

# Beauty Therapy, Tattooing and Piercing Bylaw

## Stratford District Council

### 1. Title

- 1.1. This bylaw is Chapter 23: Beauty Therapy, Tattooing and Piercing 2017.

### 2. Purpose

- 2.1. The purpose of this part is to promote and protect public health by –
- a) requiring those persons and premises providing services of–
    - i) beauty therapy treatments;
    - ii) skin and body piercing; and
    - iii) tattooingto comply with minimum standards which reduce the risk of injury, transference of communicable diseases such as Hepatitis B and C, HIV/Aids, viral, bacterial or fungal skin or wound infections; and
  - b) requiring a licence for certain services which carry higher risk to the customer, including –
    - i) any commercial service that pierces the skin or any part of the body;
    - ii) any commercial service that risks breaking the skin; and
    - iii) any commercial service that risks burning the skin.

### 3. Commencement

- 3.1. This bylaw comes into force on 31 January 2018.
- 3.2. Full compliance with this bylaw for existing premises operational before the bylaw comes into force is required on or before six months after the date the bylaw comes into force.
- 3.3. Any new premises operating from the day the bylaw comes into force shall comply immediately with this bylaw.

### 4. Authority

- 4.1. This bylaw is made under –
- a) Sections 23 and 64 of the Health Act 1956; and
  - b) Section 145 of the Local Government Act 2002.
- 4.2. This bylaw shall be in addition to the provisions of Chapter 1 Introductory of the Stratford District Council General Bylaw 1993 and if this bylaw is inconsistent with Chapter 1 Introductory then the provisions of this bylaw shall prevail.
- 4.3. This bylaw will be reviewed in accordance with section 159 of the Local Government Act 2002.

### 5. Interpretation

- 5.1. In this bylaw unless the context otherwise requires:

**Acupuncture** means the practice involving the insertion of filiform (very narrow) needles through the skin and tissues for the purpose of alleviating ailments or injuries.

**Beauty therapy** means the provision of various treatments aimed at improving a person's appearance or well-being.

**Body piercing** means a practice of piercing the skin or any part of the body for decorative purposes, inserting jewellery or implants to alter the appearance of the skin or body.

**Colon hydrotherapy** means a practice of introducing liquids into the rectum and colon via the anus and is intended to remove faeces and non-specific toxins from the colon and intestinal tract.

**Commercial service** means a service (whether from permanent premises, temporary premises or mobile premises) provided by one or more persons for another person(s) for monetary payment or any other consideration.

**Communicable disease** means any infectious disease, and any other disease declared by the Governor-General, by Order in Council, to be a communicable disease for the purposes of the Health Act 1956.

**Customer** or **client** means any person who is in receipt of a service.

**Derma rolling/stamping** means a practice of using micro needles to create tiny punctures in the skin intended to stimulate growth factors to enhance collagen production and better alignment of the collagen fibres.

**Ear-piercing** means a service of piercing the ear for decorative purposes, inserting jewellery or implants to alter the appearance of the skin.

**Electrolysis** means a practice involving the insertion of a sterilised needle into individual hair follicles to the root. An electric impulse is passed through the needle to the root area to aid in the removal of hair.

**Exfoliation** means a practice that intends to remove dead skin and can be performed using microdermabrasion, physical peels that have an abrasive action and chemical peels such as glycolic or enzyme.

**Extractions** means a practice for the removal of comedones (blackheads), pimples and ingrown hairs by manipulating the pores of the skin, either with fingertips or a tool, to remove sebum. Some extractions can involve penetration of the skin using sharp equipment such as a metal tool or lance.

**Hair removal** means the removal of hair by waxing (pulling the hair from the skin using soft wax, hot wax or glucose); threading (lifting the hair out from the follicle by entwined thread); or tweezing (grasping hairs and pulling them out of the skin, including epilation - a mechanical means of tweezing).

**Health practitioner** means a person who is, or is deemed to be, registered under the Health Practitioners Competence Assurance Act 2003 as a practitioner of a particular health profession.

**Laser treatment** means a practice involving the use of a laser device, which amplifies light and usually produces an extremely narrow beam of a single wavelength (one colour), intended to remove hair or for skin photo-rejuvenation.

**Licence** means a licence to do something under this bylaw and includes all conditions to which the licence is subject.

**Licensee** means the person to whom a licence has been issued under clause 8 of this bylaw in respect to a prescribed process.

**Manager** means –

- a) in the case of a permanent premises, a person who is usually present and who has specific responsibility for operator supervision; or
- b) in the case of a temporary premises, a person who has effective control over operators; or
- c) if no person meets the description in (a) or (b), **manager** has the same meaning as **operator**.

**Manicure** means beautification or enhancement of the hands and fingernails, including shaping and polishing (painting).

**Massage** means a practice of applying lotion, or soft wax, or stones, or pressure to another person's face or body for the purposes of relaxation or therapy.

**Mobile premises** means any location other than a permanent premises where any service is undertaken on an ongoing and regular basis by any person, and can include a vehicle as defined in the Land Transport Act 1998.

**Operator** means a person who carries out a service.

**Pedicure** means the treatment or beautification of feet and toenails by the shaping and polishing toenails, and the puncturing, removal or exfoliation of skin or tissue from the feet.

**Permanent premises** means any property, land, dwelling, storehouse, warehouse, shop, cellar, yard, building, or part of the same, or enclosed space separately occupied where any service is undertaken.

**Piercing** refers to any prescribed process involving the intentional or otherwise piercing, cutting or puncturing of the skin or any other part of the human body, and includes such services as body piercing, commercial ear-piercing, tattooing, acupuncture, derma rolling/stamping, epilation (including electrolysis and waxing), extractions, red vein treatment, pedicure and manicure.

**Pulsed light** means a practice using a powerful flash of broad spectrum, non coherent light intended to remove hair and/or for skin photo-rejuvenation, and may include but is not limited to Intense Pulsed Light and Variable Pulsed Light.

**Red vein treatment** means a practice of piercing a vein with a needle along the length of a damaged capillary, causing little dams or blockages along the vessel.

**Tattooing** means the practice of making indelible marks in human skin or tissue by inserting pigments or dyes into punctures made in the skin or tissues. Tattooing shall also include the processes known as cosmetic tattooing, pigment implantation, microblading and micropigmentation (cosmetic semi-permanent tattooing).

**Temporary premises** means any premises or any area set up to deliver a service for no more than five days at a time.

**Traditional tattooing** means the practice of making indelible marks in human skin or tissue by inserting pigments or dyes into punctures made in the skin or tissues, in procedures such as ta moko, Tatau, uhi or any other traditional tattooing practice that has recognised cultural significance.

**Working day** means working day as defined in the Interpretation Act 1999.

- 5.2. Explanatory notes and attachments are for information purposes, do not form part of this bylaw, and may be made, amended and revoked without any formality.

## 6. Beauty therapy, tattooing and piercing code of practice

- 6.1. The council may make, amend or revoke a code of practice that –

- a) relates to the operation of commercial services that pose an associated health risk to any persons using or accessing their services, products or business operation; and
  - b) establishes mandatory minimum standards with regard to the way premises are constructed, equipped and maintained, and in regard to the way operators conduct themselves when providing services; and
  - c) includes recommendations on the best practice to be observed with regard to the way premises are constructed, equipped and maintained, and in regard to the way operators conduct themselves when providing services.
- 6.2.** The council must, before making, amending or revoking a code of practice in clause 6.1 –
- a) comply with the requirements under Subpart 1 of Part 6 of the Local Government Act 2002.
  - b) be satisfied that –
    - i) the standards are the minimum necessary to ensure that the purpose of the bylaw will be met; and
    - ii) the recommendations for best practice (if any) are appropriate.
  - c) have regard to –
    - i) the feasibility and practicality of effecting a transition from current practices to new practices and any adverse effects that may result from such a transition; and
    - ii) any other matters considered relevant by the council.
- 6.3.** A beauty therapy, tattooing and piercing code of practice made, amended or revoked under clause 6.1 must be made publicly available.

## **7. Services subject to minimum standards**

- 7.1.** The operator of any of the following services must comply with the relevant minimum standards set by the council in a beauty therapy, tattooing and piercing code of practice made under clause 6.1 –
- a) any commercial service that pierces the skin or any part of the body, including but not limited to, tattooing, traditional tattooing, body piercing, ear piercing, acupuncture, electrolysis, extractions, red vein treatment, or derma rolling;
  - b) any commercial service that risks breaking the skin, including but not limited to, hair removal, manicure, pedicure, or exfoliation;
  - c) any commercial service that risks burning the skin, including but not limited to pulsed light or laser treatment; or
  - d) any other commercial service intended to improve, alter or cleanse a person's skin, complexion or body, including but not limited to makeup, tinting, facials, colon hydrotherapy, body therapy and massage, or glycolic peels.

## **8. Health and hygiene licence**

- 8.1.** This clause applies to the following services -
- a) any commercial service that pierces the skin or any part of the body, including but not limited to, tattooing, traditional tattooing, body piercing, acupuncture, electrolysis, extractions, red vein treatment, or derma rolling;
  - b) any commercial service that risks breaking the skin, including but not limited to, hair removal, manicure, pedicure, or exfoliation; or
  - c) any commercial service that risks burning the skin, including but not limited to, pulsed light, or laser treatment; or
  - d) any other commercial service which falls under sub clause 7.1 d) that has been notified by council that, in the opinion of an authorised officer, is not compliant with the beauty therapy, tattooing and piercing code of practice.
- 8.2.** Subject to subclause 3.2, the manager of any premises offering a service described in subclause 8.1 a), 8.1 b) and 8.1 c) must -
- a) obtain a health and hygiene licence from the council before commencing operation; and
  - b) hold a valid health and hygiene licence from the council at all times that the commercial service is offered.

- 8.3.** The manager of any premises offering a service described in subclause 8.1 d) must –
- a) obtain a health and hygiene licence from the council within 20 working days of being notified by an authorised officer that they are not compliant with the beauty therapy, tattooing and piercing code of practice; and
  - b) hold a valid health and hygiene licence from the council for the period of time required by the authorised officer, at all times that the commercial service is offered.
- 8.4.** It is the health and hygiene license holder’s responsibility to ensure compliance with the health and hygiene licence.
- 8.5.** The health and hygiene licence must be prominently displayed in an area that any member of the public can easily see when visiting the premises to which the licence relates.
- 8.6.** At the discretion of the council, and having regard to any controls made under subclause 10.1, health and hygiene licences may be declined, or granted subject to any conditions.
- 8.7.** If no controls are made about the duration of a health and hygiene licence under subclause 10.1, the health and hygiene license renewal date will be on the anniversary of the original licence issue date.
- 8.8.** The current licence remains valid whilst the licence renewal is being processed.
- 8.9.** A health and hygiene licence is personal to the manager who was issued the licence is not transferable.

## **9. Exemptions**

- 9.1.** Clauses 7 and 8 does not apply to –
- a) any commercial service undertaken by health practitioners in the practice of their profession;
  - b) acupuncture undertaken by members of Acupuncture NZ or members of the New Zealand Acupuncture Standards Authority;
  - c) non-commercial traditional tattooing, including ta moko undertaken by artists on, or under the authority of, a marae under tikanga-māori; or
  - d) ear-piercing services undertaken in a pharmacy licenced by the Ministry of Health.

## **10. Controls, fees and cost recovery**

- 10.1.** The council may by resolution regulate or make controls in respect of matters related to this bylaw, including the following –
- a) form of application for a licence;
  - b) the conditions that may be imposed on a licence;
  - c) the duration of a licence;
  - d) whether an exemption will be given to any standards in the code of practice;
  - e) a procedure for objecting to a decision to decline to grant a licence, including the objection period;
  - f) a procedure for objecting to a condition of a licence, including the objection period;
  - g) conducting inspections to ensure that a licence and its conditions are complied with;
  - h) reviewing a licence or its conditions;
  - i) refunding or waiving fees payable;
  - j) suspending or cancelling a licence; and
  - k) a procedure for objecting to a decision to review, suspend or cancel a licence, including the objection period.
- 10.2.** Section 150(1) of the Local Government Act 2002 allows the Council to set fees in accordance with that section. The council may set fees in respect of the following matters –
- a) an application fee for a licence; and

- b) inspection necessary as part of the process of assessing an application for a licence.
- 10.3.** The council may recover its costs in relation to activities for which a licence is required under this bylaw, including –
- a) inspections undertaken to assess compliance with a licence;
  - b) an appeal made under clause 11.1 against a decision of the Council in relation to a licence;
  - c) processes to review, suspend or cancel a licence; and
  - d) processes to object to a decision of the Council in relation to the review, suspension or cancellation of a licence.

## **11. Appeals**

- 11.1.** Any manager may lodge an appeal with the Chief Executive Officer of the council against any decision or requirement made in respect of a health and hygiene licence within 21 working days of receiving the decision or requirement.
- 11.2.** On hearing the appeal the Chief Executive Officer of the council may confirm, reverse or modify the decision or requirement.
- 11.3.** The Chief Executive Officer of the council will give notice of the decision on the appeal and the reasons for the decision to the appellant.
- 11.4.** This right of appeal is in addition to any other statutory right available to the manager.

## **12. Enforcement**

- 12.1.** The council may use its powers under the Local Government Act 2002 and the Health Act 1956 to enforce this bylaw.

## **13. Offences and penalties**

- 13.1.** A person who fails to comply with this bylaw commits a breach of this bylaw and is liable to a penalty under the Local Government Act 2002 and/or the Health Act 1956.