CNE DISTRICTS: LAND USE REGULATIONS		P — Permitted U — Use Permit L — Limited, (See Additional Use Regulations) - — Not Permitted				
	CL	CC	CG	CD	CNE	Additional Regulations
Commercial Uses						(B)(K)(L)
Adult Businesses	-	-	L-5	-	-	(C)
Ambulance Services	-	-	U	-	-	
Animal Sales & Services						
Animal Boarding	-	-	U	U	-	
Animal Grooming	P	P	P	P	P	
Animal Hospitals	-	-	U	U	-	
Animals						
Retail Sales	P	P	P	P	P	
Artists' Studios	P	P	P	P	P	
Banks and Savings & Loans	P	P	P	P	P	
With Drive-Up Service	-	U	U	U	-	
Body Art Studios	-	P	P	-	-	(N)
Building Materials and Services	-	-	P	-	-	
Catering Services	P	P	P	P	P	
Commercial Filming	U	U	U	U	U	
Commercial Recreation and Entertainment	-	P	P	L-7	L-7	(D)

	CL	CC	CG	CD	CNE	Additional Regulations
Communication Facilities	-	P	P	P	P	
Eating and Drinking Establishments	U	U	U	U	U	(E)
w/ Fast-Food or Take-Out Service	U	U	U	L-7	L-7	
Drive-Through	-	U	U	-	-	
Food & Beverage Sales	L-9	P	P	L-9	L-9	
Funeral & Interment Services	-	-	L-5	-	-	
Laboratories	-	-	U	-	-	
Maintenance and Repair Services	P	P	P	P	P	
Nurseries	P	P	P	-	-	
Offices, Business & Professional	P	P	P	L-24	L-24	
Pawn Shops	-	-	U	-	-	
Personal Improvement Services	P	P	P	P	P	
Personal Services	P	P	P	P	P	
Psychic Advisor	-	-	P	-	-	
Research and Development Services	-	-	U	-	-	
Retail Sales	P	P	P	P	P	
Secondhand Appliances/Clothing	-	-	P	U	U	
Swap Meets, Recurring Travel Services	P	P	P	P	P	
Vehicle Equipment/Sales & Services						
Automobile Rentals	-	P	P	-	-	
Automobile Washing	-	-	L-8	-	-	
Commercial Parking	-	U	U	U	U	
Service Stations	U	U	U	U	-	(F)
Vehicle Equip. Repair	-	-	L-6	L-6	-	
Vehicle Equip. Sales & Rentals	-	P	P	-	-	
Vehicle Storage	-	-	U	-	-	
Visitor Accommodations						
Hotels & Motels and Time Shares	-	U	U	U	U	
Residential Hotels	-	-	U	-	-	
Warehousing and Storage, Ltd.	-	-	P	-	-	

C Districts: Additional Land Use Regulations

- L-4 Only allowed above ground level with a use permit.
- L-5 Only mortuaries are allowed, subject to a use permit.
- L-6 A use permit is required, and body and fender shops are permitted only as part of a comprehensive automobile-service complex.
- L-7 Only "limited" or "small-scale" facilities, as described in use classifications, are allowed with a use permit.
- L-8 Attended facilities permitted; unattended facilities allowed with a use permit.
- L-9 A use permit is required for Food and Beverage establishments operating between 10:30 p.m. and 6 a.m.
- L-10 Only post offices and other offices occupying less than 2,500 square feet are permitted.
- L-11 Single-family residential permitted if located (1) on a site which fronts on Crest Drive; or (2) on the rear half of a site which fronts on Highland Avenue; or (3) on a site which fronts on the east side of Highland Avenue between 38th Place to the south and Moonstone Street to the north; or (4) on a site which does not abut Rosecrans Avenue or Highland Avenue; otherwise a use permit is required.
- L-21 A use permit is required, except for legally existing church facilities, including private schools and day-care contained therein, which do not exceed an overall floor area factor greater than half of the maximum floor area factor permitted by the development standards of the base district.
- L-23 See Section 10.12.020 (L-22): regulations for "Day Care, Large Family Home".
- L-24 A Use Permit is required for a project with more than 2,500 square feet of Buildable Floor Area.
 - (A) Facilities on sites of 2 acres or more are subject to the regulations of Chapter 10.28 (PS District) precluding those of this chapter. See Section 10.28.020: PS District Applicability.
 - (B) A use permit is required for a single use or tenant project with more than five thousand (5,000) square feet of buildable floor area or more than ten thousand (10,000) square feet of land area. A master use permit is required for a multiple use or tenant project with more than five thousand (5,000) square feet of buildable floor area or more than ten thousand (10,000) square feet of land area. See Section 10.84 for use permit provisions.
 - (C) The exterior walls of an adult business shall be at least two hundred feet (200') from an R district and a school, and at least one thousand feet (1,000') from the exterior walls of another adult business.
 - (D) See Section 10.56.050: Game centers.
 - (E) See Section 10.56.020: Eating and drinking establishments with take-out service. An establishment providing group entertainment is subject to Title 4, Article 4, Dances and Cafe Entertainment and must obtain a permit from the City Manager.
 - (F) See Section 10.56.030, Service stations, vehicle/equipment repair, and automobile washing.
 - (G) See Section 10.84.110, Temporary use permits.
 - (H) See Chapter 10.68, Nonconforming uses and structures.
 - (I) The keeping of domestic animals is permitted including: dogs and cats not to exceed five (5) for each residential living unit in any combination thereof and the young

thereof not exceeding four (4) months in age, and other small domestic household pets such as rabbits, hamsters, guinea pigs, etc., not to exceed five (5) in any combination thereof. Common varieties of farm animals, livestock, exotic animals or wild animals (as defined in Section 10.04.020) are prohibited except for Vietnamese pot-bellied pigs, also known as pygmy pigs or mini-pigs, as permitted by the Animal Control Department.

- (J) A maximum of three (3) garage or lawn sale permits per calendar year, of miscellaneous household items of personal property accumulated by the occupant of the residence as a normal matter of course may be held on any building site occupied by residents, provided a permit has been acquired from the City's Licensing Authority. Each permit shall be valid for a maximum of three (3) consecutive days and may include standard regulations on the garage sale permit (in accordance with provisions of Section 6.08.020 MBMC).
- (K) Valid discretionary permits approved prior to January 17, 1991 may satisfy the requirement for an individual use permit or master use permit, provided the scope of the project, including use(s) approved and intensity (buildable floor area) of development, remain in substantial conformance with the approved project, and the project complies with all conditions of approval. The Community Development Director shall approve the conversion of such permits in conformance with this section.
- (L) A use permit, or use permit amendment, shall be required for any new alcohol license or modification to an existing alcohol license.
- (M) Certain commercial businesses, such as eating and drinking establishments and visitor accommodations, with use permits and other discretionary zoning approvals that limit the hours of operation may operate for extended hours for New Year's Eve as designated in Section 6.01.330 of the Businesses, Professions and Trades Code.
- (N) See Section 10.56.070: Body Art Studios. Body art studios are not permitted in CG zoned parcels that are adjacent to RS-D6 (Oak Avenue Overlay District) zoned parcels.

Chapter 10.20—I INDUSTRIAL DISTRICTS

10.20.020—IP District: Land Use Regulations.

In the following schedule, the letter "P" designates use classifications permitted in the IP district. The letter "L" designates use classifications subject to certain limitations prescribed by the "Additional Use Regulations" which follow. The letter "U" designates use classifications permitted on approval of use permit. The letters "P/U" for an accessory use mean that the use is permitted on the site of a permitted use, but requires a use permit on the site of a conditional use. Use classifications that are not listed are prohibited. Letters in parentheses in the "Additional Regulations" column refer to regulations following the schedule, or located elsewhere in this title. Where letters in parentheses are opposite a use classification heading, referenced regulations shall apply to all use classifications under the heading.

IP DISTRICT LAND USE REGULATIONS	P — Permitted U — Use Permit L — Limited (See Additional Use Regulations) —Not Permitted	
	IP	Additional Regulations
Commercial Uses		
Banks and Savings and Loans	P	
<u>Body Art Services</u>	P	(F)
Clubs, Private	U	
Commercial Filming	P	
Communication Facilities	P	
Eating & Drinking Establishments	L-13	
Food & Beverage Sales	P	
Hospitals and Medical Clinics	U	
Laboratories	U	
Maintenance & Repair Services	P	
Offices, Business & Professional	P	
Personal Services	L-13	
Research & Development Services	P	
Travel Services	L-13	
Warehousing & Storage, Limited	P	

IP Districts: Additional Land Use Regulations

L-12 A use permit and heliport permit from California Department of Transportation, Division of Aeronautics are required. Applicants shall submit a noise analysis based on likely approach-departure routes, including a map showing existing day/night average noise levels in decibels and future day/night average noise levels with the proposed facility and anticipated flight operations, and single-event maximum noise levels associated with the types of helicopters expected to use the facility. Conditions may be imposed to limit the maximum number of flights per day or week and the hours of operation.

L-13 Permitted as a secondary use in a building, or in a free-standing structure, provided that no more than 20 percent of buildable floor area is occupied by such uses.

(A) Facilities on sites of 2 acres or more are subject to the regulations of Chapter 10.28 (PS District) precluding those of this chapter. See Section 10.28.020: PS District Applicability.

(B) See Section 10.52.050: Accessory structures.

- (C) See Chapter 10.68: Nonconforming uses and structures.
 (D) See Section 10.56.040: Hazardous materials storage.
 (E) See Section 10.84.110: Temporary use permits.
 (F) See Section 10.56.070: Body Art Studios.

Chapter 10.44—D DESIGN OVERLAY DISTRICT

10.44.040 - Building permits to conform to overlay district regulations.

Applications for building permits for projects within a D overlay district shall be accepted only if project plans are consistent with the development regulations of this chapter and with all other applicable requirements of this Code. The regulations imposed by this section shall apply to any new structures or improvements, intensification of use, or enlargement of an existing structure.

D DESIGN OVERLAY DISTRICT: DEVELOPMENT REGULATIONS							
D1—Rosecrans west of Laurel Avenue	D4—Traffic Noise Impact Areas						
D2—11th and Aviation Boulevard	D5—North End Commercial						
D3—Gaslamp Neighborhood	D6—Oak Avenue Overlay						
	D7—Longfellow Drive Area Overlay						
Subdistricts	D-1	D-2	D-3	D-4	D-5	D-6	D-7
Minimum Site Area	-	-	-	-	-	(o)	
Minimum Lot Area							(q)
Maximum Building Height (ft.)	-	26	26 ^(c)	-	30 ^(g)	26	
Minimum Lot Area per Dwelling Unit (sq. ft.)	-	1,800	-	-	-	-	
Maximum Fence Height (ft.)	6 ^(a)	-	-	8 ^(b)	-	-	
Public Hearing and Environmental Review	-	-	(d)	-	-	-	
Landscaped Buffer Adjacent to Street (Required width in ft.)	-	-	-	-	(k)	5 ^(m)	
Minimum Front Setback, Upper Story (ft.)	-	-	(e)	-	(h)	-	
Minimum Side Setback (ft.)	-	-	-	-	-	5	
Required Roof Design	-	-	(f)	-	-	(f)	
Required Building Design	-	-	-	-	-	(n)	
Vehicular Access	-	-	-	-	(i)	(m)	
Reduced Parking	-	-	-	-	(j)	-	
Use Permit Required	-	-	-	-			
<u>Body Art Studios</u>	=	=	=	=	=	(r)	=

D DESIGN OVERLAY DISTRICT: DEVELOPMENT REGULATIONS ADDITIONAL REQUIREMENTS

- a. A six-foot (6') fence shall be set back three feet (3') from a front or street side property line and twenty feet (20') from a driveway crossing a public sidewalk.
- b. Increased fence height is permitted for the following areas: (1) Wendy Way between Marine Avenue and 12th Street: eight feet (8') in rear yard; (2) Marine Avenue between Meadows and Cedar Avenue: eight feet (8') in rear yard; (3) Marine Avenue between Pacific Avenue and Sepulveda Boulevard: eight feet (8') in rear or side yards fronting Marine Avenue.
- c. No building shall exceed two (2) stories.
- d. Required for demolition of dwellings or accessory buildings located on a site with two (2) or more lots. No demolition permit may be issued until an environmental assessment is complete and the Planning Commission or Board of Zoning Adjustment has held a public hearing. Notice shall be sent ten (10) days prior to the hearing to all property owners within five hundred feet (500') of the project site.
- e. Minimum depth: Ten percent (10%) of the buildable depth of the lot;
Minimum area: Ten (10) times the lot width in square feet;
Exceptions: one (1) architectural projection no more than eight feet (8') wide may extend four feet (4') into the setback area, and eaves may project four feet (4') into the setback area.
- f. A minimum roof pitch of a three-foot (3') rise in twelve feet (12') of run is required unless the building does not exceed twenty-two feet (22') in height.
- g. No increase over the maximum building height measured from the street property line is permitted for buildings fronting on Highland Avenue, and the twenty percent (20%) allowance of Section 10.60.050(B) does not apply in this subdistrict.
- h. The third story shall be set back ten feet (10') from the front setback line.
- i. Residential projects on the west side of Highland Avenue are not permitted to have vehicular access from Highland Avenue; commercial projects on the east side of Highland Avenue are not permitted to have vehicular access from Crest Drive.
- j. The Planning Commission may allow reduced parking with a use permit for neighborhood-oriented uses such as small retail stores, personal services, and eating and drinking establishments open for breakfast and lunch, subject to the requirements of Section 10.64.050(B).
- k. Residential projects shall include planter boxes at the pedestrian level involving lots of two thousand five hundred (2,500) square feet (or more) along Highland Avenue.
- l. A use permit is required for all new construction and major alterations and additions of two thousand five hundred (2,500) square feet or more except construction of or alterations or additions to single-family dwellings fronting on Crest Drive.
- m. A twenty-foot (20') landscaped setback is required along Oak Avenue for any commercial structures, and no vehicular ingress or egress to Oak Avenue is allowed. Until such time that a new project is initiated, existing development with nonconforming access on Oak Avenue, when developed for commercial parking purposes used in conjunction with business fronting upon and having vehicular access to Sepulveda Boulevard shall not utilize vehicular access to Oak Avenue between the hours of 10:00 p.m. to 6:00 a.m. daily.

- n. All commercial structures shall incorporate bay windows, decks, large roof overhangs, and breaks in building facia, as may be needed to reflect a design of residential character.
- o. Sites which utilize RS zoned Oak Avenue properties exclusively for commercial purposes shall be a minimum of twenty-five thousand (25,000) square feet in area. Where the site has multiple owners, the City may permit development on sites containing less than twenty-five thousand (25,000) square feet provided there is a conceptual plan for the whole site showing the relationships between existing and future buildings, landscaping, and the location of parking and tentative phasing of development. All owners must join in application for a D-6 zoning designation and indicate support of the conceptual plan for development of the site.
- p. The uses and related facilities permitted within the CG district may be permitted on RS-D6 zoned Oak Avenue properties, if fronting upon Sepulveda Boulevard, subject to the requirements of this chapter and Chapter 10.16, upon approval of a use permit.
- q. A minimum lot area of seventeen thousand (17,000) square feet (with the exception of 1190 Duncan Drive 1127 Ronda Drive and 1131 Ronda Drive) is required, and further subdivision of any lot within the district is prohibited. The foregoing restrictions shall not prohibit a lot-line adjustment between contiguous parcels pursuant to Section 11.08.010, provided that such lot-line adjustment (1) complies with all of the requirements in Section 11.08.010 and is otherwise exempt from the requirements of the Subdivision Map Act and (2) would not result in any parcel having a lot area of less than seventeen thousand (17,000) square feet.
This overlay applies to properties described as Lots 23 through 30, inclusive, and 32 through 39, inclusive, in Tract 14274 and located on Longfellow Drive, Ronda Drive, Terraza Place, Duncan Drive and Kuhn Drive.
- r. Body Art Studios are not permitted in the D6 Oak Avenue Overlay District or on CG zoned parcels adjacent to D6 Oak Avenue Overlay parcels.

Chapter 10.56—SITE REGULATIONS—NONRESIDENTIAL DISTRICTS

10.56.070— Body Art Studios.

The following supplementary development regulations shall apply to Body Art Studios, as defined in Chapter 10.08:

- A. **Hours of Operation.** Body art studios shall operate between the hours of 10:00 a.m. and 10:00 p.m. only.
- B. **Locational Criteria.** Body art studios shall be located the specified distance measured in a straight line, without regard to intervening structures as indicated below. Distance shall be measured from the exterior walls or, interior wall separating tenant spaces, where the body art establishment is, or will be located, to the nearest property line of any land use as identified below:
 - 1. More than five hundred (500) feet from any other body art studios.
 - 2. More than two hundred (200) feet from schools.
- C. **Health and Safety.** The operator of the body art studio shall obtain and all permits required by Los Angeles County Department of Public Health and adhere to MBMC Section 5.44 (Health and Safety Code).

D. Additional Criteria.

1. Body art studios shall provide a separate lobby or waiting area for patrons waiting for services.
2. Body art studios shall not display services in progress visible from either the exterior or interior of the establishment at any time.
3. Temporary or mobile body art studios are not permitted by this Section.

Chapter 10.64—OFF-STREET PARKING AND LOADING REGULATIONS

10.64.030—Off-Street Parking and Loading Spaces Required.

Off-street parking and loading spaces shall be provided in accord with the following schedules. For off-street loading, references are to Schedule B which sets space requirements and standards for different groups of use classifications and sizes of buildings. References to spaces per square foot are to be computed on the basis of buildable floor area unless otherwise specified, and shall include allocations of shared restroom, halls and lobby area, but shall exclude area for vertical circulation, stairs or elevators. Where the use is undetermined, the Community Development Director shall determine the probable use and the number of parking and loading spaces required. In order to make this determination, the Community Development Director may require the submission of survey data from the applicant or collected at the applicant's expense.

OFF-STREET PARKING AND LOADING SPACES REQUIRED		
Use Classification	Off-Street Parking Spaces: Schedule A	Off-Street Loading Spaces: Schedule B Group Number
Commercial		
Adult Businesses	1 per 250 sq. ft.	1
Ambulance Services	1 per 500 sq. ft.; plus 2 storage spaces.	-
Animal Sales and Services:		
Animal Boarding	1 per 400 sq. ft.	-
Animal Grooming	1 per 400 sq. ft.	-
Animal Hospitals	1 per 400 sq. ft.	1
Animals, Retail Sales	1 per 250 sq. ft.	1
Artists' Studios	1 per 1,000 sq. ft.	-
Banks and Savings & Loans:		
Drive-Up Service	Queue space for 5 cars per teller.	-
<u>Body Art Studios</u>	<u>1 per 300 sq. ft.</u>	<u>1</u>
Building Materials and Services	1 per 1,000 sq. ft. of lot area	1
Catering Services	1 per 400 sq. ft.	1

Use Classification	Off-Street Parking Spaces: Schedule A	Off-Street Loading Spaces: Schedule B Group Number
Commercial Recreation and Entertainment:		
Billiard/Pool Hall	1 per each pool table, plus parking associated with other uses of the establishment.	1
Bowling Alleys	4 per lane, plus 1 per 250 sq. ft. for other areas.	1
Electronic Game Centers	1 per 400 sq. ft.	-
Health/Fitness Centers	1 per 200 sq. ft. activity area, plus 1 per 250 sq. ft. for other areas.	1
Skating Rinks	1 per 5 fixed seats, or 1 per 35 sq. ft. seating area if there are no fixed seats; plus 1 per 250 sq. ft. floor area not used for seating.	1
Theaters	1 per 4 fixed seats, or 1 per 35 sq. ft. seating area if there are no fixed seats.	1
Other Commercial Recreation and Entertainment	As specified by the Community Development Director.	
Communications Facilities	1 per 500 sq. ft.	2
Eating and Drinking Establishments:		
General	1 per 50 sq. ft. seating area including cocktail lounge.	
With Live Entertainment	1 per 35 sq. ft. seating area; plus 1 per 35 sq. ft. dance floor	1
Take-Out Service	1 per 75 sq. ft. gross floor area plus outdoor seating area; plus queue space for 5 cars for drive-up service.	1
Food and Beverage Sales	1 per 200 sq. ft.	1

Use Classification	Off-Street Parking Spaces: Schedule A	Off-Street Loading Spaces: Schedule B Group Number
Furniture and Appliance Stores	1 per 600 sq. ft. if gross floor area exceeds 5,000 sq. ft.; otherwise, 1 per 200 sq. ft. Calculation shall include outdoor area used for continuous storage or display of merchandise	1
Funeral and Interment Services	1 per 50 sq. ft. seating area.	1
Hardware Stores	1 per 600 sq. ft. if gross floor area exceeds 5,000 sq. ft.; otherwise, 1 per 200 sq. ft.	1
Horticulture, Limited	1 per 2 acres.	-
Laboratories	1 per 500 sq. ft.	1
Maintenance and Repair Services	1 per 500 sq. ft.	1
Marine Sales and Services	1 per 350 sq. ft.	-
Nurseries	1 per 1,000 sq. ft. lot area for first 10,000 sq. ft.; 1 per 5,000 sq. ft. thereafter, plus 1 per 250 sq. ft. gross floor area.	-
Offices, Business and Professional	1 per 300 sq. ft.	1
Offices, Medical and Dental	1 per 200 sq. ft.	1
Pawn Shops	1 per 250 sq. ft.	1
Personal Improvement Services:	1 per 250 sq. ft.	-
Dance or Music Studio	1 per 600 sq. ft.	-
Personal Services	1 per 300 sq. ft.	1
Psychic Advisor	1 per 300 sq. ft.	-
Research and Development Services	1 per 400 sq. ft.	-
Retail Sales Not Listed Under Another Use Classification	1 per 200 sq. ft. for first 5,000 sq. ft.; 1 per 250 sq. ft. thereafter; bulk storage area for establishments over 5,000 sq. ft.; 1 per 1,000 sq. ft., or as specified by use permit.	1

Use Classification	Off-Street Parking Spaces: Schedule A	Off-Street Loading Spaces: Schedule B Group Number
Vehicle/Equipment Sales and Services: (vehicle/equipment inventory, storage, and service areas shall not be used to satisfy parking requirements)		
Automobile Rentals	1 per 400 sq. ft.; plus 2 storage spaces.	1
Automobile Washing	1 per 200 sq. ft. of sales, office, or lounge area; plus queue for 5 cars per washing station.	-
Service Stations	1 per 2,500 sq. ft. lot area; plus 1 per 500 sq. ft. of service bay and storage area.	-
Vehicle/Equipment Repair	1 per 300 sq. ft.	1
Vehicle/Equipment Sales and Rentals	1 per 1,000 sq. ft. of lot or floor area (including showrooms) devoted to sales or rentals.	1
Vehicle Storage	1 per 500 sq. ft.	-
Visitor Accommodations:		
Hotels, Motels and Time Share	1.1 per guest room; plus 1 per 50 sq. ft.	1
Facilities	banquet seating area, and 1 per passenger transport vehicle (minimum of 2 stalls) plus parking for other uses and facilities as required by this schedule.	
Limited	1.1 per guest room; plus 1 per passenger transport vehicle (minimum of 2 stalls).	-
Residential Hotels	1.1 per room.	1
Warehousing and Storage, Ltd.	1 per 1,000 sq. ft.	-

SCHEDULE B: LOADING SPACES REQUIRED

Gross Floor Area (sq. ft.)	Number of Spaces Required	
	10' × 20' × 10' Vertical Clearance	12' × 35' × 14' Vertical Clearance
Use Classification Group 1		
0 to 3,000		
3,001 to 15,000		0
15,001 to 50,000		1
50,001 and over		2
Use Classification Group 2		
0 to 10,000	1	
10,001 to 20,000		1
20,001 and over	1	1
Use Classification Group 3		
0 to 30,000		1
30,001 to 100,000		2
100,001 and over		3

ORDINANCE NO. 2148U

AN INTERIM ORDINANCE OF THE CITY OF MANHATTAN BEACH
PURSUANT TO GOVERNMENT CODE SECTION 65858 TO MAINTAIN
STATUS QUO BY PROHIBITING APPROVAL OF TATTOO STUDIOS
WHILE THE CITY STUDIES AND ENACTS NEW REGULATIONS IN
ACCORDANCE WITH NEW CASE LAW, AND DECLARING THE
URGENCY THEREOF.

The City Council of the City of Manhattan Beach does hereby ordain as follows:

SECTION 1. Purpose and findings. In order to protect the public health, safety and welfare, pursuant to Government Code Section 36937 the City may adopt urgency ordinances and pursuant to Government Code section 65858 the City may adopt as an urgency measure an interim ordinance prohibiting land uses that may be in conflict with a contemplated General Plan, Specific Plan, or Zoning proposal that the City Council, Planning Commission, or Planning Divisions is considering studying or intends to study within a reasonable period of time. Currently, tattoo studios are not listed as a permitted use of property under the City's Zoning Ordinance and pursuant to Manhattan Beach Municipal Code 10.08.020 any use that cannot be clearly determined to be in an existing use classification is prohibited unless the zoning code is amended to permit the use. Because tattoo studios are not a permitted use currently, the Code does not contain any development or operating standards for tattoo studios to provide the appropriate location and safe operation of these establishments.

The Ninth Circuit Court of Appeal recently held Hermosa Beach's zoning ordinance which similarly did not permit tattoo studios in any zone (amounting to a total ban on tattoo studios) to be unconstitutional. The court held that the business of tattooing is a form of speech protected by the first amendment, which can be subject only to time, place and manner regulations necessary to address secondary impacts of such businesses, if any.

The City now faces an immediate threat to the health, safety and welfare in that these facilities could operate anywhere in the City, without operating restrictions or regard for appropriate zoning districts. Further, without any time, place or manner regulations, there is an immediate threat of an inundation of unregulated tattoo studios in Manhattan Beach.

The City is currently studying new time, place and manner regulations for tattoo studios. Due to the lack of any regulation on these uses and because time will be required to prepare and adopt new regulations and update the zoning ordinance, this Ordinance is intended to place an interim prohibition on the establishment of tattoo studios in all zoning districts as of the date of adoption hereof until new permanent regulations are prepared and adopted by the City Council.


SECTION 2. The establishment of tattoo studios in all zoning districts in the City of Manhattan Beach is hereby prohibited for the limited duration of this Ordinance while the City enacts reasonable time, place and manner regulations. Notwithstanding any provision of the Manhattan Beach Municipal Code to the contrary, no zoning permits or approvals, subdivision maps or building permits for tattoo studios shall be approved or issued in the City during the pendency of this Ordinance or any extension thereof.

SECTION 3. Definitions. For purposes of this Ordinance, a "tattoo studio" shall be defined as any establishment where tattooing takes place. "Tattooing" means the act of indelibly marking or coloring the skin with a needle by injecting ink, dye, or other coloring material upon or under the skin so as to leave a permanent mark or designs on the skin."

SECTION 4. Penalties. Violation of any provision of this Ordinance shall constitute a misdemeanor and shall be punishable by a fine not to exceed \$1,000 or by imprisonment in County jail for not to exceed six (6) months, or by both such fine and imprisonment. Each and every day such a violation exists shall constitute a separate and distinct violation of this Ordinance. In addition to the foregoing, any violation of this Ordinance shall constitute a public nuisance and shall be subject to abatement as provided by all applicable provisions of law.

SECTION 5. Severability. If any part or provision of this Ordinance or the application to any person or circumstance is held invalid, the remainder of this Ordinance, including the application of such part of provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable.

EXHIBIT B
PC MH. 9/28/11


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office.
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City Clerk of
the City of
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SECTION 6. Urgency. Based on the findings set forth in Section 1 hereof, the potential for an inundation of tattoo studios for which the City has no time, place and manner restrictions in place, poses a current and immediate threat to the public health, safety and welfare. This Ordinance is necessary to alleviate and address that threat by prohibiting the establishment of tattoo studios that may be inconsistent with new zoning standards currently being developed until those regulations can be established and adopted. There is no feasible alternative to satisfactorily mitigate or avoid the specific adverse impact identified above as well or better with a less burdensome or restrictive effect than the adoption of this interim urgency ordinance. Based on the foregoing it is in the best interest of public health, safety and welfare to allow adequate study of the impacts resulting from operation of tattoo studios, if any, and the development of regulations to mitigate any such impacts; therefore, it appropriate to adopt a moratorium on tattoo studios consistent with the authority granted by Government Code section 65858.

This ordinance is adopted pursuant to California Government Code Section 65858 and shall take effect immediately upon adoption by a four-fifths vote of the City Council. This ordinance shall be in full force and effect for a period of forty-five (45) days from the date of its adoption unless extended by the City Council in accordance with the provisions of California Government Code Section 65858.

SECTION 7. Conflicting Laws. For the term of this Ordinance, or any extension thereof, the provisions of this Ordinance shall govern over any conflicting provisions of any other City code, ordinance, resolution or policy.

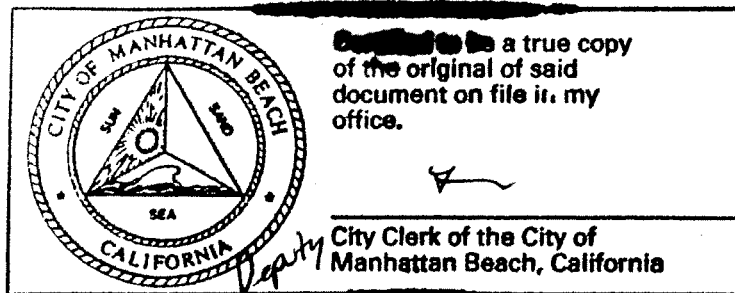
PASSED, APPROVED AND ADOPTED this 19th day of July, 2011.

Ayes: Lesser, Howorth, Montgomery, Powell and Mayor Tell.
Noes: None.
Absent: None.
Abstain: None.

/s/ Nicholas W. Tell, Jr.
Mayor, City of Manhattan Beach

ATTEST:

/s/ Liza Tamura
City Clerk



ORDINANCE NO. 2151U

AN EXTENSION OF AN INTERIM ORDINANCE OF THE CITY OF MANHATTAN BEACH PURSUANT TO GOVERNMENT CODE SECTION 65858 TO MAINTAIN STATUS QUO BY PROHIBITING APPROVAL OF TATTOO STUDIOS WHILE THE CITY STUDIES AND ENACTS NEW REGULATIONS IN ACCORDANCE WITH NEW CASE LAW, AND DECLARING THE URGENCY THEREOF.

The City Council of the City of Manhattan Beach does hereby ordain as follows:

SECTION 1. Purpose and findings. In order to protect the public health, safety and welfare, pursuant to Government Code Section 36937 the City may adopt urgency ordinances and pursuant to Government Code section 65858 the City may adopt as an urgency measure an interim ordinance prohibiting land uses that may be in conflict with a contemplated General Plan, Specific Plan, or Zoning proposal that the City Council, Planning Commission, or Planning Divisions is considering studying or intends to study within a reasonable period of time. Currently, tattoo studios are not listed as a permitted use of property under the City's Zoning Ordinance and pursuant to Manhattan Beach Municipal Code 10.08.020 any use that cannot be clearly determined to be in an existing use classification is prohibited unless the zoning code is amended to permit the use. Because tattoo studios are not a permitted use currently, the Code does not contain any development or operating standards for tattoo studios to provide the appropriate location and safe operation of these establishments.

The Ninth Circuit Court of Appeal recently held Hermosa Beach's zoning ordinance which similarly did not permit tattoo studios in any zone (amounting to a total ban on tattoo studios) to be unconstitutional. The court held that the business of tattooing is a form of speech protected by the first amendment, which can be subject only to time, place and manner regulations necessary to address secondary impacts of such businesses, if any.

The City now faces an immediate threat to the health, safety and welfare in that these facilities could operate anywhere in the City, without operating restrictions or regard for appropriate zoning districts. Further, without any time, place or manner regulations, there is an immediate threat of an inundation of unregulated tattoo studios in Manhattan Beach.

The City is currently studying new time, place and manner regulations for tattoo studios. Due to the lack of any regulation on these uses and because time will be required to prepare and adopt new regulations and update the zoning ordinance, this Ordinance is intended to extend an interim prohibition on the establishment of tattoo studios in all zoning districts as of the date of adoption hereof until new permanent regulations are prepared and adopted by the City Council.

SECTION 2. The establishment of tattoo studios in all zoning districts in the City of Manhattan Beach is hereby prohibited for the limited duration of this Ordinance while the City enacts reasonable time, place and manner regulations. Notwithstanding any provision of the Manhattan Beach Municipal Code to the contrary, no zoning permits or approvals, subdivision maps or building permits for tattoo studios shall be approved or issued in the City during the pendency of this Ordinance.

SECTION 3. Definitions. For purposes of this Ordinance, a "tattoo studio" shall be defined as any establishment where tattooing takes place. "Tattooing" means the act of indelibly marking or coloring the skin with a needle by injecting ink, dye, or other coloring material upon or under the skin so as to leave a permanent mark or designs on the skin."

SECTION 4. Timeline. Staff will process the ordinance as expeditiously as necessary and anticipates that the following tentative timeline is reasonable to develop an ordinance:

- August/September 2011 – Planning Commission (Public Hearings)
- October/November 2011 – City Council (Public Hearing, First and Second Readings)
- Ordinance takes effect 30 days after City Council adoption (December 2011)



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the City of
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Beach

SECTION 5. Ordinance Options. Staff anticipates exploring the following options to regulate Tattoo Studios:

1. Classify Tattoo Studios as a Personal Service which would permit the use in all commercial zones.
2. Create a new Tattoo Studio classification and specify Commercial districts where such use can operate.
3. Employ either option above and create reasonable performance standards through the Planning Commission and City Council public review process.

SECTION 6. Penalties. Violation of any provision of this Ordinance shall constitute a misdemeanor and shall be punishable by a fine not to exceed \$1,000 or by imprisonment in County jail for not to exceed six (6) months, or by both such fine and imprisonment. Each and every day such a violation exists shall constitute a separate and distinct violation of this Ordinance. In addition to the foregoing, any violation of this Ordinance shall constitute a public nuisance and shall be subject to abatement as provided by all applicable provisions of law.

SECTION 7. Severability. If any part or provision of this Ordinance or the application to any person or circumstance is held invalid, the remainder of this Ordinance, including the application of such part of provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable.

SECTION 8. Urgency. Based on the findings set forth in Section 1 hereof, the potential for an inundation of tattoo studios for which the City has no time, place and manner restrictions in place, poses a current and immediate threat to the public health, safety and welfare. This Ordinance is necessary to alleviate and address that threat by prohibiting the establishment of tattoo studios that may be inconsistent with new zoning standards currently being developed until those regulations can be established and adopted. There is no feasible alternative to satisfactorily mitigate or avoid the specific adverse impact identified above as well or better with a less burdensome or restrictive effect than the adoption of this interim urgency ordinance. Based on the foregoing it is in the best interest of public health, safety and welfare to allow adequate study of the impacts resulting from operation of tattoo studios, if any, and the development of regulations to mitigate any such impacts; therefore, it appropriate to adopt a moratorium on tattoo studios consistent with the authority granted by Government Code section 65858.

This ordinance is adopted pursuant to California Government Code Section 65858 and shall take effect immediately upon adoption by a four-fifths vote of the City Council. This ordinance shall extend Ordinance No. 2148U and be in full force and effect for the minimum time necessary to process the zoning text amendment to accommodate new tattoo studios, or 10 months and 15 days from the date of its adoption, whichever comes first, in accordance with the provisions of California Government Code Section 65858.



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Manhattan
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1 SECTION 9. Conflicting Laws. For the term of this Ordinance, the provisions of this
2 Ordinance shall govern over any conflicting provisions of any other City code, ordinance, resolution or
3 policy.


PASSED, APPROVED AND ADOPTED this 2nd day of August, 2011.


4 Ayes: Lesser, Howorth, Montgomery, Powell and Mayor Tell.
5 Noes: None.
6 Absent: None.
7 Abstain: None.

8 /s/ Nicholas W. Tell, Jr.
9 Mayor, City of Manhattan Beach

10 ATTEST:

11 /s/ Liza Tamura
12 City Clerk



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20 **City Clerk of the City of**
21 **Manhattan Beach, California**

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LOS ANGELES COUNTY CODE

DEPARTMENT REGULATIONS BODY ART

Title 11 - Health and Safety
Division 1 - Health Code
Chapter 11.36 - Body Art Establishments

Environmental Health Regulations
Part 1 - Public Health
Chapter 36 - Body Art Regulations

Distributed by:

County of Los Angeles ✧ Department of Public Health
Environmental Health
Bureau of Environmental Protection
Environmental Hygiene Program
5050 Commerce Drive
Baldwin Park, CA 91706

EXHIBIT C
PC Mtg. 9/28/11

July 1999

**Environmental Health
Regulations**

Part 1 - Public Health

Chapter 36 - BODY ART REGULATIONS

Article 1

Definitions.

100.00	Body art ordinance.
105.00	Body art temporary event sponsor.
110.00	Cleaning area.
115.00	Customer waiting area.
120.00	Instrument storage area.
125.00	Pre-sterilized.
130.00	Sanitization.
135.00	Sharps.
140.00	Single-use.
145.00	Sterilization.
150.00	Workstation.

Article 2

Body Art Technicians.

200.00	Registration.
205.00	Public health operator permit.
210.00	Hepatitis B vaccination status.
215.00	Bloodborne pathogen training course.
220.00	Hygiene.
300.00	Application and consent form for body art activity.

Article 3

Clients.

300.00	Application and consent form for body art activity.
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Article 4

Body Art Establishments.

400.00	Workstation.
405.00	Separate areas.
410.00	Walls - Floors - Ceilings.
415.00	Lighting and ventilation.
420.00	Plumbing.
425.00	Water supply.
430.00	Toilet rooms.
435.00	Hand washing sinks.
440.00	Janitorial sinks.
445.00	Instrument sinks.
450.00	Exposure control plan - contents and submission.

Article 5

Instruments and Equipment.

500.00	Equipment.
505.00	Sanitizing and sterilization units.
510.00	Waste receptacles.
515.00	Linens.
520.00	Rotary pens.
525.00	Ink - Dye - Pigment.
530.00	Inserted objects - jewelry.
535.00	Telephone access.
540.00	Prohibited instruments and materials.

Article 6
Operations.

General requirements

600.00	No animals.
603.00	No smoking, eating and drinking.
605.00	Disease transmission.
607.00	Exposure incident report.
610.00	Record maintenance.
613.00	Establishment maintenance.
615.00	Toilet room and plumbing maintenance.
617.00	Equipment and instrument maintenance.
620.00	Instrument sterilization.
623.00	Instrument storage.
625.00	Use of chemicals and cleansers.
627.00	Labeling.
630.00	Linen storage and cleaning.
633.00	Cleaning and testing of ultrasonic cleaning units and sterilization units.
635.00	Waste hauling.

Conduct of Body Art

637.00	Workstation sanitizing.
640.00	Hand washing and use of gloves.
643.00	Instrument and equipment preparation.
645.00	Use of workstation.
647.00	Use of instruments.
650.00	Waste disposal.
653.00	Multiple body art activities.

Article 7
Mobile Body Art Establishments.

700.00	Applicability of regulations.
705.00	Exposure control plan.
710.00	Plans and specifications.
715.00	Restricted use.
720.00	Optional separate areas and equipment.
725.00	Interior requirements.
730.00	Toilet rooms.
735.00	Instrument and hand washing sinks.

- 740.00 Door and window openings.
- 745.00 Water and plumbing.
- 750.00 Liquid waste and sewage storage and removal.
- 755.00 Testing of sterilization units.

Article 8

Temporary Body Art Establishments.

- 800.00 Applicability of regulations.
- 805.00 Exposure control plan.
- 810.00 Public health facility permit.
- 820.00 Restricted use.
- 825.00 Optional separate areas and equipment.
- 830.00 Workstation.
- 835.00 Hand washing sinks.
- 840.00 Water and plumbing.
- 845.00 Testing of sterilization units.

Article 9

Body Art Temporary Events.

- 900.00 Exposure control plan.
- 905.00 Plans and specifications.
- 910.00 Customer waiting area.
- 915.00 Cleaning area.
- 920.00 Toilet rooms.
- 925.00 Hand washing sinks.
- 930.00 Instrument sinks.
- 935.00 Janitorial sinks.
- 940.00 Ultrasonic cleaning and sterilization units.
- 945.00 Cleaning and testing of ultrasonic cleaning and sterilization units.

Part 1 - Public Health

Chapter 36 - BODY ART REGULATIONS

Article 1 Definitions.

Section	
100.00	Body art ordinance.
105.00	Body art temporary event sponsor.
110.00	Cleaning area.
115.00	Customer waiting area.
120.00	Instrument storage area.
125.00	Pre-sterilized.
130.00	Sanitization.
135.00	Sharps.
140.00	Single-use.
145.00	Sterilization.
150.00	Workstation.

For purposes of these regulations, the words and phrases shall be as defined in section 11.36.010 of the Los Angeles County Code, unless specifically defined otherwise herein.

100.00 Body art ordinance.

"Body art ordinance" means Chapter 11.36 of the Los Angeles County Code, as currently written or as may be amended (attached to these regulations as Appendix A).

105.00 Body art temporary event sponsor.

"Body art temporary event sponsor" means a person or entity that has undertaken to organize or conduct a body art temporary event.

110.00 Cleaning area.

"Cleaning area" means the area in a body art establishment used in the sterilization, sanitization or other cleaning of instruments or other equipment used for body art activity.

115.00 Customer waiting area.

"Customer waiting area" means the area in a body art establishment for use and occupation by persons and clients prior to and after the conduct of any body art.

120.00 Instrument storage area.

"Instrument storage area" means the area in a body art establishment used in the

storage of instruments, linens, equipment, and other items used in any body art activity.

125.00 Pre-sterilized.

“Pre-sterilized” means instruments or procedure set-ups that are sold individually packaged and sterilized. Each package shall have an auditable sterilization lot number from a department-approved sterilization facility.

130.00 Sanitization.

“Sanitization” or to “Sanitize” means bactericidal and virucidal treatment of a clean instrument or surface in a manner effective in destroying pathogens in accordance with these regulations.

Sanitization is not the same or equal to sterilization.

135.00 Sharps.

“Sharps” means instruments and other objects that can penetrate the skin, including, but not limited to, tattoo needles, permanent cosmetic needles, piercing needles, and razors.

140.00 Single-use.

“Single-use” means manufactured and approved for use only once in accordance with manufacturer’s instructions prior to disposal.

145.00 Sterilization.

“Sterilization” or to “Sterilize” means the use of a physical or chemical procedure to destroy all microbial life, including highly resistant bacterial endospores, in accordance with these regulations. Sterilization includes the use of an appropriate and approved method of testing so as to ensure sterilization.

150.00 Workstation.

“Workstation” means the area within a body art establishment exclusively used in and during the conduct of body art upon a client.

**Article 2
Body Art Technicians.**

Section

- 200.00 Registration.**
- 205.00 Public health operator permit.**
- 210.00 Hepatitis B vaccination status.**
- 215.00 Bloodborne pathogen training course.**
- 220.00 Hygiene.**
- 300.00 Application and consent form for body art activity.**

200.00 Registration.

- (a) Every person shall, in order to renew his or her registration as a body art technician, provide to the department proof of completion by the registrant of an approved bloodborne pathogen training course completed within three years prior to such renewal.
- (b) Proof of completion of a bloodborne pathogen training course is not required upon an individual's initial registration as such documentation is required for the individual to obtain a public health operator permit (see section 205.00).

205.00 Public health operator permit.

- (a) Except as provided in section 11.36.360A of the body art ordinance, every person applying for a public health operator permit shall provide to the department proof of completion by such applicant of an approved bloodborne pathogen training course.
- (b) Proof of completion of a bloodborne pathogen training course is not required to renew a public health operator permit, as such documentation is required for an individual to renew his or her body art technician registration (see section 200.00(a)).

210.00 Hepatitis B vaccination status.

Every body art technician shall have, with a copy provided to the owner of any body art establishment in which the technician performs body art activity, valid documentation of Hepatitis B Virus (HBV) vaccination status stating:

- (a) Certification of completed vaccination;
- (b) Laboratory evidence of immunity;
- (c) Documentation stating the vaccine is contraindicated for medical reasons. Contraindication requires a dated and signed physician's statement specifying the name of the employee and that the vaccine cannot be given; or,

- (d) Certificate of vaccination declination for HBV.

215.00 Bloodborne pathogen training course.

- (a) Any course taken by a person to fulfill the requirements set forth in the body art ordinance concerning exposure control and bloodborne pathogen training required for all body art technicians shall be approved and, at a minimum, provide instruction in the following subject matter:
- (1) Los Angeles County Code, Title 11, Chapter 11.36 - Body Art Establishments, and all applicable state and federal applicable requirements;
 - (2) A general explanation of the epidemiology and symptoms of bloodborne diseases and all communicable diseases potentially transmitted through body art activity;
 - (3) An explanation of the modes of transmission of bloodborne pathogens and other communicable diseases potentially transmitted through body art activity;
 - (4) An explanation of the appropriate methods for recognizing tasks and other activities that may involve exposure to blood for the body art technician and/or the client;
 - (5) An explanation of the use and limitations of methods that will prevent or reduce exposure to the body art technician and/or the client of bloodborne pathogens and other communicable diseases;
 - (6) Information on different types, proper use, and removal of gloves and proper hand washing techniques;
 - (7) Information on the proper selection and use of disinfectants and antiseptics;
 - (8) Information on the HBV vaccine, including information on its efficacy, safety, method of administration, and the benefits of vaccination against HBV;
 - (9) An explanation of what constitutes an exposure incident, the risk of disease transmission following an exposure incident, and the options for post-exposure evaluation and follow-up if an exposure incident occurs involving bloodborne pathogens; and,
 - (10) An opportunity for interactive questions and answers with the instructor of the training session.
- (b) Upon conclusion of a course as described above, an examination based on the information covered in the course shall be administered to each attendee of the course, with documentation of the results for each attendee provided to him or her.

220.00 Hygiene.

Every body art technician shall maintain a high degree of personal cleanliness, conform to hygienic practices and wear clean clothes when conducting body art activity. If the body art technician's clothes are or become contaminated, clean clothing shall be donned prior to commencement of any body art activity.

**Article 3
Clients.**

Section

300.00 Application and consent form for body art activity.

300.00 Application and consent form for body art activity.

Every application and consent form for body art activity, as required under section 11.36.530 of the body art ordinance, shall contain:

- (a) General information regarding body art, including, at a minimum, the following statements:
 - (1) Tattoos, permanent cosmetics and body piercing should be considered permanent;
 - (2) Removal of tattoos and permanent cosmetics requires surgery or a medical procedure that may result in scarring of the skin tissue; and,
 - (3) Closure of a hole caused by body piercing may require a medical procedure that may result in scarring of the skin tissue:
- (b) Information as to side effects of body art, including, but not limited to, hypertrophic scarring, adverse reaction to ink/dye/pigment, change in color of ink/dye/pigment over time, decreased ability of physician to locate skin melanoma in regions concealed by tattoos, nerve damage, febrile illness, tetanus, systemic infection, and keloid formation;
- (c) After-care instructions, including, at a minimum:
 - (1) Responsibilities and care following the procedure;
 - (2) Restrictions, if any, upon the client;
 - (3) Signs and symptoms of infection; and,
 - (4) Instructions to contact a physician if signs of infection occur;
- (d) Client information, including:
 - (1) Name;
 - (2) Age and valid identification;
 - (3) Parent or legal guardian consent, including name of parent or legal guardian, and proof of parentage or legal guardianship through a copy of a birth

certificate or court order of guardianship respectively, or a notarized document signed by the parent or legal guardian attesting to the parent's/legal guardian's relationship to the client and consent to the conduct of the contemplated body art activity upon the client;

- (4) A physician authorization, including the phone number of the physician, if client is a minor and body art activity includes tattoos or permanent cosmetics; and,
 - (5) Description of requested body art activity with a list/description of any device/jewelry to be inserted and to remain in body following the body art activity;
- (e) Instructions requiring client to adhere to the exposure control plan as they relate to client conduct in the body art establishment;
 - (f) Name, address and phone number of the department and instructions for client to contact the department with any questions or concerns regarding safety, sanitization or sterilization procedures;
 - (g) Name of body art technician to conduct the body art and corresponding department registration number;
 - (h) Codes, identity of manufacturer and lot number of any dye and pigment to be used in the body art activity;
 - (i) Signature of client;
 - (j) Signature of client's parent or legal guardian if client is a minor, unless a notarized document has been provided as set forth in 300.00(d)(3);
 - (k) Signature of body art technician;
 - (l) Date(s) of all signature(s); and,
 - (m) Date(s) of procedure, including a daily estimate of progress for the conduct of body art requiring multiple days to complete.

**Article 4
Body Art Establishments.****Section**

- 400.00 Workstation.**
- 405.00 Separate areas.**
- 410.00 Walls - Floors - Ceilings.**
- 415.00 Lighting and ventilation.**
- 420.00 Plumbing.**
- 425.00 Water supply.**
- 430.00 Toilet rooms.**
- 435.00 Hand washing sinks.**
- 440.00 Janitorial sinks.**
- 445.00 Instrument sinks.**
- 450.00 Exposure control plan - contents and submission.**

Every body art establishment owner must submit to the department for approval plans and specifications demonstrating compliance with these regulations as required under section 11.36.340 of the body art ordinance. Where applicable, the department may otherwise determine compliance with these regulations upon inspection of a body art establishment.

400.00 Workstation.

- (a) Every workstation shall have a minimum of 80 square feet.
- (b) Every body art establishment shall have at least one workstation which can be completely screened from view from any person outside such workstation, including but not limited to, clients, body art technicians and other persons in other workstations, the customer waiting area and any area outside the body art establishment.

405.00 Separate areas.

- (a) Every area in a body art establishment used for body art activity shall be:
 - (1) Used for no other purpose, including, but not limited to, use as a food establishment, for human habitation, hair and nail activities, or any other use which may cause Contamination of Instruments, other equipment or work surfaces used for Body art activity; and,
 - (2) Separated from any area used for a non-body art activity by a wall or other solid barrier extending from floor to ceiling so as to prevent airborne contamination of the workstation and the instruments and other equipment therein.
- (b) Every body art establishment shall have therein a cleaning area.

- (1) Every cleaning area shall have an area for the placement and use of an ultrasonic cleaning unit located or positioned so as not to be immediately adjacent to any sterilization unit.
- (c) Every body art establishment shall have therein an instrument storage area exclusive of and separate from any cleaning area.
- (d) Every body art establishment shall have therein a customer waiting area exclusive of and separate from any workstation, instrument storage area, cleaning area or other area in a body art establishment used for body art activity.

410.00 Walls - Floors - Ceilings.

- (a) Every workstation, instrument storage area, toilet room, cleaning area and any area in a body art establishment shall be constructed as follows so as to provide a durable smooth, nonabsorbent and washable surface:
 - (1) Floors - constructed of commercially rated continuous sheet vinyl, smooth sealed cement, ceramic tile, or other similar approved materials;
 - (2) Walls - covered with a semi-gloss or gloss enamel paint, or constructed of fiberglass reinforced panel (FRP), or ceramic tile or other similar materials approved by the department; and
 - (3) Ceiling - covered with semi-gloss or gloss enamel paint, or approved acoustical paneling.

All such walls and ceilings shall be light-colored. For purposes of this chapter, light-colored shall mean a light reflectance value of 70 percent or greater.

- (b) Section (a) does not apply to the walls, floors and ceilings of any customer waiting area or office.

415.00 Lighting and ventilation.

- (a) Every body art establishment shall be well ventilated and have a minimum light service maintained at all times during operation at an equivalent of not less than 20 foot candles as measured 36 inches above the floor, except that a minimum of 100 foot candles shall be provided on the area of the client's body subject to the conduct of body art, in any area where instruments or sharps are assembled, and where sanitization or sterilization activities are performed.
- (b) Every workstation or every area in a body art establishment where linens, instruments, or other equipment used in body art activity are exposed, sanitized or sterilized shall exclusively use readily cleanable light fixtures with lights of shatterproof construction or lights enclosed by a shatterproof shield.

420.00 Plumbing.

All plumbing and plumbing fixtures shall be installed in compliance with local plumbing codes. To the extent permitted by applicable federal, state and local laws and ordinances, all liquid wastes shall be discharged through the plumbing system into the public sewerage or into a department-approved private sewage disposal system.

425.00 Water supply.

- (a) An adequate, protected, pressurized, potable water supply shall be provided to every body art establishment. Such water supply and plumbing shall be department-approved.
- (b) For purposes of these regulations, hot water shall mean a minimum temperature of 110° F.

430.00 Toilet rooms.

- (a) Every body art establishment shall provide toilet rooms with adequate lighting and department-approved ventilation to the outside for use by employees and clients, and available to clients during all business hours.
- (b) The number and construction of toilet rooms, commodes and separate stalls for each commode in a toilet room shall be in accordance with local building and plumbing codes.
- (c) Every toilet room shall be fully enclosed and have a well-fitting, self-closing door which shall remain closed.
- (d) Toilet tissue shall be provided in a permanently installed dispenser in each stall.
- (e) Toilet rooms shall not be used for the storage of instruments or other supplies used for body art activity.
- (f) A body art establishment permanently located within a retail shopping center, or similar setting housing multiple operations within one enclosed structure having shared entrance and exit points, shall not be required to provide a toilet room within such establishment if department-approved toilet facilities are located in the center within 300 feet the establishment so as to be readily accessible to any client or body art technician.

435.00 Hand washing sinks.

- (a) A hand washing sink shall be provided:
 - (1) Within or adjacent to any toilet room; and
 - (2) In each room with one or more workstation.

A single hand washing sink located adjacent to a toilet room and in a room

with a workstation may meet both of these requirements.

- (b) Every hand washing sink shall be equipped with:
 - (1) An adequate supply of hot and cold running water under pressure with fixtures to allow for washing of hands; and
 - (2) Liquid hand cleanser and single-use sanitary towels in devices for dispensing, and a waste container of washable construction.

440.00 Janitorial sinks.

- (a) At least one janitorial sink shall be provided in every body art establishment for use in cleaning the body art establishment and proper disposal of liquid wastes in accordance with all applicable Federal, state and local laws. For purposes of this chapter, a janitorial sink means a sink of adequate size equipped with hot and cold running water under pressure so as to permit the cleaning of the body art establishment and any equipment used for cleaning.
- (b) Every janitorial sink also used as a hand washing sink shall have all dispensers as required under these regulations for a hand washing sink.
- (c) A janitorial sink shall be required for any body art establishment commencing operation after the effective date of the body art ordinance. The department may allow a body art establishment in operation prior to the July 1, 1999, to be exempt, provided it is demonstrated to the satisfaction of the department that such establishment can be effectively cleaned in accordance with these regulations.
- (d) The janitorial sink may not satisfy any requirement for a hand washing sink for a toilet room as required under these regulations.

445.00 Instrument sinks.

- (a) Every cleaning area shall have an instrument sink used exclusively for the cleaning of instruments.
- (b) Every instrument sink shall be of adequate size and equipped with hot and cold running water under pressure so as to permit the cleaning of instruments used in body art activity.

450.00 Exposure control plan - contents and submission.

- (a) The exposure control plan for a body art establishment shall be submitted by the owner to the department for plan review under section 11.36.340 of the body art ordinance and updated as needed so as to meet all of the requirements of the current version of Title 8 California Code of Regulations §§ 3203 and 5193 (attached to these regulations as Appendix B).
- (b) A copy of the body art establishment's exposure control plan as set forth above

shall be maintained at the body art establishment as set forth in section 610.00 of these regulations.

**Article 5
Instruments and Equipment.****Section**

- 500.00 Equipment.**
- 505.00 Sanitizing and sterilization units.**
- 510.00 Waste receptacles.**
- 515.00 Linens.**
- 520.00 Rotary pens.**
- 525.00 Ink - Dye - Pigment.**
- 530.00 Inserted objects - jewelry.**
- 535.00 Telephone access.**
- 540.00 Prohibited instruments and materials.**

500.00 Equipment.

The surface of all equipment and furniture located in an area used for body art activity or instrument storage area, including, but not limited to, counters, tables, equipment, benches, chairs, recliners, shelves, storage containers, and cabinets in the workstations, cleaning areas and instrument storage areas shall be made of materials that are, or shall be treated so as to be, smooth, non-absorbent, non-porous, easily cleanable, and able to withstand repeated cleaning and disinfection.

505.00 Sanitizing and sterilization units.

- (a) Every body art establishment shall have the following so as to ensure the cleaning and maintenance of an adequate supply of instruments for use in body art activity:
 - (1) One or more ultrasonic cleaning units sold for cleaning purposes under approval of the Food and Drug Administration ("FDA"). Every ultrasonic cleaning unit shall be clearly labeled biohazardous and installed or placed in an area separate from any Workstation or area used for sterilization in accordance with the requirements set forth by the Occupational Safety and Health Administration ("OSHA");
 - (2) One or more sterilization units sold for medical sterilization purposes under approval of the FDA; and,
 - (3) One or more commercial biological monitoring (spore) system tests per each Sterilization unit, consistent with the Sterilization unit manufacturer's instructions for use by the Department during inspection.
- (b) The requirements of section (a) shall not apply if pre-sterilized, individually packaged, single-use needles, needle chamber machine tips, machine casings and combo couples are exclusively used for body art activity.

510.00 Waste receptacles.

- (a) Every workstation shall have a foot-operated, covered, cleanable, waste receptacle for disposal of trash and other debris.
- (b) Every body art establishment shall have a waste receptacle exclusively used for the disposal of contaminated waste in accordance with the medical waste management act. Each such receptacle shall be tightly covered and clearly labeled as containing biohazardous waste.

515.00 Linens.

Every body art establishment shall maintain an adequate supply of reusable, launderable linens or single-use linens, such as drapes, lap cloths and aprons, to be used in body art activity in accordance with these regulations.

520.00 Rotary pens.

If used in body art activity, rotary pens, also known as cosmetic machines, shall have detachable, disposable, sterile combo couplers and shall have detachable, disposable casings or casings designed and manufactured to be easily cleaned and sterilized in accordance with these regulations.

525.00 Ink - Dye - Pigment.

- (a) All inks, dyes, and pigments used to alter the color of skin in the conduct of body art shall be specifically manufactured for such purpose, approved, properly labeled as to its ingredients, manufacturer and lot number in accordance with applicable FDA requirements, and shall not be contaminated or adulterated. The mixing of such inks, dyes or pigments or their dilution with potable sterile water is acceptable, unless prohibited or not recommended by its/their manufacturer.
- (b) Inks, dyes and pigments prepared by or at the direction of a body art technician for use in body art activity shall be made exclusively of non-toxic and non-contaminated ingredients approved by the department or FDA.

530.00 Inserted objects - jewelry.

- (a) Jewelry or objects intended for bodily insertion shall be sterilized, in good condition, designed and manufactured for insertion into the intended body part (i.e. jewelry designed for insertion in pierced ear lobes shall not be used for insertion in other parts of the body.).
- (b) Only jewelry manufactured of implant grade, ASTM F138 and ISO 5832-1 implant grade stainless steel, solid 14K through 24K gold, niobium, titanium, platinum or other materials considered by the department to be equally bio-compatible shall be inserted into newly pierced skin.

535.00 Telephone access.

Every body art establishment shall have a telephone in good working order easily accessible to all employees during all hours of operation for the purpose of contacting and requesting emergency medical assistance/paramedic services in the event of an emergency or perceived need. A legible sign shall be posted at or adjacent to the telephone indicating the correct emergency contact telephone number, for example 911.

540.00 Prohibited instruments and materials.

- (a) No person shall utilize or have available in a body art establishment:
- (1) Unapproved instruments or materials, such as styptic pencils or devices, alum, or any similar material, to check the flow of blood;
 - (2) Liquid sterilants for the sterilization of any re-usable instrument or component;
 - (3) Rotary pens that are designed or manufactured with a sponge type material at the opening of the chamber for the purpose of prohibiting the backflow of pigment and body fluid into the machine;
 - (4) Multiple use instruments or components that are designed in such a manner that restrict or prevent proper cleaning or sterilization;
 - (5) Drugs, chemicals or agents that require a licensed medical practitioner's authorization for use, application or dispensation.
 - (6) Suturing kits or suturing devices, scalpels, cauterizing tools or devices, branding tools or devices, or other tools, devices or instruments used for or in conjunction with any prohibited body art activity, and not otherwise used for any permitted body art activity.

**Article 6
Operations.**

General requirements

Section

- 600.00 No animals.**
- 603.00 No smoking, eating and drinking.**
- 605.00 Disease transmission.**
- 607.00 Exposure incident report.**
- 610.00 Record maintenance.**
- 613.00 Establishment maintenance.**
- 615.00 Toilet room and plumbing maintenance.**
- 617.00 Equipment and instrument maintenance.**
- 620.00 Instrument sterilization.**
- 623.00 Instrument storage.**
- 625.00 Use of chemicals and cleansers.**
- 627.00 Labeling.**
- 630.00 Linen storage and cleaning.**
- 633.00 Cleaning and testing of ultrasonic cleaning units and sterilization units.**
- 635.00 Waste hauling.**

600.00 No animals.

- (a) Except as otherwise provided below, no animal shall be kept in or permitted to enter into:
 - (1) Any instrument storage area or any area in a body art establishment used for sterilizing, sanitizing or other cleaning of instruments; and,
 - (2) Any workstation or other area of a body art establishment.
- (b) Section (a)(2) does not apply to any guide animal, signal animal, or service animal, as defined by section 54.1 of the Civil Code, accompanied by a totally or partially blind person or deaf person, person whose hearing is impaired, or handicapped person, any dog accompanied by a person licensed to train guide dogs pursuant to Chapter 9.5 (commencing with section 7200) of Division 3 of the Business and Professions Code, or any dog accompanied by a uniformed employee of a private patrol operator or an operator of a private patrol service licensed pursuant to Chapter 11.5 (commencing with section 7580) of Division 3 of the Business and Professions Code during and within the course and scope of their employment as patrol persons.
- (c) Section (a) does not apply to dogs under the control of uniformed law enforcement officers.

- (d) Section (a) does not apply to fish or other aquatic life contained in a completely enclosed aquarium so long as the presence of any aquarium does not interfere with proper maintenance of the body art establishment as set forth in these regulations.

603.00 No smoking, eating and drinking.

No person shall smoke, or otherwise use tobacco, eat or drink at or in the workstation, instrument storage area or cleaning area.

605.00 Disease transmission.

Except as set forth in these regulations, no person shall commit or permit any act that may expose any person to disease or illness or otherwise contaminate any instrument or area in a body art establishment used for body art activity.

607.00 Exposure incident report.

- (a) An exposure incident report shall be completed by the close of business on and for every exposure incident occurring in the conduct of any body art activity.
- (b) Each exposure incident report shall contain:
 - (1) A copy, where applicable, of the application and consent form for body art activity completed by any client involved in the exposure incident;
 - (2) A full description of the exposure incident, including the portion of the body involved therein;
 - (3) Instrument(s) or other equipment implicated;
 - (4) A copy of the employee/independent operator records of any body art technician (as set forth in section 610.00(a)(2) and (a)(3) below);
 - (5) Date and time of exposure;
 - (6) Any medical history released to the body art establishment or body art technician independent operator on any person involved; and
 - (7) Information regarding any recommendation to refer to a physician or waiver to consult a physician by persons involved.

610.00 Record maintenance.

- (a) Every owner of a body art establishment shall have and retain at the body art establishment for inspection by the department the following information for the time period specified below, to be updated as needed to remain current:

- (1) Exposure control plan - one copy of the exposure control plan for the body art establishment submitted to the department under section 450.00(a);
 - (2) Employee records (three years) - indicating: name, home address, home phone number, identification photograph, state identification card number, physical description as detailed on state identification card, date of birth, type(s) of body art procedures conducted, exact duties, dates of employment at location, body art technician registration number, Hepatitis B vaccination status or declination notification;
 - (3) Body art technician independent operator(s) records (three years) - indicating: name, home address, phone number, state identification card number, physical description as detailed on state identification card, date of birth, type(s) of body art procedures conducted, dates operating at location; body art technician registration number, Hepatitis B vaccination status or declination notification;
 - (4) Client records (three years) - copies of all application and consent forms for body art activity;
 - (5) Waste hauler manifests for contaminated waste and sharps transport and disposal (three years);
 - (6) Training records (three years) - documentation to verify training of exposure control plan to all employees and body art technician independent operator(s) conducting body art activity at such establishment;
 - (7) Dye, ink and pigment records (three years) - manufacturer, color and code information for all dye, ink and pigment; ratios of colors and sterile water if mixed by the body art technician;
 - (8) Instrument records (three years) - vendor name, address and phone number for all instruments intended for use in body art activity;
 - (9) Commercial biological monitoring (spore) system test results (three years); and
 - (10) Body art regulations - one copy of the most current version of these body art regulations.
- (b) Every owner of a body art establishment shall have and retain at the establishment for inspection by the department all exposure incident reports permanently. Disposal or destruction of these reports is prohibited.

613.00 Establishment maintenance.

Every area of a body art establishment shall be kept in good repair, clean and free of all

vermin and maintained so as to prevent contamination of clients and other persons.

615.00 Toilet room and plumbing maintenance.

- (a) Every toilet room, plumbing and plumbing fixture shall be kept clean, fully operative, and in good repair.
- (b) Every toilet room shall be separated by a closed door from other areas of the body art establishment.

617.00 Equipment and instrument maintenance.

- (a) All instruments and surfaces of equipment used for body art activity, including, but not limited to, devices, containers, cabinets, storage compartments, chairs, tables, counters, and dispensers shall be maintained clean, fully operative, and in good repair and free from contamination.
- (b) All Instruments manufactured for performing any specific body art activity shall be so designated, used and approved, and shall not be adulterated, contaminated or improperly used. Instruments used for body piercing shall be constructed of stainless surgical-grade steel, and designed and manufactured for such use.
- (c) Instruments intended for single-use shall not be reused.

620.00 Instrument sterilization.

- (a) Every contaminated reusable instrument or component thereof, including, but not limited to, needles, needle bars, needle tubes, needle caps, body piercing tubes, rotary pens, and coil machines, shall be immersed in water or other approved liquid solution in the cleaning area until cleaned and sterilized.
- (b) Prior to sterilization, every such instrument shall be thoroughly washed by scrubbing with an appropriate soap or disinfectant solution and hot water in accordance with manufacturer's instructions so as to remove contamination.
- (c) Upon completion of the washing process as set forth in subsection (b) above, every such instrument shall be cleaned using an ultrasonic cleaning unit in accordance with manufacturer's instructions.
- (d) Upon completion of the cleaning process as set forth in subsection (c) above, every such instrument shall be packaged into procedure set-up packages with color change indicators designed to indicate complete sterilization thereof, initials of the person responsible for sterilizing the instruments and date of such sterilization. Instruments may be packaged individually or with other instruments to the extent permitted under the package manufacturer's instructions.
- (e) Upon completion of the packaging process as set forth in subsection (d) above, every such instrument shall be properly sterilized in an approved sterilization unit

according to manufacturer's instructions.

- (f) If a package becomes wet or is opened or compromised so as to allow the contamination of the contents of the package, any instrument therein shall be deemed contaminated and again shall be washed, cleaned, packaged and sterilized as indicated above prior to use.
- (g) Sterilized instruments shall be stored in a dry, clean cabinet or tightly covered container. Cabinets and containers designated for the storage of sterilized instruments shall be used for that purpose exclusively.
- (h) Every sterilized package shall be deemed expired six (6) months after the date of sterilization. Every instrument therein shall again be washed, cleaned, packaged and sterilized consistent with the provisions of this chapter prior to use.
- (i) Liquid sterilants shall not be used for the sterilization of any re-usable instrument.

623.00 Instrument storage.

All instruments must be stored in an instrument storage area in a manner so as to prevent contamination. Identical instruments shall be exclusively stored together, unless intermingled storage with different instruments does not represent a hazard as determined by the department.

625.00 Use of chemicals and cleansers.

All germicides, disinfectants, chemicals, and cleansers must be used according to the manufacturer's requirements, used only for the purpose approved and intended by the manufacturer and properly labeled and stored so as to prevent contamination and hazard.

627.00 Labeling.

All storage containers, cabinets, shelves and other storage areas in the instrument storage area shall be properly labeled as to their contents, including, but not limited to, identification of contaminated or soiled contents as appropriate.

630.00 Linen storage and cleaning.

- (a) Clean linen shall be stored in a manner so as to prevent contamination. Containers used for the storage of such linen shall be clearly labeled as to the contents and used for no other purpose. Linens that have become soiled or contaminated shall be disposed of, or not be used, until properly laundered. Contaminated linen shall be labeled, handled, stored, transported, and laundered or disposed of so as to prevent hazard in a manner approved by the department.
- (b) Any other protective clothing, garments and other cloth items worn during or used in body art activity and intended for reuse shall be mechanically washed with detergent and dried after each use. The items shall be stored in a clean, dry

manner and protected from contamination until used. If washing is conducted in the body art establishment, all applicable plumbing codes shall apply. Should such items become contaminated directly or indirectly with bodily fluids, the items shall be washed in accordance with standards applicable to hospitals and medical care facilities, at a temperature of 160° F or a temperature of 120° F with the use of chlorine disinfectant.

633.00 Cleaning and testing of ultrasonic cleaning units and sterilization units.

- (a) Every Ultrasonic cleaning unit and sterilization unit shall be used, cleaned and maintained according to manufacturer's specifications.
- (b) Every sterilization unit shall be tested with a commercial biological monitoring (spore) system test in a manner and frequency consistent with the manufacturer's instructions, but no less than once every month, to monitor the efficacy of the unit's eradication of all living organisms, including spores.

635.00 Waste hauling.

- (a) All waste shall be removed from the body art establishment on a daily basis and placed in an Approved secured receptacle for pickup and removal.
- (b) All contaminated waste and sharps shall be disposed of through use of an approved waste hauler in accordance with all applicable state and federal laws and regulations. The frequency of disposal shall be determined by the department, but shall be no less than every 30 days.

Conduct of Body Art

- 637.00 Workstation sanitizing.**
- 640.00 Hand washing and use of gloves.**
- 643.00 Instrument and equipment preparation.**
- 645.00 Use of workstation.**
- 647.00 Use of instruments.**
- 650.00 Waste disposal.**
- 653.00 Multiple body art activities.**

For purposes of these regulations, the conduct of body art is the discrete procedure of permanently applying body art upon a client. The conduct of body art does not include other body art activities, such as cleaning, sanitization and sterilization activities.

637.00 Workstation sanitizing.

- (a) An Environmental Protection Agency (EPA) registered hard surface disinfectant product such as iodophor, chlorine, phenolic, or alcohol containing germicide or 1:100 dilution of household non-scented bleach and water (two tablespoons of

bleach in one quart of water) shall be used after cleaning with water and soap or other appropriate cleaning compound to disinfect any surface contaminated or reasonably suspected of such. The disinfectant or germicide shall be applied using a single-use paper towel.

- (b) The workstation, including, but not limited to the client's chair, table, tray and similar surfaces shall be thoroughly cleaned and sanitized with an approved disinfectant or germicide (as set forth in subsection (a) above) immediately before and immediately after the conduct of body art upon a client therein/thereon.

640.00 Hand washing and use of gloves.

- (a) Every body art technician shall clean his/her hands and forearms thoroughly by washing with antibacterial soap and warm water and prompt drying with single-use towels prior to conducting any body art activity.
- (b) Every body art technician shall wear new, clean, single-use examination gloves:
 - (1) While assembling all Instruments and other supplies intended for use in the conduct of body art; and,
 - (2) During the conduct of body art upon a client.
- (c) If a glove is pierced, torn or contaminated through contact with any part of the client not subject to the conduct of body art, any person other than the client, or otherwise exposed to an unsanitized or nonsterile surface, both gloves must be promptly removed and discarded into an appropriate waste receptacle.
- (d) If the body art technician's gloves are removed at any time during assembly of instruments or supplies, or the conduct of body art, the body art technician must clean his/her hands and don new gloves in accordance with this section.
- (e) The use of single-use examination gloves does not preclude or substitute for hand washing procedures.

643.00 Instrument and equipment preparation.

- (a) Every body art technician shall use linens, properly cleaned in accordance with these regulations, or new single-use drapes, lap cloths, and aprons for each client receiving body art.
- (b) Every substance used in the conduct of body art shall be dispensed from containers so as to prevent contamination of the unused portion. Immediately before applying a tattoo or permanent cosmetics upon a person, the quantity of the ink, dye or pigment to be used therefor shall be transferred from its/their original bottle into sterile, single-use disposable cups, caps or containers.
- (c) Upon sanitization of the workstation in compliance under these regulations, the instrument tray shall be covered with an uncontaminated single-use paper towel or

tray cover.

- (d) Every instrument required for the conduct of body art upon a person shall be placed and arranged on the instrument tray in a manner so as to prevent contamination of sterilized instruments. All sterilized instruments shall remain in sterile packages until opened in front of the client.
- (e) Sharps containers shall be easily accessible to the body art technician and located as close as is feasible to the immediate area where sharps will be used.

645.00 Use of workstation.

- (a) The conduct of body art shall occur only upon a client exclusively in and at a workstation under sterile conditions.
- (b) Only the client, the client's parent or guardian if the client is a minor, the client's guide animal, signal animal or service animal as set forth under section 600.00 of these regulations, and the body art technician conducting the body art shall be permitted in the workstation during the conduct of body art.

647.00 Use of instruments.

All Instruments used in the conduct of body art shall be without contamination, and properly sanitized and sterilized in accordance with these regulations.

650.00 Waste disposal.

- (a) Disposable items such as gloves, wipes, cotton balls, Q-tips, water cups, rinse cups (used alone or in an ultrasonic cleaning unit), drapes, lap cloths, aprons and other single-use items that have come into contact with any person or a workstation, instrument trays, counters, towels or linens therein/thereon used for the conduct of body art, or have otherwise become contaminated shall be promptly discarded upon completion of the conduct of body art into an appropriate waste receptacle in accordance with all applicable regulations of the California Health and Safety Code.
- (b) Contaminated sharps shall be promptly discarded upon completion of the conduct of body art in a waste receptacle as described in section 510.00(b) of these regulations.

653.00 Multiple body art activities.

- (a) The following shall be deemed as multiple body art activities on a single client, each requiring proper washing, cleaning, sanitization, and sterilization of instruments, workstations and other equipment and areas as set forth under these regulations:
 - (1) Applying two or more tattoos on different areas of the body of a client; or

- (2) The use of more than one needle during the conduct of body art.

**Article 7
Mobile Body Art Establishments.**

Section

- 700.00 Applicability of regulations.**
- 705.00 Exposure control plan.**
- 710.00 Plans and specifications.**
- 715.00 Restricted use.**
- 720.00 Optional separate areas and equipment.**
- 725.00 Interior requirements.**
- 730.00 Toilet rooms.**
- 735.00 Instrument and hand washing sinks.**
- 740.00 Door and window openings.**
- 745.00 Water and plumbing.**
- 750.00 Liquid waste and sewage storage and removal.**
- 755.00 Testing of sterilization units.**

700.00 Applicability of regulations.

Except as specified or inconsistent with the regulations in this Article 7, all previous Articles of these regulations shall apply to all mobile body art establishments, their owners, clients, and activities therein.

705.00 Exposure control plan.

Every exposure control plan for a mobile body art establishment submitted by the establishment owner to the department in accordance with section 450.00 of these regulations shall include, but not be limited to, the name and location of the facility used for removal of sewage and liquid waste from the establishment.

710.00 Plans and specifications.

- (a) All plans and specifications for a mobile body art establishment shall be submitted by the establishment owner to the department annually, and upon modification of the establishment, in accordance with section 11.36.600 of the body art ordinance.
- (b) The plans and specifications submitted by the establishment owner for each temporary event shall include, but not be limited to, the following information:
 - (1) The name, address and phone number of the body art temporary event sponsor;
 - (2) The name, address, phone number and department registration number of all body art technicians operating at the mobile body art establishment;
 - (3) The location of the establishment in the body art temporary event;

- (4) The location of the establishment's instrument storage area;
- (5) The location of the establishment's cleaning area, if any;
- (6) The location and quantity of all of the establishment's toilet rooms, instrument sinks and hand washing sinks; and,
- (7) The location and quantity of all ultrasonic cleaning units and sterilization units if provided by the establishment owner.

715.00 Restricted use.

Every mobile body art establishment shall be used only for the purpose of performing body art activities at a body art temporary event in accordance with section 11.36.610 of the body art ordinance.

720.00 Optional separate areas and equipment.

- (a) A mobile body art establishment may, but shall not be required to, have each of the following:
 - (1) A customer waiting area.;
 - (2) A janitorial sink; and
 - (3) A telephone.
- (b) Any area or equipment in section (a) which is included in a mobile body art establishment shall be provided, cleaned and maintained in accordance with these regulations.

725.00 Interior requirements.

- (a) The construction and maintenance of all walls, floors and ceilings of the interior of every mobile body art establishment shall be in compliance with the regulations governing body art establishments.
- (b) Every mobile body art establishment shall have a clear, unobstructed height over the aisle-way portion of the vehicle used for body art activity of at least 188 centimeters (74 inches) from floor to ceiling, and a minimum of 76 centimeters (30 inches) of unobstructed, horizontal aisle space.

730.00 Toilet rooms.

Every mobile body art establishment shall have and maintain in accordance with these regulations an adequate number of toilet rooms, commodes and separate stalls for each commode so as to accommodate the use thereof by all clients and body art technicians

at the establishment. Toilet room doors shall be self-closing. Toilet rooms shall be vented to the outside by a means approved by the Department.

735.00 Instrument and hand washing sinks.

Every mobile body art establishment shall have, at a minimum, one of each of the following:

- (a) An instrument sink in accordance with section 445.00 of these regulations; and,
- (b) A hand washing sink located inside or adjacent to any toilet room. The hand washing sink shall be exclusively used by toilet room patrons, and by body art technicians and clients in preparation for the conduct of body art.

740.00 Door and window openings.

- (a) Every door providing access to a mobile body art establishment shall be self-closing and tight-fitting.
- (b) Every window in a mobile body art establishment which can be opened shall have tight-fitting screens adequate to prevent the entrance of insects.

745.00 Water and plumbing.

- (a) Every mobile body art establishment shall maintain an adequate, protected, pressurized, potable supply of water in accordance with subsection (b) below.
- (b) All water used by a mobile body art establishment shall be:
 - (1) Supplied in a manner so as to prevent contamination, including, but not limited to, the use of an approved hose for filling and refilling purposes; and,
 - (2) Stored in an approved water supply storage tank indicating its capacity.

750.00 Liquid waste and sewage storage and removal.

- (a) All liquid wastes and sewage from a mobile body art establishment shall be stored in an adequate on-board storage tank with a capacity that is at least fifty (50) percent greater than the capacity of the water supply storage tank.
- (b) All liquid wastes shall be removed from a mobile body art establishment to an approved site intended for such use.

755.00 Testing of sterilization units.

- (a) Every sterilization unit provided by a mobile body art establishment owner as required by section 505.00 of these regulations shall be tested by the owner with a commercial biological monitoring (spore) system test in accordance with

manufacturer's instructions at least thirty (30) days before the commencement of the body art temporary event. Records of the results of such testing shall be maintained by the owner in accordance with these regulations.

- (b) The sterilization unit testing requirements set forth under section 633.00(b) of these regulations shall not apply to any sterilization unit used for a mobile body art establishment and provided by the establishment owner.

Article 8
Temporary Body Art Establishments.

Section

- 800.00** Applicability of regulations.
- 805.00** Exposure control plan.
- 810.00** Public health facility permit.
- 820.00** Restricted use.
- 825.00** Optional separate areas and equipment.
- 830.00** Workstation.
- 835.00** Hand washing sinks.
- 840.00** Water and plumbing.
- 845.00** Testing of sterilization units.

800.00 Applicability of regulations.

Except as specified or inconsistent with the regulations in this Article 8, all regulations in Articles 1 through 6 above shall apply to all temporary body art establishments, their owners, clients, and activities therein.

805.00 Exposure control plan.

Every exposure control plan for a temporary body art establishment submitted by the establishment owner to the department in accordance with section 450.00 of these regulations shall include, but not be limited to, the name and location of the facility used for disposal of sewage and liquid waste.

810.00 Public health facility permit.

- (a) A public health facility permit for a temporary body art establishment shall be issued in accordance with section 11.36.710 of the body art ordinance upon completion of the application for public health facility permit to be provided by the department, and payment of the applicable fee as set forth in the application.
- (b) Completion of the application for public health facility permit shall satisfy any requirement for persons conducting body art activity at the temporary body art establishment to submit plans and specifications under section 11.36.690 of the body art ordinance and these regulations.

820.00 Restricted use.

Every temporary body art establishment shall be used only for the purpose of performing body art activities at a body art temporary event.

825.00 Optional separate areas and equipment.

- (a) A temporary body art establishment may, but shall not be required to, have each of

the following:

- (1) A customer waiting area.;
 - (2) A cleaning area;
 - (3) A toilet room;
 - (4) An instrument sink;
 - (5) A janitorial sink;
 - (6) An ultrasonic cleaning unit;
 - (7) A sterilization unit; and,
 - (8) A telephone.
- (b) Any area or equipment in section (a) which is included in a temporary body art establishment shall be provided, cleaned and maintained in accordance with these regulations.

830.00 Workstation.

Every workstation in a temporary body art establishment shall have a minimum 45 square feet of floor space.

835.00 Hand washing sinks.

- (a) Except as provided in section (b), every temporary body art establishment shall have at least one hand washing sink for the exclusive use by the body art technician and client in preparation for the conduct of body art.
- (b) A temporary body art establishment may use an adjacent hand washing sink located within a separate temporary body art establishment, but no more than four temporary body art establishments may share the same hand washing sink.

840.00 Water and plumbing.

Water, plumbing, and liquid waste and sewage disposal for every temporary body art establishment shall comply with the requirements set forth for a mobile body art establishment, or, at the discretion of the department, the requirements set forth for a body art establishment.

845.00 Testing of sterilization units.

- (a) Every sterilization unit provided by a temporary body art establishment owner as permitted under section 825.00 of these regulations shall be tested by the owner

with a commercial biological monitoring (spore) system test in accordance with manufacturer's instructions at least thirty (30) days before the commencement of the body art temporary event. Records of the results of such testing shall be maintained by the owner in accordance with these regulations.

- (b) The sterilization unit testing requirements set forth under section 633.00(b) of these regulations shall not apply to any sterilization unit used for temporary body art establishment and provided by the establishment owner.

**Article 9
Body Art Temporary Events.****Section**

- 900.00 Exposure control plan.**
- 905.00 Plans and specifications.**
- 910.00 Customer waiting area.**
- 915.00 Cleaning area.**
- 920.00 Toilet rooms.**
- 925.00 Hand washing sinks.**
- 930.00 Instrument sinks.**
- 935.00 Janitorial sinks.**
- 940.00 Ultrasonic cleaning and sterilization units.**
- 945.00 Cleaning and testing of ultrasonic cleaning and sterilization units.**

900.00 Exposure control plan.

Every sponsor of a body art temporary event for a mobile body art establishment or temporary body art establishment shall be responsible for submitting to the department an exposure control plan for the body art temporary event in accordance with section 450.00 of these regulations.

905.00 Plans and specifications.

- (a) Body art temporary event plans and specifications to be submitted by the event sponsor to the Department in accordance with section 11.36.640 or section 11.36.700 of the body art ordinance shall include, but not be limited to, the location and quantity of all of the following at the body art temporary event:
 - (1) Temporary body art establishments;
 - (2) Mobile body art establishments;
 - (3) Cleaning areas not located in a mobile body art establishment;
 - (4) Toilet rooms, hand washing sinks, instrument sinks and janitorial sinks not located in a mobile body art establishment; and,
 - (5) Ultrasonic cleaning units and sterilization units provided by any person other than a mobile body art establishment owner.
- (b) The sponsor shall pay all fees in connection with the submission to the department of the plans and specifications as provided in section (a) above.

910.00 Customer waiting area.

Every body art temporary event shall have and maintain in accordance with these

regulations an adequate customer waiting area so as to accommodate clients and other persons at the body art temporary event prior to and after the conduct of body art.

915.00 Cleaning area.

Every body art temporary event shall have and maintain in accordance with these regulations a cleaning area of a size and design adequate to reasonably accommodate sterilization and sanitization activities, and other body art activities of those mobile body art establishments and temporary body art establishments not equipped with a cleaning area.

920.00 Toilet rooms.

Every body art temporary event shall have and maintain in accordance with these regulations an adequate number of toilet rooms, commodes and separate stalls for each commode so as to accommodate the use thereof by all body art technicians and clients at the event.

925.00 Hand washing sinks.

Every body art temporary event shall have and maintain in accordance with these regulations an adequate number of hand washing sinks in each cleaning area at the event so as to reasonably accommodate the body art activities described in section 915.00 of these regulations, and in or around all toilet rooms as required local building and plumbing codes.

930.00 Instrument sinks.

Every body art temporary event shall have and maintain in accordance with these regulations an adequate number of instrument sinks in the cleaning area of the event so as to reasonably accommodate the use thereof by all body art technicians operating in temporary body art establishments and mobile body art establishments not equipped with an instrument sink.

935.00 Janitorial sinks.

Every body art temporary event shall have and maintain in accordance with these regulations an adequate number of janitorial sinks so as to accommodate the cleaning and maintenance of all mobile body art establishments and temporary body art establishments not equipped with a janitorial sink.

940.00 Ultrasonic cleaning and sterilization units.

Every body art temporary event shall have and maintain in accordance with these regulations an adequate number of ultrasonic cleaning and sterilization units so as to accommodate the use thereof by all body art technicians operating in a temporary body art establishment not equipped with an ultrasonic cleaning unit or a sterilization unit.

945.00 Cleaning and testing of ultrasonic cleaning and sterilization units.

- (a) Every ultrasonic cleaning unit and sterilization unit at the body art temporary event not provided by a mobile body art establishment owner or a temporary body art establishment owner shall be cleaned and maintained by the event sponsor in accordance with the manufacturer's instructions for each such unit and these regulations.
- (b) Every sterilization unit at the body art temporary event not provided by a mobile body art establishment owner or temporary body art establishment owner shall be tested in accordance with manufacturer's instructions at least thirty (30) days before the commencement of the body art temporary event. Records of the results of such testing shall be maintained by the sponsor in accordance with these regulations.
- (c) Every body art temporary event sponsor providing a sterilization unit shall have, in accordance with these regulations, at least one commercial biological monitoring (spore) system test consistent with manufacturer's instructions for each such unit for testing purposes by the department.



NOTICE OF A PUBLIC HEARING
BEFORE THE PLANNING COMMISSION
OF THE CITY OF MANHATTAN BEACH
ZONING CODE AMENDMENT (TITLE 10) AND
LOCAL COASTAL PROGRAM AMENDMENT TO
ESTABLISH REGULATIONS FOR TATTOO STUDIOS

A public hearing will be held before the Planning Commission for the project described below.

Applicant: City of Manhattan Beach- City Council 2011-12 Work Plan Item—Tattoo Ordinance

Property Location: Citywide

Project Description: Continuation of public hearing to consider amendment to Title 10 Planning and Zoning of the Manhattan Beach Municipal Code (MBMC) and the City's Local Coastal Program to establish regulations for Tattoo Studios within the City.

Environmental Determination: Pursuant to California Environmental Quality Act (CEQA) and the Manhattan Beach CEQA Guidelines, portions of the subject amendments are exempt in that they are covered by the general rule that CEQA [Section 15061 (b)(3)] only applies to projects which have the potential for causing a significant effect on the environment, and since it can be seen with certainty that there is no possibility that the activity will have a significant effect on the environment, the activity is not subject to CEQA.

Project Planner: Esteban Danna, Assistant Planner (310)-802-5514, edanna@citymb.info

Public Hearing: **Wednesday September 28, 2011 at 6:30 p.m.**
Council Chambers, City Hall, 1400 Highland Avenue

Further Information: Proponents and opponents may be heard at that time. For further information contact the project Planner. Project files are available for review at the Community Development Department at City Hall. A Staff Report will be available for review at the Civic Center Library on Saturday, September 24 and at the Community Development Department on Monday, September 26, or on the City website (<http://www.citymb.info>) on Friday September 23 after 5:00 pm.

Public Comments: Oral and written testimony will be received during the public hearing. Anyone wishing to provide written comments for inclusion in the Staff Report must do so by September 21, 2011. Comments received after this date will be forwarded to the Planning Commission at or prior to the public hearing.

If you challenge the proposed actions in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this Notice, or in correspondence delivered to the Planning Commission at, or prior to, the public hearing.

RICHARD THOMPSON
Director of Community Development



**CITY OF MANHATTAN BEACH
DEPARTMENT OF COMMUNITY DEVELOPMENT**

TO: Planning Commission

FROM: Richard Thompson, Director of Community Development

BY: Esteban Danna, Assistant Planner

DATE: August 24, 2011

SUBJECT: Consideration of Zoning Text and Local Coastal Program Amendments to Allow Tattoo Studios to Operate within the City.

RECOMMENDATION

Staff recommends that the Planning Commission **CONDUCT** the Public Hearing, **DISCUSS** the information presented, **PROVIDE DIRECTION**, and **CONTINUE** the Public Hearing to September 28, 2011.

BACKGROUND

At its 2011-2012 Work Plan meeting the City Council directed Staff to review and make recommendations concerning regulation of tattoo studios in the City. No applications have been made to the City for a new tattoo studio; however, Staff has received a few telephone and e-mail inquiries indicating interest in establishing such businesses in Manhattan Beach. The Municipal Code does not presently make provision for such use.

At its July 19, 2011 regular meeting, the City Council adopted Ordinance No. 2148U (Exhibit A) establishing a 45 day moratorium for tattoo studios. The ordinance maintains the status quo by prohibiting the approval of Tattoo Studios and gives Staff time to develop regulations that will allow the operation of such uses. On August 2, 2011, through Ordinance No. 2151U (Exhibit B), the City Council extended the moratorium and directed that the Planning Commission make a recommendation on an expedited schedule. Body piercing will also be evaluated as requested by the City Council.

The reason that this matter has been brought to the Planning Commission on an expedited schedule is to give the Planning Commission and the City Council an opportunity to consider whether tattoo and body piercing studios require any additional restrictions beyond what the City currently imposes on other Personal Service type land uses. Until a recent court decision, cities had not afforded tattoo studios any special consideration. Tattoo studios were presumed to be a land use subject to cities' land use authority, which allows cities to impose zoning regulations that are rationally related to legitimate government goals. To create zones of compatible uses, depending on the aesthetic goals sought to be achieved, some cities limited tattoo studios to certain types of districts and some prohibited them all together. As with any use not permitted in any zoning



district, tattoo studios are prohibited under the current zoning ordinance.

In the case of *Johnny Anderson v. City of Hermosa Beach*, the court held on September 9, 2010 that Hermosa Beach's total ban on tattoo studios was unconstitutional because the court concluded that tattooing is a "purely expressive activity fully protected by the First Amendment," subject only to reasonable "time, place, or manner" restrictions. Regulation of the time, place, or manner of protected speech "must be narrowly tailored to serve the government's legitimate, content-neutral interests."

The result of this court decision is that Manhattan Beach must allow tattoo studios somewhere in the City. If the City finds that reasonable regulation of the time, place, or manner of the operation of tattoo studios is necessary to mitigate secondary effects of studios, than the City may impose such regulations. . This is a legal limitation on all businesses that involve activities protected by the first amendment. For example, even though signs are protected by the first amendment, it has been well-documented that excessive number, size, illumination or movement in signs oriented toward streets may have an impact on traffic safety. Therefore, a city may limit the number of signs or their size or whether they have flashing lights or moving parts in order to address the traffic safety concerns. But because signs are protected by the first amendment, a city could not outlaw them altogether. Likewise, adult businesses are a form of "expression" protected by the first amendment; however, many cities have documented secondary effects such as increased prostitution and crime in neighborhoods where such uses are concentrated. Accordingly, to address these affects, cities may regulate the place of such businesses by requiring a physical separation among adult businesses or limit their late night hours. The *Johnny Anderson* decision held that tattooing is protected by the first amendment which similarly may be subjected to certain time, place, and manner restrictions to address secondary land use impacts, if any are identified based on evidence.

Body piercing is generally a companion use to tattooing and the City may impose the same regulations on both or include the two activities in the same definition of use. The *Johnny Anderson v. Hermosa Beach* decision did not address body piercing uses.

DISCUSSION

Currently, tattoo and body piercing studios are not listed as a permitted use under the City's Zoning Ordinance. Manhattan Beach Municipal Code (MBMC) Section 10.08.020 states that any new use or any use that cannot be clearly determined to be in an existing use classification may only be incorporated into the zoning regulations through a Zoning Ordinance text amendment.

Other Jurisdictions

Nearby Cities treat tattoo studios differently. Most of these regulations, however, pre-date the *Johnny Anderson* decision. The Torrance Municipal Code currently prohibits tattoo studios. Redondo Beach also prohibits tattoo studios as it specifically excludes tattoo studios from the Personal Convenience Services use. Many Cities, including El Segundo and Manhattan Beach are silent on tattooing, which by default does not permit the use because it is not listed as a permitted use. In contrast, the City of West Hollywood regulates tattoo studios as a Personal Services use. As

discussed previously, the *Johnny Anderson v. Hermosa Beach* decision prohibits the ban of tattoo studios.

The City of Hawthorne has recently adopted an ordinance addressing tattoo studios. The ordinance allows tattoo studios to operate within the Industrial districts and only through a use permit. The ordinance also establishes certain performance standards, such as limited hours of operations and minimum distances to other tattoo studios and schools.

The City of Lawndale's Planning Commission and City Council are currently reviewing an ordinance to regulate tattoo studios. The proposed ordinance would allow tattoo studios to operate in some of the City's commercial zones through a use permit. Similar to the City of Hawthorne, certain performance standards are also proposed such as minimum distances to schools, parks, churches, and other establishments of the same use. Other performance standards address body piercing regulations with regards to piercing specific parts of the body on both patrons under the age of 18 and adults.

The City of Signal Hill's Planning Commission and City Council are also currently reviewing an ordinance to regulate tattoo studios. They are proposing to allow tattoo studios to operate as a permitted use with certain performance standards, such as minimum distances to schools, parks, churches, and other establishments of the same use.

As previously mentioned in this report, the City of Hermosa Beach has recently adopted regulations for tattoo studios and body piercing establishments. These are permitted uses in two of the three commercial zones. However, certain performance standards must be met, such as a minimum distance to other establishments of the same use, limits on hours of operation, and not allowing the expansion of existing tattoo businesses at a future date. The City of Hermosa Beach also amended its Health and Safety code to enforce health related tattoo studio regulations. Recently, Hermosa Beach residents expressed concerns for one of the tattoo studios operating within the City. The City Council referred the matter to the Planning Commission for any recommendation to amend the code. The Commission considered various additional performance standards but the Council decided not to take further action.

Ordinance Options

The City has a few options. If the City does not find evidence that these uses are likely to create secondary impacts different than other personal service uses, the City may allow tattoo and body piercing studios with no discretionary review in those zones where other personal services are allowed. Alternatively, in order to segregate this type of personal service, the City may allow the use in certain commercial zones where they are more compatible with existing uses in these zones. The City may want to consider imposing location restrictions, for example 1,000 foot distance between body art studios in order to avoid a concentration of such uses which might lead to secondary effects in the neighborhoods. Other minimum distance limitations may be applied to proximities of church, school, and residential uses provided the City shows adverse secondary impacts of body art establishments to said uses. Operating standards relating to Health Department

permits, hours of operation, and waste disposal plans are also acceptable restrictions if the City finds that these restrictions are necessary to protect public health and safety.

The Planning Commission may consider the following options to allow the operation of tattoo studios within the City:

1. Classify Tattoo Studios as a Personal Service Use

The least restrictive option is to amend the definition of the Personal Services use to include tattoo and body piercing studios. Per MBMC 10.08.050U, Personal Services use is defined as the “provision of recurrently needed services of a personal nature. This classification includes barber and beauty shops (including incidental massage), seamstresses, tailors, shoe repair shops, dry-cleaning businesses (excluding large-scale bulk cleaning plants), photo-copying, and self-service laundries.” The definition would be amended to include tattoo and body piercing studios. This option would allow these establishments to be permitted anywhere that Personal Services is permitted. MBMC 10.16.020 allows Personal Services uses in all of the City’s commercial districts.

2. Create New Tattoo and Body Piercing Studio Classification and Specify Commercial Districts for Such Use

The Planning Commission also has the option to recommend that a new use classification be created specifically for tattoo and body piercing studios. This option allows the Commission and City Council to designate specific commercial districts in which such uses can operate. If this option is to be recommended, Staff requests the Commission to consider allowing tattoo and body piercing studios to operate in the Commercial North End (CNE) and the General Commercial (CG) districts and employing the performance standards described below.

3. Employ Either Option Above and Create Reasonable Performance Standards

The Planning Commission may also discuss imposing reasonable performance standards to tattoo and body piercing studios regardless of whether they are classified as a Personal Service use or if a new classification is created for such use. Staff recommends that the Commission discuss and consider individually the following reasonable standards for all tattoo and body piercing studios:

- Limit the hours of operation from 10 am to 10 pm every day.
- Establish a minimum distance between tattoo and body piercing studios and Mira Costa High School.
- Establish a minimum distance for such uses to other establishments of the same use.
- Prohibit the public display of the services in progress (eliminating the potential to have a “spectator area”).
- Additional standards may be imposed to address other reasonable health and safety concerns.

Authority of the Planning Commission

Before the City Council may adopt a Zoning Ordinance and Local Coastal Program amendments, pursuant to MBMC 10.96 the Planning Commission must hold a duly noticed public hearing and make a recommendation to the City Council after making specific findings as to whether the proposed zoning regulation is consistent with the policies of the General Plan and the purposes of the title.

General Plan Goals and Policies

The General Plan of the City of Manhattan Beach poses certain goals and policies which reflect the expectations and wishes of the City with respect to land uses. The proposed amendment to Title 10 of the Municipal Code is consistent with and will advance the following goals of the Manhattan Beach General Plan:

- Goal LU-6: Maintain the Viability of the Commercial areas of Manhattan Beach.*
- Goal LU-6.1: Support and encourage small businesses throughout the City.*
- Goal LU-6.2: Encourage a diverse mix of businesses that support the local tax base, are beneficial to residents, and support the economic needs of the community.*
- Goal LU-6.3: Recognize the need for a variety of commercial development types and designate areas appropriate for each. Encourage development proposals that meet the intent of these designations.*

Next Steps

Through Planning Commission direction, Staff will prepare new code language to allow the operation of tattoo and body piercing studios and will present the proposed language to the Planning Commission at a public hearing scheduled for September 28, 2011. The Planning Commission recommendation will then be forwarded to City Council. The City Council will also conduct a public hearing and may take action on the Zoning Ordinance text and Local Coastal Program amendments. Amendment to the Local Coastal Program will also require review and certification by the California Coastal Commission. In order to avoid a violation of the United States Constitution's First Amendment, the City must make every effort to avoid any unreasonable delay in establishing reasonable time, place, and manner regulations for tattoo studios.

Public Input

A one-quarter page public notice for the Zoning Ordinance amendment was published in the Beach Reporter newspaper. Staff did not receive any additional comments at the writing of this report.

ENVIRONMENTAL REVIEW

Pursuant to California Environmental Quality Act (CEQA) and the Manhattan Beach CEQA Guidelines, the subject amendment is exempt in that it is covered by the general rule that CEQA [Section 15061 (3)] only applies to projects which have the potential for causing a significant effect on the environment, and since it can be seen with certainty that there is no possibility that the activity will have a significant effect on the environment, the activity is not subject to CEQA.

CONCLUSION

Staff recommends that the Planning Commission **CONDUCT** the Public Hearing, **DISCUSS** the information presented, **PROVIDE DIRECTION**, and **CONTINUE** the Public Hearing to September 28, 2011.

Attachments:

- A. Ordinance No. 2148U
- B. Ordinance No. 2151U
- C. City Council Staff Reports and Ordinance Nos. 2148U and 2151U dated July 19 and August 2, 2011
- D. City Council Minutes dated July 19 and Draft Minutes dated August 2, 2011
- E. City of Hermosa Beach Tattoo and Body Piercing Studio Regulations (Ordinance No. 10-1313)
- F. Planning Commission Meeting Notice

ORDINANCE NO. 2148U

AN INTERIM ORDINANCE OF THE CITY OF MANHATTAN BEACH PURSUANT TO GOVERNMENT CODE SECTION 65858 TO MAINTAIN STATUS QUO BY PROHIBITING APPROVAL OF TATTOO STUDIOS WHILE THE CITY STUDIES AND ENACTS NEW REGULATIONS IN ACCORDANCE WITH NEW CASE LAW, AND DECLARING THE URGENCY THEREOF.

The City Council of the City of Manhattan Beach does hereby ordain as follows:

SECTION 1. Purpose and findings. In order to protect the public health, safety and welfare, pursuant to Government Code Section 36937 the City may adopt urgency ordinances and pursuant to Government Code section 65858 the City may adopt as an urgency measure an interim ordinance prohibiting land uses that may be in conflict with a contemplated General Plan, Specific Plan, or Zoning proposal that the City Council, Planning Commission, or Planning Divisions is considering studying or intends to study within a reasonable period of time. Currently, tattoo studios are not listed as a permitted use of property under the City's Zoning Ordinance and pursuant to Manhattan Beach Municipal Code 10.08.020 any use that cannot be clearly determined to be in an existing use classification is prohibited unless the zoning code is amended to permit the use. Because tattoo studios are not a permitted use currently, the Code does not contain any development or operating standards for tattoo studios to provide the appropriate location and safe operation of these establishments.

The Ninth Circuit Court of Appeal recently held Hermosa Beach's zoning ordinance which similarly did not permit tattoo studios in any zone (amounting to a total ban on tattoo studios) to be unconstitutional. The court held that the business of tattooing is a form of speech protected by the first amendment, which can be subject only to time, place and manner regulations necessary to address secondary impacts of such businesses, if any.

The City now faces an immediate threat to the health, safety and welfare in that these facilities could operate anywhere in the City, without operating restrictions or regard for appropriate zoning districts. Further, without any time, place or manner regulations, there is an immediate threat of an inundation of unregulated tattoo studios in Manhattan Beach.

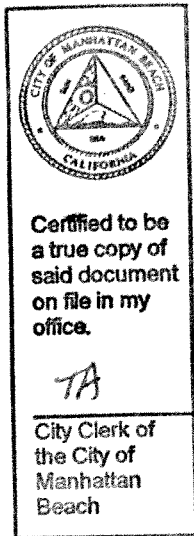
The City is currently studying new time, place and manner regulations for tattoo studios. Due to the lack of any regulation on these uses and because time will be required to prepare and adopt new regulations and update the zoning ordinance, this Ordinance is intended to place an interim prohibition on the establishment of tattoo studios in all zoning districts as of the date of adoption hereof until new permanent regulations are prepared and adopted by the City Council.

SECTION 2. The establishment of tattoo studios in all zoning districts in the City of Manhattan Beach is hereby prohibited for the limited duration of this Ordinance while the City enacts reasonable time, place and manner regulations. Notwithstanding any provision of the Manhattan Beach Municipal Code to the contrary, no zoning permits or approvals, subdivision maps or building permits for tattoo studios shall be approved or issued in the City during the pendency of this Ordinance or any extension thereof.

SECTION 3. Definitions. For purposes of this Ordinance, a "tattoo studio" shall be defined as any establishment where tattooing takes place. "Tattooing" means the act of indelibly marking or coloring the skin with a needle by injecting ink, dye, or other coloring material upon or under the skin so as to leave a permanent mark or designs on the skin."

SECTION 4. Penalties. Violation of any provision of this Ordinance shall constitute a misdemeanor and shall be punishable by a fine not to exceed \$1,000 or by imprisonment in County jail for not to exceed six (6) months, or by both such fine and imprisonment. Each and every day such a violation exists shall constitute a separate and distinct violation of this Ordinance. In addition to the foregoing, any violation of this Ordinance shall constitute a public nuisance and shall be subject to abatement as provided by all applicable provisions of law.

SECTION 5. Severability. If any part or provision of this Ordinance or the application to any person or circumstance is held invalid, the remainder of this Ordinance, including the application of such part of provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable.



SECTION 6. Urgency. Based on the findings set forth in Section 1 hereof, the potential for an inundation of tattoo studios for which the City has no time, place and manner restrictions in place, poses a current and immediate threat to the public health, safety and welfare. This Ordinance is necessary to alleviate and address that threat by prohibiting the establishment of tattoo studios that may be inconsistent with new zoning standards currently being developed until those regulations can be established and adopted. There is no feasible alternative to satisfactorily mitigate or avoid the specific adverse impact identified above as well or better with a less burdensome or restrictive effect than the adoption of this interim urgency ordinance. Based on the foregoing it is in the best interest of public health, safety and welfare to allow adequate study of the impacts resulting from operation of tattoo studios, if any, and the development of regulations to mitigate any such impacts; therefore, it appropriate to adopt a moratorium on tattoo studios consistent with the authority granted by Government Code section 65858.

This ordinance is adopted pursuant to California Government Code Section 65858 and shall take effect immediately upon adoption by a four-fifths vote of the City Council. This ordinance shall be in full force and effect for a period of forty-five (45) days from the date of its adoption unless extended by the City Council in accordance with the provisions of California Government Code Section 65858.

SECTION 7. Conflicting Laws. For the term of this Ordinance, or any extension thereof, the provisions of this Ordinance shall govern over any conflicting provisions of any other City code, ordinance, resolution or policy.

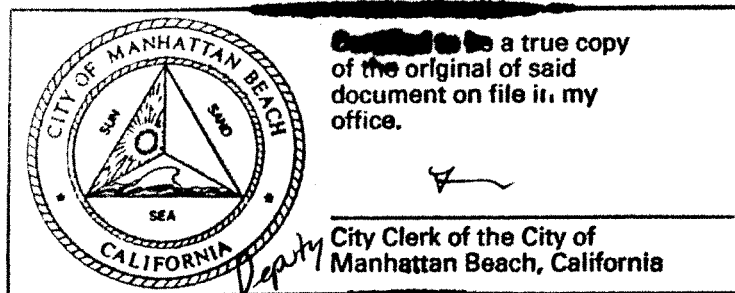
PASSED, APPROVED AND ADOPTED this 19th day of July, 2011.

Ayes: Lesser, Howorth, Montgomery, Powell and Mayor Tell.
Noes: None.
Absent: None.
Abstain: None.

/s/ Nicholas W. Tell, Jr.
Mayor, City of Manhattan Beach

ATTEST:

/s/ Liza Tamura
City Clerk



SECTION 5. Ordinance Options. Staff anticipates exploring the following options to regulate Tattoo Studios:

1. Classify Tattoo Studios as a Personal Service which would permit the use in all commercial zones.
2. Create a new Tattoo Studio classification and specify Commercial districts where such use can operate.
3. Employ either option above and create reasonable performance standards through the Planning Commission and City Council public review process.

SECTION 6. Penalties. Violation of any provision of this Ordinance shall constitute a misdemeanor and shall be punishable by a fine not to exceed \$1,000 or by imprisonment in County jail for not to exceed six (6) months, or by both such fine and imprisonment. Each and every day such a violation exists shall constitute a separate and distinct violation of this Ordinance. In addition to the foregoing, any violation of this Ordinance shall constitute a public nuisance and shall be subject to abatement as provided by all applicable provisions of law.

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This ordinance is adopted pursuant to California Government Code Section 65858 and shall take effect immediately upon adoption by a four-fifths vote of the City Council. This ordinance shall extend Ordinance No. 2148U and be in full force and effect for the minimum time necessary to process the zoning text amendment to accommodate new tattoo studios, or 10 months and 15 days from the date of its adoption, whichever comes first, in accordance with the provisions of California Government Code Section 65858.



Certified to be
a true copy of
said document
on file in my
office.

TA

City Clerk of
the City of
Manhattan
Beach

1 SECTION 9. Conflicting Laws. For the term of this Ordinance, the provisions of this
2 Ordinance shall govern over any conflicting provisions of any other City code, ordinance, resolution or
3 policy.

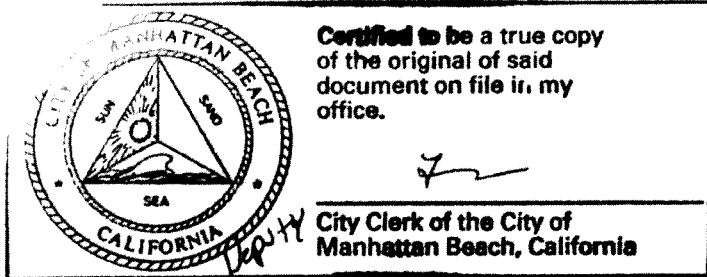
4 PASSED, APPROVED AND ADOPTED this 2nd day of August, 2011.

5 Ayes: Lesser, Howorth, Montgomery, Powell and Mayor Tell.
6 Noes: None.
7 Absent: None.
8 Abstain: None.

9 /s/ Nicholas W. Tell, Jr.
10 _____
11 Mayor, City of Manhattan Beach

12 ATTEST:

13 /s/ Liza Tamura
14 _____
15 City Clerk



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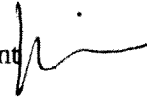
Staff Report

City of Manhattan Beach

TO: Honorable Mayor Tell and Members of the City Council

THROUGH:  David N. Carmany, City Manager

FROM: Richard Thompson, Director of Community Development
Laurie Jester, Planning Manager
Esteban Danna, Assistant Planner 
Christi Hogin, Special Counsel



DATE: August 2, 2011

SUBJECT: Consideration of Adoption of an Extension of an Urgency Ordinance Establishing a Moratorium on Tattoo Studios in Order to Study and Complete New Zoning Code Amendments

RECOMMENDATION:

Staff recommends that the City Council conduct the public hearing, waive further reading, and adopt Urgency Ordinance No. 2151U extending a Moratorium on approval of tattoo studios.

FISCAL IMPLICATION:

There is no fiscal impact from adoption of this ordinance.

BACKGROUND:

At its 2011-2012 Work Plan meeting the City Council directed Staff to review and make recommendations concerning regulation of tattoo studios in the City. There are no applications pending for such use at the present time, however the Planning Division has received inquiries from several businesses interested in locating in the City. The Municipal Code does not presently make provision for such use. The necessity to amend the existing Municipal Code to allow tattoo studios makes it prudent to impose a moratorium on such uses until a scheme of regulation appropriate to applicable law can be developed and adopted.

At its July 19, 2011 regular meeting, the City Council adopted Ordinance No. 2148U establishing a 45 day moratorium. The ordinance maintains the status quo by prohibiting the approval of Tattoo Studios in order to give Staff time to develop regulations that will allow the operation of tattoo studios.

DISCUSSION:

After the initial 45-day moratorium was granted (through Ordinance No. 2148U), Government Code 65858 permits an extension for up to an additional 22 months and 15 days. In order to have sufficient time to develop a permanent ordinance regulating tattoo studios, Staff is requesting an

EXHIBIT C
PC MH. 8/24/11

extension to the existing moratorium. Body piercing will also be evaluated as requested by the City Council.

Staff will process the ordinance as expeditiously as necessary and anticipates that the following tentative timeline is reasonable to develop an ordinance:

- August/September 2011 – Planning Commission (Public Hearings)
- October/November 2011 – City Council (Public Hearing, First and Second Readings)
- Ordinance takes effect 30 days after City Council adoption (December 2011)

Staff anticipates exploring the following options to regulate Tattoo Studios:

1. Classify Tattoo Studios as a Personal Service which would permit the use in all Commercial zones.
2. Create a new Tattoo Studio classification and specify Commercial districts where such use can operate.
3. Employ either option above and create reasonable performance standards through the Planning Commission and City Council public review process.

CONCLUSION:

Staff recommends that the City Council conduct the public hearing, waive further reading, and adopt Urgency Ordinance No. 2151U extending a Moratorium on approval of Tattoo Studios.

- Attachments: A. Ordinance No. 2151U
B. Staff Report and Ordinance No. 2148U dated July 19, 2011

ORDINANCE NO. 2151U

AN EXTENSION OF AN INTERIM ORDINANCE OF THE CITY OF MANHATTAN BEACH PURSUANT TO GOVERNMENT CODE SECTION 65858 TO MAINTAIN STATUS QUO BY PROHIBITING APPROVAL OF TATTOO STUDIOS WHILE THE CITY STUDIES AND ENACTS NEW REGULATIONS IN ACCORDANCE WITH NEW CASE LAW, AND DECLARING THE URGENCY THEREOF.

The City Council of the City of Manhattan Beach does hereby ordain as follows:

SECTION 1. Purpose and findings. In order to protect the public health, safety and welfare, pursuant to Government Code Section 36937 the City may adopt urgency ordinances and pursuant to Government Code section 65858 the City may adopt as an urgency measure an interim ordinance prohibiting land uses that may be in conflict with a contemplated General Plan, Specific Plan, or Zoning proposal that the City Council, Planning Commission, or Planning Divisions is considering studying or intends to study within a reasonable period of time. Currently, tattoo studios are not listed as a permitted use of property under the City's Zoning Ordinance and pursuant to Manhattan Beach Municipal Code 10.08.020 any use that cannot be clearly determined to be in an existing use classification is prohibited unless the zoning code is amended to permit the use. Because tattoo studios are not a permitted use currently, the Code does not contain any development or operating standards for tattoo studios to provide the appropriate location and safe operation of these establishments.

The Ninth Circuit Court of Appeal recently held Hermosa Beach's zoning ordinance which similarly did not permit tattoo studios in any zone (amounting to a total ban on tattoo studios) to be unconstitutional. The court held that the business of tattooing is a form of speech protected by the first amendment, which can be subject only to time, place and manner regulations necessary to address secondary impacts of such businesses, if any.

The City now faces an immediate threat to the health, safety and welfare in that these facilities could operate anywhere in the City, without operating restrictions or regard for appropriate zoning districts. Further, without any time, place or manner regulations, there is an immediate threat of an inundation of unregulated tattoo studios in Manhattan Beach.

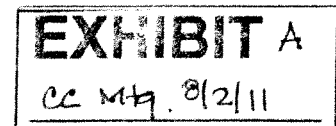
The City is currently studying new time, place and manner regulations for tattoo studios. Due to the lack of any regulation on these uses and because time will be required to prepare and adopt new regulations and update the zoning ordinance, this Ordinance is intended to extend an interim prohibition on the establishment of tattoo studios in all zoning districts as of the date of adoption hereof until new permanent regulations are prepared and adopted by the City Council.

SECTION 2. The establishment of tattoo studios in all zoning districts in the City of Manhattan Beach is hereby prohibited for the limited duration of this Ordinance while the City enacts reasonable time, place and manner regulations. Notwithstanding any provision of the Manhattan Beach Municipal Code to the contrary, no zoning permits or approvals, subdivision maps or building permits for tattoo studios shall be approved or issued in the City during the pendency of this Ordinance.

SECTION 3. Definitions. For purposes of this Ordinance, a "tattoo studio" shall be defined as any establishment where tattooing takes place. "Tattooing" means the act of indelibly marking or coloring the skin with a needle by injecting ink, dye, or other coloring material upon or under the skin so as to leave a permanent mark or designs on the skin."

SECTION 4. Timeline. Staff will process the ordinance as expeditiously as necessary and anticipates that the following tentative timeline is reasonable to develop an ordinance:

- August/September 2011 – Planning Commission (Public Hearings)
- October/November 2011 – City Council (Public Hearing, First and Second Readings)
- Ordinance takes effect 30 days after City Council adoption (December 2011)



SECTION 5. Ordinance Options. Staff anticipates exploring the following options to regulate Tattoo Studios:

1. Classify Tattoo Studios as a Personal Service which would permit the use in all commercial zones.
2. Create a new Tattoo Studio classification and specify Commercial districts where such use can operate.
3. Employ either option above and create reasonable performance standards through the Planning Commission and City Council public review process.

SECTION 6. Penalties. Violation of any provision of this Ordinance shall constitute a misdemeanor and shall be punishable by a fine not to exceed \$1,000 or by imprisonment in County jail for not to exceed six (6) months, or by both such fine and imprisonment. Each and every day such a violation exists shall constitute a separate and distinct violation of this Ordinance. In addition to the foregoing, any violation of this Ordinance shall constitute a public nuisance and shall be subject to abatement as provided by all applicable provisions of law.

SECTION 7. Severability. If any part or provision of this Ordinance or the application to any person or circumstance is held invalid, the remainder of this Ordinance, including the application of such part of provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable.

SECTION 8. Urgency. Based on the findings set forth in Section 1 hereof, the potential for an inundation of tattoo studios for which the City has no time, place and manner restrictions in place, poses a current and immediate threat to the public health, safety and welfare. This Ordinance is necessary to alleviate and address that threat by prohibiting the establishment of tattoo studios that may be inconsistent with new zoning standards currently being developed until those regulations can be established and adopted. There is no feasible alternative to satisfactorily mitigate or avoid the specific adverse impact identified above as well or better with a less burdensome or restrictive effect than the adoption of this interim urgency ordinance. Based on the foregoing it is in the best interest of public health, safety and welfare to allow adequate study of the impacts resulting from operation of tattoo studios, if any, and the development of regulations to mitigate any such impacts; therefore, it appropriate to adopt a moratorium on tattoo studios consistent with the authority granted by Government Code section 65858.

This ordinance is adopted pursuant to California Government Code Section 65858 and shall take effect immediately upon adoption by a four-fifths vote of the City Council. This ordinance shall be in full force and effect for the minimum time necessary to process the zoning text amendment to accommodate new tattoo studios, or 22 months and 15 days from the date of its adoption, whichever comes first, in accordance with the provisions of California Government Code Section 65858.

SECTION 9. Conflicting Laws. For the term of this Ordinance, the provisions of this Ordinance shall govern over any conflicting provisions of any other City code, ordinance, resolution or policy.

PASSED, APPROVED AND ADOPTED this 2nd day of August, 2011.

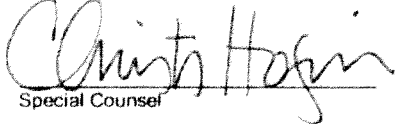
AYES:
NOES:
ABSENT:
ABSTAIN:

Mayor, City of Manhattan Beach

ATTEST:

City Clerk

APPROVED AS TO FORM:



Special Counsel

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



Staff Report

City of Manhattan Beach

TO: Honorable Mayor Tell and Members of the City Council

THROUGH: ^{cc} David N. Carmany, City Manager

FROM: Richard Thompson, Director of Community Development 
 Laurie Jester, Planning Manager 
 Esteban Danna, Assistant Planner 
 Christi Hogan, Special Counsel

DATE: July 19, 2011

SUBJECT: Consideration of Adoption of an Urgency Ordinance Establishing a Moratorium on Tattoo Studios in Order to Study and Complete New Zoning Code Amendments

RECOMMENDATION:

Staff recommends that the City Council conduct the public hearing, waive further reading, and adopt Urgency Ordinance No. 2148U establishing a Moratorium on approval of tattoo studios.

FISCAL IMPLICATION:

There is no fiscal impact from adoption of this ordinance.

BACKGROUND:

At its 2011-2012 Work Plan meeting the City Council directed Staff to review and make recommendations concerning regulation of tattoo studios in the City. There are no applications pending for such use at the present time, however the Planning Division has received inquiries from several businesses interested in locating in the City. The Municipal Code does not presently make provision for such use. The necessity to amend the existing Municipal Code to allow tattoo studios makes it prudent to impose a moratorium on such uses until a scheme of regulation appropriate to applicable law can be developed and adopted.

DISCUSSION:

Currently, tattoo studios are not listed as a permitted use of property under the City's Zoning Ordinance. Manhattan Beach Municipal Code Section 10.08.030 provides that "[a]ny new use, or any use that cannot be clearly determined to be in an existing use classification, may be incorporated into the zoning regulations by a Zoning Ordinance text amendment...."

Before the City Council may adopt a Zoning Ordinance amendment, the Planning Commission must hold a duly noticed public hearing and make a recommendation to the City Council. The City Council then conducts a public hearing and may take action on the Zoning Ordinance text amendment. Given notice requirements, under the most ambitious hearings schedule, the soonest

EXHIBIT B

cc mtg. 8/2/11

Page 1 of 4

that a zoning text amendment may be considered by the City Council is September or October. Amendment to the Local Coastal Program will also require review and certification by the California Coastal Commission. In order to avoid a violation of the United States Constitution's First Amendment, the City must make every effort to avoid any unreasonable delay in establishing reasonable time, place and manner regulations for tattoo studios.

Until recently, all published court opinions addressing tattoo studios as a land use have concluded that they are not entitled to special protection under the constitution, the way adult businesses or news racks are protected. The Ninth Circuit Court of Appeals recently held in the case of *Johnny Anderson v. City of Hermosa Beach* that the City's total ban on tattoo studios is unconstitutional, and that tattooing is [a] "purely expressive activity fully protected by the First Amendment, and that a total ban on such activity is not a reasonable "time, place, or manner" restriction. The opinion states, "regulation of the time, place, or manner of protected speech must be narrowly tailored to serve the government's legitimate, content-neutral interests but . . . it need not be the least restrictive or least intrusive means of doing so. . . . So long as the means chosen are not *substantially broader than necessary* to achieve the government's interest . . . the regulation will not be invalid simply because a court concludes that the government's interest could be adequately served by some less-speech restrictive alternative." The Ninth Circuit's *Anderson* opinion departs from the assumptions that most cities have relied on in excluding tattoo studio uses and necessitates a zone text amendment.

No applications have been made to the City for a new tattoo studio; however, Staff has received a few telephone and e-mail inquiries indicating interest in establishing such businesses in Manhattan Beach. Hermosa Beach and other cities' regulations will be studied through the Zoning Text Amendment process.

Government Code 65858 permits an initial moratorium for 45 days. Subsequently it may be extended for up to an additional 22 months and 15 days. Passage of a moratorium must be by a four-fifths majority of the legislative body. The ordinance is authorized as an urgency ordinance and goes into effect immediately. In order to have sufficient time to develop a permanent ordinance regulating tattoo studios, Staff will request an extension to the proposed moratorium at the August 2, 2011 regular City Council meeting. The length of the extension will be proposed at said meeting and will be in accordance with all applicable laws. The extension will be a noticed public hearing and will be subject to City Council review and approval.

ALTERNATIVES:

- (1) Adopt the interim ordinance and direct Staff to (a) notice a public hearing in accordance with Government Code 65858 to extend the moratorium for the minimum time necessary to process a zoning text amendment to accommodate new tattoo studios in the City and (b) initiate a zoning text amendment which considers which zones such uses are most compatible and whether any additional time, place and manner restrictions are warranted.
- (2) Do not adopt the urgency interim ordinance and instead direct Staff to interpret tattoo studio uses as similar to other personal service uses, such as hair salons, which are allowed as a permitted use in all commercial zones.

Attachments: A. Ordinance No. 2148U

ORDINANCE NO. 2148U

AN INTERIM ORDINANCE OF THE CITY OF MANHATTAN BEACH PURSUANT TO GOVERNMENT CODE SECTION 65858 TO MAINTAIN STATUS QUO BY PROHIBITING APPROVAL OF TATTOO STUDIOS WHILE THE CITY STUDIES AND ENACTS NEW REGULATIONS IN ACCORDANCE WITH NEW CASE LAW, AND DECLARING THE URGENCY THEREOF.

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The City now faces an immediate threat to the health, safety and welfare in that these facilities could operate anywhere in the City, without operating restrictions or regard for appropriate zoning districts. Further, without any time, place or manner regulations, there is an immediate threat of an inundation of unregulated tattoo studios in Manhattan Beach.

The City is currently studying new time, place and manner regulations for tattoo studios. Due to the lack of any regulation on these uses and because time will be required to prepare and adopt new regulations and update the zoning ordinance, this Ordinance is intended to place an interim prohibition on the establishment of tattoo studios in all zoning districts as of the date of adoption hereof until new permanent regulations are prepared and adopted by the City Council.

SECTION 2. The establishment of tattoo studios in all zoning districts in the City of Manhattan Beach is hereby prohibited for the limited duration of this Ordinance while the City enacts reasonable time, place and manner regulations. Notwithstanding any provision of the Manhattan Beach Municipal Code to the contrary, no zoning permits or approvals, subdivision maps or building permits for tattoo studios shall be approved or issued in the City during the pendency of this Ordinance or any extension thereof.

SECTION 3. Definitions. For purposes of this Ordinance, a "tattoo studio" shall be defined as any establishment where tattooing takes place. "Tattooing" means the act of indelibly marking or coloring the skin with a needle by injecting ink, dye, or other coloring material upon or under the skin so as to leave a permanent mark or designs on the skin."

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SECTION 7. Conflicting Laws. For the term of this Ordinance, or any extension thereof, the provisions of this Ordinance shall govern over any conflicting provisions of any other City code, ordinance, resolution or policy.

PASSED, APPROVED AND ADOPTED this 19th day of July, 2011.

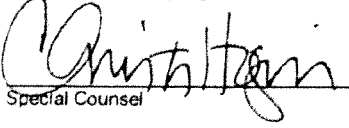
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NOES:
ABSENT:
ABSTAIN:

Mayor, City of Manhattan Beach

ATTEST:

City Clerk

APPROVED AS TO FORM:



Special Counsel

07/19/11-20. *Andy Cohen Re Community Service*

Andy Cohen, No Address Provided, spoke on behalf of the spouses of City Councilmembers, about the tremendous amount of community service that is required for City Councilmembers.

07/19/11-21. *Mayor Pro Tem Powell Re Work Plan Meeting*

Mayor Pro Tem Powell announced that on Friday, July 22, 2011, at 8:30 a.m., in the City Council Chambers, a Work Plan Meeting will be held to prioritize the list of current Work Plan items.

07/19/11-22. *Councilmember Montgomery Re Los Angeles County Sanitation District*

Councilmember Montgomery congratulated Northrup Grumman on being among the top 60 industrial waste providers that have met Los Angeles County Sanitation District's waste water charge requirements for the past 5 years.

07/19/11-23. *Councilmember Lesser Re Volunteers*

Councilmember Lesser acknowledged **Jeanne Jackson** and the **Manhattan Beach Green Belt Restoration Project** volunteers for working with the City to supplement dead and dying plants on the green belt. He encouraged anyone wishing to volunteer or donate plants to contact Jeanne at jeannejacksongrp@hotmail.com.

AUDIENCE PARTICIPATION

07/19/11-24. *Ed Caprielian Re Brown Act Training*

Ed Caprielian, No Address Provided, voiced his opinion that the Brown Act Training, held prior to the Council meeting, was insufficient; that citizens weren't notified in advance; and that the supposed desire to foster greater openness and transparency is not happening.

PUBLIC HEARINGS

07/19/11-14. *Consideration of Adoption of an Urgency Ordinance Establishing a Moratorium on Tattoo Studios in Order to Study and Complete New Zoning Code Amendments*

Mayor Tell introduced the subject item and Community Development Director Richard Thompson provided the staff presentation.

Mayor Tell opened the Public Hearing at 7:59 p.m.

There was no public comment on this item.

Mayor Montgomery closed the Public Hearing at 8:00 p.m.

Special Counsel Christi Hogin read aloud the title of Urgency Ordinance No. 2148U.

MOTION: Councilmember Montgomery moved to adopt Urgency Ordinance No. 2148U establishing a Moratorium on approval of tattoo studios. The motion was seconded by Councilmember Howorth and passed by the following unanimous roll call vote:



Ayes: Lesser, Howorth, Montgomery, Powell and Mayor Tell.
Noes: None.
Absent: None.
Abstain: None.

GENERAL BUSINESS

07/19/11-15. Update From the Ad Hoc City Attorney Selection Subcommittee and Consideration of the Recommended City Attorney Finalists

Mayor Tell introduced the subject item and Councilmember Lesser summarized the selection process and announced that the subcommittee is recommending the firms of **Aleshire & Wynder, LLP.; Colantuono & Levin, PC.; Jenkins & Hogin, LLP.** (Christi Hogin is the City's current Legal Counsel); and **Richards Watson Gershon.** Councilmember Lesser further stated that although these four firms have been selected by the Ad Hoc City Attorney Selection Subcommittee, any Councilmember may add additional firms. He also added that interviews will take place next week and the Council is scheduled to publicly discuss and select the City Attorney at the August 2, 2011 Council meeting which will also include a discussion on cost control data and mechanisms.

Councilmember Howorth commented on the number of public subcommittee meetings; thanked staff for the tremendous amount of time they put in; and acknowledged the cost to the City.

The following individuals spoke on this item:

- **Kimberly Hall Barlow, Jones & Mayer**
- **Ed Caprielian, No Address Provided**

Council did not wish to consider any additional firms.

Mayor Tell moved to approve the list of City Attorney finalists as developed by the Ad Hoc City Attorney Selection Subcommittee to be interviewed by the City Council.

Hearing no objection, it was so ordered.

ITEMS REMOVED FROM THE CONSENT CALENDAR

07/19/11-3. Approve Minutes:

This item contains minutes of City Council meetings which are presented for approval [(a)] and minutes from City Council subcommittees and from other City commissions and committees [(b) - (d)] which are presented to be received and filed by the Council. Staff recommends that the City Council by motion take action to approve the minutes of the:

- a) Adjourned Regular and Regular City Council Meeting of July 5, 2011*
- b) Centennial Committee Meeting of June 27, 2011*
- c) Ad Hoc City Attorney Selection Subcommittee Meeting of June 28, 2011*
- d) Ad Hoc City Attorney Selection Subcommittee Meeting of July 7, 2011*

A member of the audience pulled this item from the Consent Calendar for Council discussion.

PUBLIC HEARINGS

08/02/11-15. Consideration of Adoption of an Extension of an Urgency Ordinance Establishing a Moratorium on Tattoo Studios in Order to Study and Complete New Zoning Code Amendments

Mayor Tell introduced the subject item and Community Development Director Richard Thompson provided the staff presentation.

Mayor Tell opened the Public Hearing at 7:15 p.m.

There was no public comment on this item.

Mayor Montgomery closed the Public Hearing at 7:16 p.m.

Special Counsel Christi Hogin read aloud the title of Urgency Ordinance No. 2151U.

MOTION: Mayor Pro Tem Powell moved to waive further reading and adopt Urgency Ordinance No. 2151U, as amended extending a Moratorium on approval of tattoo studios. The motion was seconded by Councilmember Howorth and passed by the following unanimous roll call vote:

Ayes: Lesser, Howorth, Montgomery, Powell and Mayor Tell.
Noes: None.
Absent: None.
Abstain: None.

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ORDINANCE NO. 10-1313

**AN ORDINANCE OF THE CITY OF HERMOSA BEACH, CALIFORNIA,
APPROVING A ZONE TEXT AMENDMENT TO THE MUNICIPAL
CODE TO ALLOW TATTOO/BODY PIERCING STUDIOS IN C-2 and C-
3 ZONES (AND ZONES THAT ALLOW C-3 USES)**

**THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH, CALIFORNIA,
DOES HEREBY ORDAIN AS FOLLOWS:**

SECTION 1. Subsection (B) of Section 5.04.200 of Title 5, Chapter 5.04 of the Hermosa Beach Municipal Code is amended by amending Section 1, Classification A, Group 7 to read as follows:

Group 7: Barbershops, manicuring, facial massage, beauty parlors, cosmetic skin treatment and establishments where massage services are offered by an individual as an incidental or accessory service and does not occupy more than 25% of the area of the establishment, shall pay an annual license tax and an additional license tax for each operator other than the owner. Tattoo/body piercing studios require compliance with the regulations set forth in **Section 17.26.070.**

SECTION 2. Section 17.04.050 of Title 17, Chapter 17.04 of the Hermosa Beach Municipal Code is amended by adding the following definitions to the alphabetical list of commercial land use definitions to read as follows:

“Body piercing” means to puncture, perforate, or penetrate a human body part or tissue with an object, appliance, or instrument for the purpose of placing a foreign object in the perforation to prevent the perforation from closing. This includes, but is not limited to, creating such an opening in the lip, tongue, nose, eyebrow or navel for the purpose of inserting jewelry or other decorations. Body piercing does not include piercing of the ear lobe or outer portion of the ear.

“Permanent make-up” means the application of pigment to or under the skin of a person for the purpose of permanently or semi-permanently changing the color or appearance of the skin. This includes, but is not limited to, permanent or semi-permanent eyeliner or lip color.

1 “Tattoo/tattooing” means to insert pigment, ink or dye under the surface of the skin of a
 2 person by pricking with a needle or otherwise, to permanently change the color or appearance of
 3 the skin or to produce an indelible mark or figure visible through the skin. Tattooing does not
 4 include application of permanent make-up that is performed as an incidental service in a beauty
 5 shop, day spa, or other service or retail establishment.

6 “Tattoo/body piercing studio” means any establishment where tattooing and/or body
 7 piercing takes place.

8 **SECTION 3.** Section 17.26.030 of Title 17, Chapter 17.26 of the Hermosa Beach
 9 Municipal Code is amended by adding Tattoo/body piercing studios to the alphabetical table of
 10 uses permitted in commercial zones to read as follows:

USE	C-1	C-2	C-3	See Section
Tattoo/body piercing studios	-	P	P	17.26.070

18
 19 **SECTION 4.** A new Section 17.26.070 shall be added to Title 17, Chapter 17.26 of the
 20 Hermosa Beach Municipal Code to read as follows:

21 **17.26.070 Tattoo/Body Piercing Studios – Standards and Limitations.**

22 Every tattoo/body piercing studio shall be subject to the following in addition to all other
 23 requirements of law:

24 A. The exterior walls of any establishment in the C-2 zone shall be located more than
 25 one thousand (1,000) feet from the exterior walls of any other tattoo/body piercing establishment
 26 and the exterior walls of any establishment in the C-3 zone or zone that allows C-3 uses shall be
 27 located more than one thousand five hundred (1,500) feet from the exterior walls of any other
 28 tattoo/body piercing establishment.

1 B. The operator of the tattoo/body piercing establishment shall obtain and maintain in
2 compliance all permits required by the County of Los Angeles, Department of Public Health.

3 C. Tattoo/body piercing establishments shall not operate between the hours of 10:00
4 p.m. and 10:00 a.m.

5 D. Live animals, except for service animals, shall not be allowed on the premises.

6 E. Once established, tattoo/body piercing establishments shall not be permitted to
7 expand into another tenant space or building or otherwise on the site or any contiguous site, or to
8 establish additional locations within the city.

9 F. Temporary or mobile establishments or events are not authorized by this section.

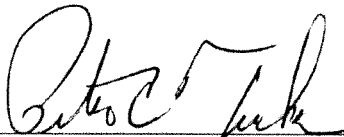
10 **SECTION 5.** Prior to the expiration of fifteen (15) days after the date of its adoption, the
11 City Clerk shall cause this Ordinance to be published in the Easy Reader, a weekly newspaper of
12 general circulation published and circulated, in the City of Hermosa Beach in the manner provided
13 by law.

14 **SECTION 6.** The City Clerk shall certify to the passage and adoption of this Ordinance,
15 shall enter the same in the book of original Ordinances of said city, and shall make minutes of the
16 passage and adoption thereof in the records of the proceedings of the City Council at which the
17 same is passed and adopted.

18 **SECTION 7.** This Ordinance shall become effective and be in full force and effect from
19 and after thirty (30) days of its final passage and adoption.

20 **PASSED, APPROVED and ADOPTED** this 9th of November 2010 by the following vote:

21 AYES: Duclos, Fishman, Mayor Tucker
22 NOES: Bobko, DiVirgilio
23 ABSENT: None
24 ABSTAIN: None

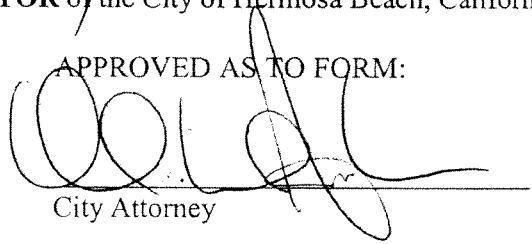


25 **PRESIDENT** of the City Council and **MAYOR** of the City of Hermosa Beach, California

26 ATTEST:

APPROVED AS TO FORM:

27 
28 City Clerk


City Attorney

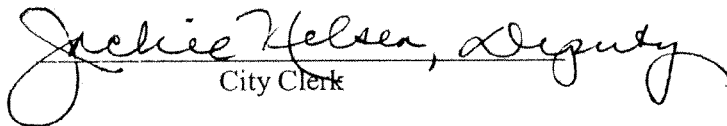
STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF HERMOSA BEACH

I, Elaine Doerfling, City Clerk of the City of Hermosa Beach, California, do hereby certify that the foregoing Ordinance No. 10-1313 was duly and regularly passed, approved and adopted by the City Council of the City of Hermosa Beach at a regular meeting held at the regular meeting place thereof on the 9th of November, 2010, and said ordinance will be published in the Easy Reader newspaper on November 18, 2010.

The vote was as follows:

AYES:	Duclos, Fishman, and Mayor Tucker
NQES:	Bobko, DiVirgilio
ABSENT:	None
ABSTAIN:	None

DATED: November 9, 2010


City Clerk



NOTICE OF A PUBLIC HEARING
BEFORE THE PLANNING COMMISSION
OF THE CITY OF MANHATTAN BEACH
ZONING CODE AMENDMENT (TITLE 10) AND
LOCAL COASTAL PROGRAM AMENDMENT TO
ESTABLISH REGULATIONS FOR TATTOO STUDIOS

A public hearing will be held before the Planning Commission for the project described below.

Applicant: City of Manhattan Beach- City Council 2011-12 Work Plan Item—Tattoo Ordinance

Property Location: Citywide

Project Description: Consideration of amendment to Title 10 Planning and Zoning of the Manhattan Beach Municipal Code (MBMC) and the City's Local Coastal Program to establish regulations for Tattoo Studios within the City.

Environmental Determination: Pursuant to California Environmental Quality Act (CEQA) and the Manhattan Beach CEQA Guidelines, portions of the subject amendments are exempt in that they are covered by the general rule that CEQA [Section 15061 (b)(3)] only applies to projects which have the potential for causing a significant effect on the environment, and since it can be seen with certainty that there is no possibility that the activity will have a significant effect on the environment, the activity is not subject to CEQA.

Project Planner: Esteban Danna, Assistant Planner (310)-802-5514, edanna@citymb.info

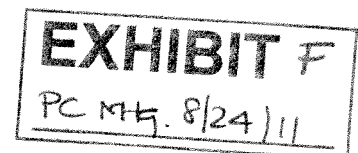
Public Hearing: **Wednesday August 24 and September 28, 2011 at 6:30 p.m.**
Council Chambers, City Hall, 1400 Highland Avenue

Further Information: Proponents and opponents may be heard at that time. For further information contact the project Planner. Project files are available for review at the Community Development Department at City Hall. A Staff Report will be available for review at the Civic Center Library on Saturday, August 20 and at the Community Development Department on Monday, August 22, or on the City website (<http://www.citymb.info>) on Friday August 19 after 5:00 pm.

Public Comments: Oral and written testimony will be received during the public hearing. Anyone wishing to provide written comments for inclusion in the Staff Report must do so by August 17, 2011. Comments received after this date will be forwarded to the Planning Commission at or prior to the public hearing.

If you challenge the proposed actions in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this Notice, or in correspondence delivered to the Planning Commission at, or prior to, the public hearing.

RICHARD THOMPSON
Director of Community Development



**CITY OF MANHATTAN BEACH
[DRAFT] PLANNING COMMISSION
MINUTES OF REGULAR MEETING
AUGUST 24, 2011**

A Regular Meeting of the Planning Commission of the City of Manhattan Beach, California, was held on the 24th day of August, 2011, at the hour of 6:30 p.m., in the City Council Chambers of City Hall, at 1400 Highland Avenue, in said City.

1. ROLL CALL

Present: Andreani, Conaway, Gross, Seville-Jones, Chairperson Paralusz
Absent: None
Staff Present: Richard Thompson, Director of Community Development
Esteban Danna, Assistant Planner
Christi Hogin, Interim City Attorney
Recording Secretary, Sarah Boesch

2. APPROVAL OF MINUTES – August 10, 2011

Commissioner Andreani requested that the last sentence of the eighth paragraph on page 8 of the August 10 minutes be revised to read: “She commented that she would like for the issue to come before the Council and the public, as it is a potential long term issue of concern to regarding land use within the community.”

A motion was MADE and SECONDED (Gross/Conaway) to **APPROVE** the minutes of August 10, 2011, as amended.

AYES: Andreani, Conaway, Gross, Seville-Jones, Chairperson Paralusz
NOES: None
ABSENT: None
ABSTAIN: None

3. AUDIENCE PARTICIPATION

No speakers.

4. PUBLIC HEARING

08/24/11-2 Consideration of Zoning Text and Local Coastal Program Amendments to Allow Tattoo Studios to Operate Within the City

Assistant Planner Danna summarized the staff report.

In response to a question from Commissioner Conaway, Interim City Attorney Hogin said that the decision from the Ninth Circuit Court of Appeals applies to tattoos and does not address body piercing. She indicated that as a result of the court decision, tattoo studios are protected under the First Amendment of the Constitution as are adult businesses. She pointed out that the court decision did not address body piercing. She commented that the City would need to show a legitimate government purpose for restricting body piercing, and it would need to be clearly defined. She indicated that State law does not allow people under 18 to get a tattoo without parental consent. She stated that the court decision that applies in California was from the Ninth Circuit federal appeals court, which covers several western states. She commented that

other circuit courts have ruled differently regarding the issue of regulating tattoo studios. She said that the image of tattoos has been transformed over the last 50 years to become more mainstream. She indicated that the issue is being brought before the Commission to allow the Commissioners to make a considered decision because of the change in the law. She commented that the presumption with the current Code is that tattoo studios are prohibited in the City because they are not specifically included in the language.

In response to a question from Commissioner Seville-Jones, Interim City Attorney Hogin said that the conditions of the court ruling are met as long as tattoo studios are allowed somewhere in the City. She commented that the City is allowed to restrict tattoo studios in areas where there could be significant impacts, but they are not allowed to be completely restricted in all areas. She commented that different commercial zones are distinct depending on the types of uses. She indicated that the question for the Commission is to determine the areas in the City that tattoo studios would fit in and be most appropriate given that they must be able to be located somewhere.

Commissioner Seville-Jones indicated that her understanding is that there must be a compelling reason to limit tattoo studios given that they are to be permitted as a First Amendment right. She commented that she is not certain of how tattoo studios can be limited for certain commercial areas and not others. She also asked regarding the justification of the regulation in Hermosa Beach that tattoo studios cannot expand further once they are built.

Interim City Attorney Hogin pointed out that tattoo studios are a contentious issue in Hermosa Beach. She said that restricting tattoo studios from expanding was part of the compromise of allowing the businesses to locate in Hermosa Beach. She indicated that restricting square footage for tattoo studios and requiring a distance between them allows for a mix of uses and prevents tattoo studios from becoming a dominant business in any one block.

In response to a question from Commissioner Seville-Jones, Interim City Attorney Hogin commented that she is not aware of any information regarding crime effects resulting from tattoo studios. She indicated that the court ruled that cities may establish health standards as appropriate for tattoo studios; however, cities cannot restrict such uses because sufficient public money has not been provided for inspectors to enforce the standards.

Commissioner Andreani said that she would like to see what other cities such as Santa Monica and Beverly Hills have done to regulate tattoo studios. She commented that she also questions the urgency of enacting legislation to regulate tattoo studios before an application has been received. She commented that she would prefer to wait on enacting legislation in order to see the restrictions that are passed for other cities such as Hermosa Beach.

Interim City Attorney Hogin commented that the net effect of the Ninth Circuit decision is that tattoo studios would be allowed anywhere in the City currently if restrictions have not placed on them because they are protected under the First Amendment. She said that the City may receive applications for tattoo studios, as any applicant that is not able to locate in Hermosa Beach due to its restrictions may decide to locate in Manhattan Beach.

Commissioner Andreani stated that she understands that staff did not receive any responses to the notice for this hearing. She asked whether there would be time to ask the Chamber of Commerce, businesses, organizations, and clubs within the City their opinion regarding regulations for tattoo studios.

Director Thompson pointed out that he has talked to a number of business owners and residents within the City, and tattoo studios do not seem to be a large concern. He commented that the City Council is interested in the opinion of the Commissioners as to how they feel tattoo studios should be regulated and limited within the community.

In response to a question from Commissioner Gross, Interim City Attorney Hogin commented that tattoo studios could be restricted to a single commercial area, provided that such a use can realistically locate within the City and that they are regulated with good reason.

In response to a question from Chairperson Paralusz, Interim City Attorney Hogin commented that the market will ultimately determine the number of applications for tattoo studios that are received. She said that the City has not received applications to open tattoo studios because there is not a great demand in the City.

In response to a question from Chairperson Paralusz, Director Thompson indicated that it is common for businesses to provide both tattoo and body piercing services. He said that the definition of body piercing can be addressed in the Code in order to differentiate piercing of other parts of the body from ear piercing if it is felt important to the Commissioners.

In response to a question from Chairperson Paralusz, Director Thompson said that the suggestion was made to restrict tattoo studios within a certain distance specifically from Mira Costa High School in order to reduce the attraction for high school students to get tattoos. He indicated that it was felt high school students were more likely to get tattoos than younger students. He commented that some of the suggestions provided by staff are ideas and not necessarily strong recommendations.

In response to a question from Chairperson Paralusz, Director Thompson commented that other types of personal services are permitted in all commercial zones. He indicated that staff would suggest that tattoo studios be placed in their own classification if they are considered a personal service. He pointed out that different types of commercial uses are permitted differently in specific zones as specified in the Zoning Code.

Chairperson Paralusz opened the public comment portion of the public hearing.

There being no one in the audience wishing to speak on the issue, Chairperson Paralusz closed the public comment portion of the public hearing.

Commission Discussion

Commissioner Gross said that he would like for tattoo studios to be made as compatible with the City as possible. He indicated that he would like for tattoo studios to be included in a separate category in the Code and for them to require a Use Permit. He commented that he would suggest tattoo studios be permitted within the Manhattan Village. He indicated that the businesses within the Manhattan Village are regulated under a single ownership in a manner that is compatible with the City.

Chairperson Paralusz pointed out that only allowing them in Manhattan Village would limit the ability for more than one tattoo studios to open in the City and could open up the City ordinance to legal challenge.

Commissioner Gross indicated that it would be possible to allow two tattoo studios to locate within the Manhattan Village. He commented that the issue could be addressed at the time if an application were received for a third tattoo studio.

Commissioner Andreani stated that she feels tattoo studios should be considered as a unique business and should be required to receive a Use Permit. She suggested possibly limiting tattoo studios to at least two commercial areas in the City including the North End Business District and the Metlox Plaza. She commented that the Metlox Plaza is oriented towards pedestrians.

Commissioner Seville-Jones indicated that the court case does protect tattoo studios under the First Amendment as determined by the Ninth Circuit Court. She indicated that it is appropriate for the City to regulate health standards for tattoo studios, as needles are used. She said, however, that the Court has ruled that health concerns are not justification for cities to prohibit tattoo studios. She pointed out that state law prohibits people under 18 from getting a tattoo without parental consent. She indicated that there is a government interest in the City helping to enforce the rule that underage people may not get a tattoo without parental consent by not allowing studios to be located close to schools. She stated that she also feels there is a government interest in not allowing studios to be concentrated in one area which may draw traffic to that particular area. She indicated that she would like for tattoo studios to be located a substantial distance from all schools.

Commissioner Seville-Jones said that she has a concern regarding disposal of the needles and monitoring the health effects. She commented that the City may impose their own standards for inspecting tattoo businesses. She commented that she also would want to restrict spectators from watching people get tattoos. She indicated that she would like for there to be as much space as possible between tattoo studios and for animals to be restricted from being inside tattoo studios. She commented that it would be too restrictive for studios to be limited to Manhattan Village, and it would be putting too much of a burden on the operators of the shopping center. She suggested that they be permitted in Commercial General properties located away from residential neighborhoods. She said that she feels body piercing could be considered as another means of expression that is protected by the First Amendment; however, it was not addressed in the case before the Ninth Circuit.

Commissioner Conaway indicated that he is also concerned with the urgency of enacting legislation. He commented that enacting zoning ordinances out of fear generally results in bad planning. He stated that the regulations that the City enacts should allow tattoo studios to be successful with the least amount of opposition. He pointed out that it is difficult to argue that tattoo studios provide a necessary convenience, as the City has never had a tattoo studio. He commented that tattoo and body piercing do not meet the definition of personal services. He said that tattoo studios do have a negative stigma attached to them which could impact property values. He said that proximity to residential neighborhoods and all schools should be considered in determining areas where tattoo studios should be permitted.

Commissioner Conaway commented he would not support allowing studios the commercial North End, as it is adjacent to the highest concentration of residential properties. He indicated that Sepulveda corridor and Manhattan Beach Boulevard corridor in the Commercial General zone are the gateway to the City, and allowing tattoo studios in those areas would not contribute in a positive manner to the City's identity. He stated that he would support allowing studios in the Commercial Community zone that includes the Manhattan Village. He said that the Manhattan Village management would be very responsible in promoting tattoo studios that would meet the standards of the City. He suggested that the industrial park also would be a possible location for permitting tattoo studios, as the area is separated from residential uses. He

commented that the Planned Development area along Rosecrans Boulevard would be another possible area for tattoo studios to be located.

Chairperson Paralusz pointed out that the Ninth Circuit Court determined that tattoo businesses are protected under the First Amendment. She indicated that she would want to be certain that there is a government interest in the regulations that are placed on tattoo businesses and in restricting them in certain commercial areas but not in others. She commented that there is a government interest in providing public health and safety. She indicated that she would agree that health standards for such operations should be monitored by the City in addition to the County. She stated that there is also a government interest in regulating the proximity of the operations to all schools and not only the high school. She pointed out that younger kids are aware of what it means to get a tattoo. She commented that she is also concerned about having a cluster of tattoo businesses in one area, and she feels it is important to maintain a mix of uses in the commercial areas.

Chairperson Paralusz indicated that she would want to prevent spectators from watching people get a tattoo, as it could cause a safety hazard with pedestrians blocking the sidewalk. She said that she also would want to restrict animals from being inside the operations, as it could create a health and safety concern. She commented that she feels it would be overly restrictive only to allow tattoo businesses in Manhattan Village. She commented that she believes that only one tattoo business would be able to locate in the City if they were only permitted in Manhattan Village. She also said that it should not be the responsibility of the operator of the shopping center to regulate such operations. She commented that a tattoo business would not be very visible to customers if it were located in the industrial area. She stated that she would be concerned that including restrictions that would make it very difficult to locate a tattoo business in the City would subject the City to legal challenge. She indicated that she does not feel that such operations should be located near residences. She pointed out that it is possible that a tattoo business may never locate in the City. She said that she would support allowing them in the Commercial General, Manhattan Village, Planned Development, and the industrial zones.

Commissioner Conaway commented that he arrived at his suggestion to locate tattoo businesses in the Manhattan Village and industrial areas because of the quality of the operators of those properties. He stated that the intent of the suggestion is not to make it impractical to open such an operation in the City.

Chairperson Paralusz said that it should be the responsibility of the City to ensure the quality of the operations that are approved.

Commissioner Conaway indicated that he feels Manhattan Village and the industrial area are the best options for locating tattoo studios in considering the zoning map of the City.

Commissioner Seville-Jones stated that she would be concerned in giving two landlords control over allowing people to exercise their First Amendment rights. She indicated the rights of people to open such businesses would be less impacted if they are allowed to locate in the Commercial General area.

Interim City Attorney Hogin pointed out that permitting such uses in the Commercial General zone would not allow them on any property within the zone if restrictions are also placed on the proximity of such businesses to schools and residences.

Commissioner Gross indicated that he is satisfied with the opinion of the City Attorney in addressing First Amendment rights. He pointed out that the decisions of the Ninth Circuit court

have been overturned by the Supreme Court more than any other court in the country. He indicated that he is not certain how long the court's decision will remain the interpretation regarding First Amendment rights for tattoo studios. He stated that he would want the City's regulations to start modestly and to maintain the character of the City. He commented that Manhattan Beach is an upscale community. He indicated that his preference would be for tattoo studios to be permitted in Manhattan Village. He stated that he would next choose tattoo studios to be permitted within the Rosecrans Corridor and then the downtown area. He commented that massage studios can have a negative connotation; however the spa located in the upper level of the Metlox Plaza that includes massaging is considered very upscale.

Commissioner Conaway pointed out that Lawndale put a restriction on tattoo studios based on the population of the City, which is an option to consider. He commented that the Commission does need to be respectful of the decision of the Ninth Circuit Court regarding First Amendment rights; however, he would not want for the court ruling to overly influence the City's planning decisions. He pointed out that cities do have a right to regulate their businesses. He commented that he would feel that the City would have a right to determine that tattoo studios would not enhance the Manhattan Beach corridor and Sepulveda corridor and should not be permitted in those areas.

Commissioner Andreani indicated that she would support allowing tattoo studios within the Manhattan Village, the Rosecrans Corridor, the Metlox Plaza, and the Planned Development zone. She pointed out that the City was previously considering a separate zone for Raleigh Studios, which might impact allowing a tattoo business in that area. She said that she would not object to allowing tattoo studios in the Commercial General zone provided that the number can be limited within that area.

Director Thompson indicated that his understanding is that the majority of the Commissioners would support allowing tattoo studios within the Commercial General zone with distance requirements from schools, residences, and other tattoo businesses. He indicated that his understanding is that the majority of Commissioners would also support allowing tattoo businesses to locate within the Planned Development zone and the Manhattan Village. He commented that the Commissioners also indicated that they would support limiting the hours for tattoo studios; establishing a minimum distance between the studios and schools, residences and other tattoo businesses; restricting spectators from being able to watch people get tattoos; and not allowing any animals within the businesses. He indicated that staff will address the health issues in the regulations. He said that staff will also address the issue of body piercing. He stated that staff will provide the Commissioners with further information at the next hearing regarding the issue.

Commissioner Seville-Jones commented that she would like for staff to provide a clear statement of the legal standard that the Commission is to use on placing time, place and manner restrictions on tattoo businesses, given that they have been determined to be protected under the First Amendment.

Action

A motion was **MADE** and **SECONDED** (Andreani/Conaway) to **REOPEN** the public hearing and **CONTINUE** consideration of Zoning Text and Local Coastal Program Amendments to allow tattoo studios to operate within the City to the meeting of September 28, 2011.

AYES: Andreani, Conaway, Gross, Seville-Jones, Chairperson Paralusz

NOES: None

ABSENT: None
ABSTAIN: None

Chairperson Paralusz suggested that the item be renoticed and that the Chamber of Commerce be notified regarding the next hearing.

5. DIRECTORS ITEMS.

6. PLANNING COMMISSION ITEMS

7. TENTATIVE AGENDA September 14, 2011

A. Sign Adjustment

8. ADJOURNMENT

The meeting was adjourned at 8:15 p.m. to Wednesday, September 14, 2011, in the City Council Chambers, City Hall, 1400 Highland Avenue

SARAH BOESCHEN
Recording Secretary

ATTEST:

RICHARD THOMPSON
Community Development Director

