

Chapter 10

LICENSES, PERMITS AND BUSINESS REGULATIONS*

Art.	I.	In General, 10-1-10-10
Art.	IA.	Alarm Systems, 10-11-10-18
		Div. 1. Generally, 10-11-10-14
		Div. 2. Monitoring of Remote Alarm Systems, 10-15-10-18
Art.	II.	Adult Use Businesses, 10-19-10-32
Art.	III.	Auctions, 10-33-10-47
Art.	IV.	Carnivals, 10-48-10-64
Art.	V.	Coin-Operated Amusement Machines, 10-65-10-78
Art.	VI.	Dances, 10-79-10-97
Art.	VII.	Fortune-tellers, Clairvoyants, Etc., 10-98-10-111
Art.	VIII.	House-movers, 10-112-10-135
Art.	IX.	Junkyards, 10-136-10-149
Art.	X.	Pawnbrokers and Secondhand Stores, 10-150-10-163
Art.	XI.	Peddlers and Hawkers, 10-164-10-186
		Div. 1. Generally, 10-164-10-172
		Div. 2. License, 10-173-10-186
Art.	XII.	Pool rooms, Card Rooms, Bowling Alleys, etc., 10-187-10-203
Art.	XIII.	Produce Sales, 10-204-10-218
Art.	XIV.	Sound Trucks, 10-219-10-260
		Div. 1. Generally, 10-219-10-225
		Div. 2. Commercial Use, 10-226-10-232
		Div. 3. Non-commercial Use Registration, 10-233-10-242
		Div. 4. Non-commercial Use Regulations, 10-2410-260
Art.	XV.	Sidewalk Contractors, 10-261-10-270
Art.	XVI.	Temporary Eating Stands, 10-271-10-274
Art.	XVII.	Body Piercing and Tattooing, 10-275-10-337
Art.	XVIII.	Video Lottery Machines, 10-338-10-339
Art.	XIX.	Residential Rental Units, 10-340-10-349
Art.	XX.	Boxing, Kickboxing and Mixed Martial Arts, 10-350-360

ARTICLE I. IN GENERAL

Sec. 10-1. License application.

Any person desiring to procure a license required by this chapter shall make a written application to the City Auditor giving such information as may be required by the Board of Commissioners or the City Auditor.
(Code 1953, 6.0502)

Sec. 10-2. License fee payment.

Upon the issuance of a license required by this chapter, the person requesting the license shall pay to the City Auditor the required license fee.
(Code 1953, 6.0102)

***Cross references**-Alcoholic beverages, Ch. 4; licensing and regulation of electricians, 7-62 et seq.; regulation of plumbers, 16-2; licensing of sidewalk contractors, 18-86; vehicles for hire, Ch. 21.

Sec. 10-3. License year.

Except as otherwise provided, every license required by the provisions of this chapter shall expire at the end of each calendar year.

(Code 1953, 6.0104)

Sec. 10-4. License fee pro-ration.

In the absence of provisions to the contrary, there shall be no pro-ration of the license fee when a license is issued pursuant to the provisions of this chapter for a portion of the calendar year.

Sec. 10-5. Display of license.

Every person to whom a license is issued pursuant to this chapter shall display or post the same in his place of business, or shall exhibit the same to any person in authority when required to do so.

(Code 1953, 6.0108)

Sec. 10-6. Transfer or assignment of license.

A license required by the provisions of this chapter shall not be transferable or assignable.

Sec. 10-7. License suspension or revocation.

A license issued pursuant to the provisions of this chapter, may, after a hearing before the Board of Commissioners affording due process, be suspended or revoked for any violation of any applicable Ordinance.

Secs. 10-8-10-10. Reserved.

ARTICLE IA. Repealed.

DIVISION 1. Repealed.

Secs. 10-11-10-14. Reserved.

DIVISION 2. Repealed.

Sec. 10- 15. Repealed.

(Ord. No. 1502, 12-6-10)

Sec. 10-16. Repealed.

(Ord. No. 1502, 12-6-10)

Sec. 10-17. Repealed.

(Ord. No. 1502, 12-6-10)

Sec. 10-18. Repealed.

(Ord. No. 1502, 12-6-10)

ARTICLE II. ADULT USE BUSINESSES

Sec. 10-19. Repealed.

(Ord. No. 1481, 8-24-09)

Sec. 10-20. Repealed.

(Ord. No. 1481, 8-24-09)

ARTICLE III. AUCTIONS*

Secs. 10-21-10-32. Reserved.

Sec. 10-33. Repealed.

(Ord. No. 1254, 01-26-97)

Sec. 10-34. Repealed.

(Ord. No. 1254, 01-26-97)

Sec. 10-35. Repealed.

(Ord. No. 1254, 01-26-97)

Sec. 10-36. Repealed.

(Ord. No. 1254, 01-26-97)

Secs. 10-37-10-47. Reserved.

* **Editor's note**-Ordinance No. 1030, adopted May 5, 1986, amended the Code by repealing 10- 19-10-21, which Sections constituted the substantive provisions of former Art. 11, pertaining to arborists, and which derived from Code 1953, 14A-0218, and Ord. No. 779, adopted Feb. 10, 1975.

State law references-**Power** of City to license, tax and regulate auctions, SDCL 1967, 9-34-7; state regulation of auction sales, SDCL 1967, Ch. 37-12.

ARTICLE IV. CARNIVALS*

Sec. 10-48. License required.

It shall be unlawful for any person to conduct a carnival without a license issued by the Board of Commissioners.

(Code 1953, 6.0110)

Sec. 10-49. Location restrictions.

Carnivals shall be permitted to locate and operate only in the following locations:

- (1) Van Eps Avenue North, from Center Street to First Street Northwest;
- (2) First Street Northwest from Van Eps Avenue east one-half block to the north-south alley crossing First Street Northwest;
- (3) The parking lot north of the City armory.
(Ord. No. 550, 6-25-62; Ord. No. 948, 10-7-81)

Sec. 10-50. Time restrictions.

(a) Repealed.

(Ord. No. 1259, 04-06-98)

(b) No carnival shall be located on the streets longer than three (3) days and three (3) evenings.

(c) No carnival shall operate on Sunday.

(Ord. No. 550, 6-25-62; Ord. No. 948, 10-7-81; Ord. No. 1005, 4-22-85)

Sec. 10-51. Parking.

During the carnival operations all empty trucks of the carnival shall be parked at City-marked truck parking areas and all occupied house trailers of carnival personnel shall park only on Blanche Avenue, Center to First Street Northwest; First Street Northwest, Blanche to Van Eps Avenues; Van Eps Avenue from Center Street to First Street Northwest and then only on that side of the street next to Madison Junior High School.

(Ord. No. 550, 6-25-62)

Sec. 10-52. Cleaning of premises.

After the two-day operation of any carnival, it shall be moved out and the streets and avenues cleaned and cleared by 6:00 a.m. of the day following completion of operation.

(Ord. No. 550, 6-25-62)

Sec. 10-53. Utility payments.

A carnival shall pay the City's estimate of all utility bills in advance.

(Code 1953, 0 6.01 10)

Secs. 10-54-10-64. Reserved.

* **State Law Reference-** Power of City to license, tax and regulate exhibitions, shows, and amusements, SDCL 1967, 9-34-13.

ARTICLE V. COIN-OPERATED AMUSEMENT MACHINES

Sec. 10-65. Repealed.

(Ord. No. 1254, 01-26-97)

Sec. 10-66. Repealed.

(Ord. No. 1254, 01-26-97)

Sec. 10-67. Repealed.

(Ord. No. 1254, 01-26-97)

Secs. 10-68-10-78. Reserved.

ARTICLE VI. DANCES*

Sec. 10-79. Repealed.

(Ord. No. 1255, 02-09-98)

Sec. 10-80. Repealed.

(Ord. No. 1255, 02-09-98)

Sec. 10-81. Repealed.

(Ord. No. 1255, 02-09-98)

Sec. 10-82. Repealed.

(Ord. No. 1255, 02-09-98)

Sec. 10-83. Prohibited dances.

- (1) It is unlawful for any person or premises licensed for the sale of alcoholic beverages, while in the presence of any other person:
 - (a) To allow erotic dancing which simulates sexual activity or which violates contemporary community standards.
 - (b) To fail to conceal, with a fully opaque covering, the sexual parts of his or her body, to include the genitals, pubic hair, buttocks, perineum, anal region or pubic hair region, or any portion of the female breast at or below the areola thereof.
 - (c) To expose any device, costume or covering which gives the appearance of, or simulates, the genitals, pubic hair, buttocks, perineum, anal region or pubic hair regions of the male or female body or any portion of the female breast at or below the areola thereof.
 - (2) It is unlawful for any licensee in alcoholic beverages, to cause, allow or permit any person on said licensed premises to violate the provisions of subsection (1) of this Ordinance.
 - (3) Shows such as: male strippers, female strippers, mud wrestlers, topless or bottomless waitresses, wet t-shirt contests, erotic performers or similar type shows shall be considered by the City Council to be a violation of subsection (1) of this Ordinance.
 - (4) Any licensee in alcoholic beverages who violates this Ordinance shall be subject to the suspension or revocation of his, her or its license for such violation whether or not a separate ticket for such violation has been issued. It is the intent of the City Council that the holding of such show shall be a violation of the Ordinance and the City Council will schedule a hearing for suspension or revocation of the license independently of any proceedings of a criminal nature under this Ordinance.
 - (5) Should any Section, clause or provision of this Ordinance be declared by the courts to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.
- (Ord. No. 1084, 4-20-89)

Sec. 10-84. Repealed.

(Ord. No. 1255, 02-09-98)

Sec. 10-85. Hours of operation.

It shall be unlawful for any person owning, controlling or conducting a public dance or dance hall in the City to suffer, permit or allow the same to be open or dances participated therein, between the hours of 1:00 a.m. and 7:00 a.m. of any day.
 (Code 1953, 6.0311, Ord. No. 1255, 02-09-98)

Sec. 10-86. Entry powers of the City.

The person or manager in charge of any dance or dance hall shall allow any member of the Police Department or any member of the Board of Commissioners to enter such dance or dance hall, at any or all times during the progress of the dance, and to remove from such dance hall any person or persons found to be in an intoxicated condition or offending against morality or decency or offending against the provisions of any Section of this article.
 (Code 1953, 6.0307, Ord. No. 1255, 02-09-98)

Secs. 10-87-10-97. Reserved.

ARTICLE VII. FORTUNETELLERS, CLAIRVOYANT, ETC.*

Sec. 10-98. License required.

It shall be unlawful for any fortuneteller, or clairvoyant, palmist, astrologer, or any person practicing mesmerism, phrenology, necromancy, hypnotism, divination, mediumship, magic or life reading who demands or receives a fee for exhibition or exercise of his art or profession to engage in such business without a license issued by the Board of Commissioners.
(Code 1953, 6.0110(1))

Sec. 10-99. License fee.

The fee for the license required by the provisions of this article shall be fifty dollars (\$50.00) per week or one hundred dollars (\$100.00) per month.
(Code 1953. 6.01 10(1))

Sec. 10-100. Exemption.

The provisions of this article shall not apply to any public exhibition in any licensed theatre.
(Code 1953, 6.0110(1))

Secs. 10-101-10-111. Reserved.

ARTICLE VIII. HOUSEMOVERS*

Sec. 10- 112. License required.

It shall be unlawful for any person to move any building or part thereof from one lot to another or along or across any public street or ground without a license issued by the Board of Commissioners.
(Code 1953, 6.0501)

Sec. 10-113. License fee.

The fee for the license required by the provisions of this article shall be ten dollars (\$10.00) per year.
(Code 1953, 6.0503)

Sec. 10-114. Bond.

Any person holding a permit pursuant to the provisions of this article shall execute a surety bond, payable to the City in such form and amount as is determined by the Board of Commissioners in order to ensure the completion of the work the person contracted to do.
(Code 1953, 3.0302, 6.0504)

Sec. 10-115. Insurance.

Any person holding a permit issued pursuant to the provisions of this article shall obtain such insurance as is required by the Board of Commissioners.

Sec. 10-116. Permit.

Before any housemover shall move any building or remove from one lot to another any building within the limits of the City, he shall obtain a permit to do so from the superintendent of

streets, which permit may prescribe the route to be taken in moving such building or part thereof, and the length of time which may be consumed in the work. When applying for the permit, such person shall designate the streets to be used.

(Code 1953, 3.0301, 6.0506)

Sec. 10- 117. Payment of taxes as prerequisite to permit issuance.

The permit required by the provisions of this article shall not be issued to any person to allow him to move any structure from premises upon which all real estate taxes and special assessments have not been paid in full.

Sec. 10-118. Promise to fill hole as permit pre-requisite.

(a) The permit required by the provisions of this article shall not be issued to any person unless the owner of the land from which the structure is to be removed agrees to fill the hole within such time limits as may be fixed by the Board of Commissioners.

(b) It shall be unlawful for any person to violate the promise given pursuant to this Section.

Sec. 10-119. Injury to property.

Nothing in this article shall be construed as authorizing a person to break, injure or move any telegraph, telephone, electric motor or electric line, wire or pole or in any way to injure any shade tree or other property without the permission from the owner or owners thereof.

(Code 1953, 6.0508)

Sec. 10-120. Obstructing streets.

No building or part of a building shall be allowed to stand still in any public street or on any public ground in said City for more than twenty-four (24) consecutive hours, nor shall the same be permitted to obstruct any such street for any longer period of time than is absolutely necessary.

(Code 1953, 6.0509)

Sec. 10-121. Warning lights.

Warning lights shall be displayed at night on buildings being moved while such buildings are standing upon the streets or alleys of the City.

(Code 1953, 3.0304)

* **State law reference**-Power of the City to license, tax and regulate fortunetellers, mind readers, etc., SDCL 1967, 9-34-16.

Cross reference-Tree removal, 20-3 1.

Sec. 10-122. Wires, poles, streets; liability of permittee.

(a) Whenever a person who obtains the permit required in this article shall make an application to the officer having charge of electric light wires belonging to the City to have them raised or changed in such manner as to permit the moving of such building, and shall pay to the City the cost and expense of making such change and replacing such wire, the charge to be determined by such officer; said officer shall raise said wire or make such change within a reasonable time thereafter.

(b) Any person to whom a permit for moving buildings is granted shall see that all telegraph, telephone or electric wires or poles are removed when necessary and replaced in good order, and shall be liable to the City for the costs of the same and for any damage to any sidewalk, pole or other City property, including the City roadways, caused by moving the building.
(Code 1953, 3.0303, 6.0510)

Sec. 10-123. City moving building.

If any person doing any housemoving for which a permit is required by this article leaves the building on any street or public property in violation of the provisions of this article, then the City may move such structure to any point in the City where it does not obstruct travel or create a nuisance and the costs thereof shall be a legal obligation of the person holding the permit.
(Code 1953, 3.0305)

Sec. 10-124. Exemption.

This article shall not apply to moving a building within the confines of a lot or contiguous lots when it is not necessary to move the same over public property or property belonging to another person.
(Code 1953, 6.0501)

Secs. 10-125-10-135. Reserved.

ARTICLE IX. JUNKYARDS*

Sec. 10-136. License required.

It shall be unlawful to engage in the business of buying or selling or dealing in old iron or other metals, or worn out or discarded motor vehicles generally known or denominated as “junk,” or to be engaged in the business of wrecking old motor vehicles without a license issued by the Board of Commissioners.
(Code 1953, 6.0601)

Sec. 10-137. License fee.

The fee for the license required by the provisions of this article shall be five dollars (\$5.00) per year.
(Code 1953, 6.0601)

* **State law reference**-Power of City to license, tax and regulate junk stores, SDCL 1967, 9-34-9

Sec. 10-138. Premises.

All persons licensed pursuant to this article shall keep their premises in such a condition that they shall not become unhealthy, unsightly, displeasing or annoying to the general public or to persons residing in the vicinity thereof.
(Code 1953, 6.0603)

Secs. 10-139-10-149. Reserved.

ARTICLE X. PAWNBROKERS AND SECONDHAND STORES

Sec. 10-150. License required.

It shall be unlawful for any person to engage in the business of pawnbrokering without a license issued by the Board of Commissioners.
(Code 1953, 6.0701, Ord. No. 1254, 01-26-97)

Sec. 10-151. License fee.

The fee for the license required by the provisions of this article shall be five dollars (\$5. 00) per year.
(Code 1953, 6.070 1)

Sec. 10-152. Records.

All persons licensed pursuant to this article shall keep a record of all loans made and of all articles received by them as security, on consignment or by purchase; the date received, the name of the person from whom received, the price paid for the same or the amount loaned on the same.
(Code 1953, 6.0703) (Ord. No. 1155, 5-10-93)

Sec. 10-153. Access to records.

All records kept by pawnbrokers within the City shall be open to inspection by the City police at all reasonable times.
(Ord. No. 1155, 5-10-93, Ord. No. 1254, 01-26-97)

Secs. 10-154-10-163. Reserved.

ARTICLE XI. PEDDLERS AND HAWKERS*

DIVISION 1. GENERALLY

Sec. 10-164. Trespass.

The practice of going in and upon private residences and premises by persons not having been expressly requested or invited so to do by the owner or owners, occupant or occupants of the said private residence or premises for the purpose of the sale or purchase of goods, wares or merchandise, or for the soliciting of orders for the sale or purchase of the same, is hereby prohibited and declared to be a public nuisance.
(Code 1953, 7.0802)

* **State law reference**-Power of City to license, tax and regulate pawnbrokers and secondhand stores, SDCL 1967, 9-34-9.

Sec. 10-166. Remedies.

The City, In addition to any penalty provided by law, may also enforce in circuit court the provisions of this division by civil action, abatement, or injunction.
(Code 1953, 7.0805)

Secs. 10-167-10-172. Reserved.

DIVISION 2. LICENSE

Sec. 10-173. Required.

- (1) It shall be unlawful for any person to engage in the business of being a peddler or hawker within the City Limits of Madison without first obtaining a license issued by the Board of Commissioners of the City of Madison.
- (2) The application for said licenses shall be maintained in the Finance Office of the City of Madison. The application for said licenses shall be verified by the applicant, if an individual or if applicant is a corporation, by an officer of such corporation and returned to the Finance Office. Upon receipt of the verified application, the Finance Officer shall present said application to the Board of Commissioners at their next regular meeting, provided at least 48 hours notice is given.
- (3) The governing board shall have the discretion to approve or disapprove the application and license depending on whether or not it deems the applicant a suitable person or corporation to hold such license.
(Code 1953, 6.0110(e); Ord. No. 466, 6-6-55; Ord. No. 1055, 8-3-87, Ord. No. 1264, 06-01-98)

Sec. 10-174. Fee.

The fee for the license required by the provisions of this division shall be twenty-five dollars (\$25.00) per day.
(Code 1953, 6.0110(c); Ord. No. 466, 6-6-55)

Sec. 10-175. Exemption.

This division shall not apply to any person retailing any produce, goods, wares, or merchandise which are either raised or manufactured by him in this state or to any person making solicitations on the behalf of my religious or charitable organization.
(Code 1953, 6.0110(c); Ord. No. 466, 6-6-55)

Secs. 10-176-10-186. Reserved.

ARTICLE XII. POOL ROOMS, CARD ROOMS, BOWLING ALLEYS, ETC.

Sec. 10-187. Repealed.

(Ord. No. 1254, 01-26-97)

Sec. 10-188. Repealed.

(Ord. No. 1254, 01-26-97)

Sec. 10-189. Repealed.

(Ord. No. 1254, 01-26-97)

Sec. 10-190. Repealed.

(Ord. No. 1254, 01-26-97)

Sec. 10-191. Repealed.

(Ord. No. 1254, 01-26-97)

Sec. 10-192. Repealed.

(Ord. No. 1254, 01-26-97)

Secs. 10-193-10-203. Reserved.

ARTICLE XIII. PRODUCE SALES

Sec. 10-204. Repealed.

(Ord. No. 1254, 01-26-97)

Sec. 10-205. Repealed.

(Ord. No. 1254, 01-26-97)

Sec. 10-206. Repealed.

(Ord. No. 1254, 01-26-97)

Secs. 10-207-10-218. Reserved.

ARTICLE XIV. SOUND TRUCKS

DIVISION 1. GENERALLY

Sec. 10-219. Repealed.

(Ord. No. 1254, 01-26-97)

Secs. 10-220-10-225. Repealed.

(Ord. No. 1254, 01-26-97)

DIVISION 2. COMMERCIAL USE

Sec. 10-226. Repealed.

(Ord. No. 1254 01-26-97)

Secs. 10-227-10-232. Reserved.

(Ord. No. 1254, 01-26-97)

DIVISION 3. NONCOMMERCIAL USE REGISTRATION

Sec. 10-233. Repealed.

(Ord. No. 1254, 01-26-97)

Sec. 10-234. Repealed.

(Ord. No. 1254, 01-26-97)

Sec. 10-235. Repealed.

(Ord. No. 1254, 01-26-97)

Sec. 10-236. Repealed.

(Ord. No. 1254, 01-26-97)

Secs. 10-237-10-242. Reserved.

(Ord. No. 1254, 01-26-97)

DIVISION 4. NONCOMMERCIAL USE REGULATIONS

Sec. 10-243. Repealed.

(Ord. No. 1254, 01-26-97)

Sec. 10-244. Repealed.
(Ord. No. 1254, 01-26-97)

Sec. 10-245. Repealed.
(Ord. No. 1254, 01-26-97)

Sec. 10-246. Repealed.
(Ord. No. 1254, 01-26-97)

Sec. 10-247. Repealed.
(Ord. No. 1254, 01-26-97)

Sec. 10-248. Repealed.
(Ord. No. 1254, 01-26-97)

Sec. 10-249. Repealed.
(Ord. No. 1254, 01-26-97)

Secs. 10-250-10-260. Reserved.

ARTICLE XV. SIDEWALK CONTRACTORS

Sec. 10-261. License required.

It shall be unlawful for any person to engage in the business of constructing cement sidewalks or crossings without a license issued by the City Auditor.
(Ord. No. 824, 10-12-76)

Sec. 10-262. License fee.

A person desiring the license required by the provisions of this article shall pay an annual license fee of twenty dollars (\$20.00).
(Ord. No. 824, 10-12-76; Ord. No. 10 14, 7-8-85)

Sec. 10-263. Bond.

A person desiring the license required by this article shall give bond to the City in the sum of five hundred dollars (\$500.00) conditioned that they will construct said walks and crossings in accordance with the law and the Ordinances of the City and in a skilled and workmanlike manner, said bond to remain in effect for two years.
(Ord. No. 824, 10-12-76)

Secs. 10-264-10-270. Reserved.

ARTICLE XVI. TEMPORARY EATING STANDS*

Sec. 10-271. Repealed.
(Ord. No. 1254, 01-26-97)

Sec. 10-272. Repealed.
(Ord. No. 1254, 01-26-97)

Sec. 10-273. Repealed.
(Ord. No. 1254, 01-26-97)

Sec. 10-274. Repealed.
(Ord. No. 1254, 01-26-97)

Sec. 10-274. Repealed.
(Ord. No. 1254, 01-26-97)

ARTICLE XVII. BODY PIERCING AND TATTOOING

Sec. 10-275. Definitions.

The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning. "Body piercing," the placing of a permanent or temporary foreign object in a person's body, such as ears, nose, lips, genitals, nipples, or parts thereof, for a decorative or other nonmedical purpose by a person not directly under the supervision of a licensed physician as defined by SDCL 36-4-11; the site or location, on the patron, of the body piercing;

"Body piercing area," within a body piercing establishment, the immediate vicinity where body piercing is performed;

"Body piercing artist," a person engaged in the practice of body piercing;

"Body piercing establishment," the building or structure where body piercing is practiced;

"Communicable disease," a disease which is capable of being transmitted from person to person;

"Department," the State Department of Health;

"Infectious disease," an infection which is capable of being transmitted from person to person;

"Minor," a person who is under the age of 18 years;

"Patron," a person who receives a body piercing or body piercing and/or tattoo;

"Permanent body piercing or body piercing and/or tattoo establishment," a building where body piercing or body piercing and/or tattooing is practiced on a year-round basis.

"Body piercing and/or tattoo artist," a person engaged in the practice of body piercing and/or tattooing.

"Body piercing and/or tattoo establishment," the building or structure where body piercing and/or tattooing is practiced.

"Body piercing and/or tattooing," to puncture the skin of a person with a needle and insert indelible permanent colors through the puncture to leave permanent marks or designs.

"Body piercing and/or tattooing area," within a body piercing and/or tattoo establishment, the immediate vicinity where body piercing and/or tattooing is performed.

"Temporary body piercing or body piercing and/or tattoo establishment," a building or structure where body piercing and/or tattooing is practiced for not more than thirty (30) days.
(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-276. License required for body piercing and/or tattoo establishment.

No person shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on, in or upon any premises within the City a tattoo establishment, unless a tattoo establishment license has been issued by the city and unless the license remains in effect in conformity with the provisions of this chapter and South Dakota Administrative Rules, Chapter 44:12 and amendments thereto. Physicians and surgeons licensed under the provisions of SDCL 36-4 are exempt from the requirements of this chapter.

(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-277. Application for body piercing and/or tattoo establishment license and fee for license.

Each application for a body piercing and/or body piercing and/or tattoo establishment license shall be upon a form provided by the Finance office and shall be submitted to the City Finance Officer and shall contain the following information:

- (a) A definition of service to be provided.
- (b) The location and mailing address of the proposed establishment.
- (c) The name and residence address of each applicant.
- (d) If the applicant is a corporation, the names and residence addresses of each of the officers and directors of the corporation and of each stockholder owning more than ten percent of the stock of the corporation, and the address of the corporation itself, if different from the address of the body piercing and/or tattoo establishment.
- (e) If the applicant is a partnership, the names and residence addresses of each of the partners, including limited partners, and the address of the partnership itself, if different from the address of the body piercing and/or tattoo establishment.
- (f) The last two previous addresses (if any) during the past three years immediately prior to the present address of the applicant.
- (g) Written proof that the applicant is over the age of 18 years.
- (h) Individual or partnership applicant's height, weight, color of eyes and hair and sex.
- (i) Copy of identification such as driver's license and social security card.
- (j) The history of the applicant in the operation of a body piercing and/or tattoo establishment or similar business or occupation, including, but not limited to, whether or not such person, in previously operating in this or another city within this state with or without license, has had such license revoked or suspended and the reason therefore, and the business activity or occupation subsequent to such action of suspension or revocation.
- (k) The name and address of each body piercing and/or tattoo artist who is or will be employed in the establishment.
- (l) Such other identification and information necessary to discover the truth of the matters specified in this section as required to be set forth in the application.
- (m) If a corporation, the name and address of a resident agent, residing within the city, which must be kept current at all times.
- (n) The license fee shall be \$500.00 for a tattoo establishment; \$500.00 for a body piercing establishment or \$750.00 for a combination license for both body piercing and/or tattooing.

(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-278. Investigation of premises proposed to be used as body piercing and/or tattoo establishment.

The City Finance Office shall refer any application to the Police Department, and the Planning and Zoning Commission, each of which, within a period of 45 days from the date of application, shall review records and make an inspection of the premises proposed to be used as a body piercing and/or tattoo establishment and shall make a written recommendation to the City Finance Office concerning compliance with the law.

(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-279 . Denial of body piercing and/or tattoo establishment license; notice; right to hearing.

(a) The Finance Officer shall not issue such body piercing and/or tattoo establishment license if, based upon the investigation and reports, it is found that:

- (1) The operation, as proposed by the applicant, if licensed, would not comply with all applicable laws.
- (2) The applicant has, knowingly and with intent to deceive, made any false, misleading, or fraudulent statement of fact in the permit application or any other document required by the City in conjunction therewith.

(b) For denial, notifications, and reasons for the denial shall be set forth in writing by the Finance Officer and sent to the applicant by certified mail. The denied applicant shall at his election have the right to receive a hearing before the City Commission pursuant to the terms of Section 20. If such a hearing is not requested within ten days of the notice of denial by the Finance Officer, the denial shall be final.

(c) This section shall not limit causes for denial but shall be in addition to their causes for denial found by the Finance Officer or provided by this Code.

(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-280. Temporary body piercing and/or tattoo establishment license.

Upon application, the Finance Officer may issue a temporary body piercing and/or tattoo establishment license to any applicant who has completed and filed an application for a body piercing and/or tattoo establishment license and the proposed premises has been investigated by the Department. A temporary body piercing and/or tattoo establishment does not need to meet the space requirements of a permanent body piercing and/or tattoo establishment. Such temporary license shall remain in effect for 30 days.

(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-281. Inspection of establishments by officials.

City officials may enter the body piercing and/or tattoo establishment premises from time to time during regular business hours for the purpose of making reasonable inspections to enforce compliance with building, fire, electrical, plumbing, or health regulations. This shall not restrict or limit the right of entry vested in any law enforcement agency.

(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-282. Name of establishment.

No person licensed to do business as provided in this article shall operate under any name or conduct the business under any designation not specified in the license.
(Ord. No. 1168, 12-6-93)

Sec. 10-283. Change of location of establishment.

A change of location of a licensed body piercing and/or tattoo establishment may be approved by the Finance Officer provided all applicable provisions of the Code are complied with and upon payment of a change of location fee of \$25.00.
(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-284. Licensed body piercing and/or tattoo artists.

No body piercing and/or tattoo establishment licensee shall employ or otherwise allow any person to practice as a body piercing and/or tattoo artist who is not licensed as a body piercing and/or tattoo artist under the terms of this article.
(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-285. Body piercing and/or tattoos at body piercing and/or tattoo establishment only.

No person shall body piercing and/or tattoo or permit a body piercing and/or tattoo to be administered at or upon any public place other than a body piercing and/or tattoo establishment.
(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-286. Body piercing and/or tattoo artist license required.

(a) No person, other than as exempt as set forth in (b) of this Section, shall practice body piercing.

(b) A person having a current cosmetology license issued by the State of South Dakota may pierce ears without receiving a body piercing and/or tattoo artist license from the City of Madison.

(c) No person shall practice as a body piercing and/or tattoo artist within the city unless such person has a valid body piercing and/or tattoo artist license issued by the City.
(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-287. Application for body piercing and/or tattoo artist license.

Each application for a body piercing and/or tattoo artist license shall be upon a form provided by the Finance Officer and shall be submitted to the Finance Officer. Each form shall contain the following information:

- (1) The applicant's full name, residence address, and telephone number.
- (2) The name and address of the body piercing and/or tattoo establishment where the applicant is to be employed as a body piercing and/or tattoo artist.

- (3) Whether any license to practice as a body piercing and/or tattoo artist has previously been denied or revoked and, if so, the reasons, dates, and places of such denial or revocation.
- (4) Written proof that the applicant is over the age of 18 years.
(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-288. Investigation upon receipt of application for body piercing and/or tattoo artist license.

Upon receipt of the application for a body piercing and/or tattoo artist license, the Finance Officer shall refer the application to the Police Department which, within a period of 30 days from the date of the application, shall make investigation and submit a written recommendation thereon to the Finance Officer.

(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-289. Denial of body piercing and/or tattoo artist license; notice; right to hearing.

- (a) The Finance Officer shall not issue a body piercing and/or tattoo artist license if, based upon the investigation and report, it is found that the applicant has, knowingly and with intent to deceive, made any false, misleading or fraudulent statement of fact in the license application or in any other document required by the City in conjunction therewith.
- (b) For denial, notifications, and reasons for denial shall be set forth in writing by the Finance Officer and shall be sent to the applicant by means of certified mail. The denied applicant shall, at his election, have the right to a hearing before the City Commission pursuant to the terms of Section 20. If such hearing is not requested within ten days of the notice of denial by the Finance Officer, the denial shall be final.
- (c) This section shall not limit causes for denial but shall be in addition to their causes for denial found by the Finance Officer or provided by this Code.
(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-290. Temporary body piercing and/or tattoo artist license.

Upon application, the Finance Officer shall issue a temporary body piercing and/or tattoo artist license to any applicant who has completed and filed an application for a body piercing and/or tattoo artist license and the applicant has been investigated by the Department. A temporary body piercing and/or tattoo artist license shall be for 30 days.

(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-291. Transfer of body piercing and/or tattoo artist license.

No body piercing and/or tattoo artist license shall be transferable.
(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-292. Transfer of body piercing and/or tattoo establishment license.

No body piercing and/or tattoo establishment license shall be transferable.
(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-293. Posting of body piercing and/or tattoo artist and tattoo establishment licenses.

Each body piercing and/or tattoo establishment licensee shall post in a conspicuous place within the body piercing and/or tattoo establishment the license of each body piercing and/or tattoo artist practicing as a body piercing and/or tattoo artist in the establishment and the license of the body piercing and/or tattoo establishment.

(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-294. Denial, suspension, or revocation of licenses generally.

- (a) Denial. Within ten days of the denial by the Finance Officer of an application for a body piercing and/or tattoo establishment license or body piercing and/or tattoo artist license, the applicant may file with the Finance Officer a written request for hearing before the City Commission. At such hearing, evidence shall be received for the purpose of determining whether or not such denial shall be upheld. Following the hearing, if the denial is upheld, the notification of and reasons for such decision shall be set forth in writing and sent to the applicant by means of certified mail.
- (b) Suspension or revocation. Any body piercing and/or tattoo establishment or body piercing and/or tattoo artist license shall be subject to suspension or revocation by the City Commission for violation of any provisions of this article, or applicable provision of the Code, City Ordinance, rule, or regulation or state law, or for grounds that should warrant the denial of the issuance of such license in the first instance, or for the violation of any law relating to or regulating body piercing and/or tattoo establishments or body piercing and/or tattoo artists. The suspension or revocation of a license shall be accomplished pursuant to a hearing held before the City Commission at which time evidence shall be received for the purpose of determining whether or not such license shall be suspended or revoked or retained. Following the hearing, if the license is suspended or revoked, the notification of and reasons for such decision shall be set forth in writing and sent to the licensee by means of registered or certified mail or hand delivery. Notice of such hearing shall be in writing, directed to, and delivered to applicant by means of registered or certified mail or hand delivery at least ten days before such hearing.

(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-295. Injunctive relief.

In addition to the legal remedies provided for in this Code, the operation of any body piercing and/or tattoo establishment in violation of the terms of this article shall be deemed a public nuisance and may be enjoined by the City.

(Ord. No. 1168, 12-6-93)

Sec. 10-296. Applicability.

The standards in this chapter apply to both temporary and permanent body piercing and/or tattoo establishment.

(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-297. Body piercing and/or tattoo establishments general provisions.

A body piercing and/or tattoo establishment must be a minimum of 60 square feet for one body piercing and/or tattoo artist and 40 square feet for each additional artist. A body piercing and/or tattoo establishment must be physically separated from facilities used for purposes other than body piercing and/or tattooing. Floors, walls, and ceilings of the body piercing and/or tattooing area must be smooth, easily cleanable, nonabsorbent, and in good repair. A minimum of 30 foot-candles of light must be provided for applying the body piercing and/or tattoo and a minimum of 10 foot-candles for general lighting.

(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-298. Body piercing and/or tattoo establishments - hand washing facility required.

An easily accessible hand washing facility supplied with warm, potable, running water must be provided in or directly adjacent to the body piercing and/or tattooing area. Each hand washing facility must be provided with liquid soap and single use paper towels.

(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-299. Body piercing and/or tattoo establishments - toilet facilities.

Toilet facilities must be available for employee or patron use.

(Ord. No. 1168, 12-6-93; Ord. No. 3-22-04)

Sec. 10-300. Body piercing and/or tattoo establishments - general use equipment.

Tables, chairs, and other general use equipment must be constructed of plastic, metal with enamel or porcelain coating, or stainless steel. General use equipment must be maintained in an easily cleanable condition. Covered waste containers with single use plastic liners must be provided.

(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-301. Body piercing and/or tattoo establishments - animals prohibited restricted activities.

Animals other than service animals are prohibited in body piercing and/or tattoo establishments. Smoking, eating, and drinking are prohibited within 10 feet of the body piercing and/or tattooing area. Body piercing and/or tattoo establishments may not be used for activities which are not directly associated with the practice of body piercing and/or tattooing.

(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-302. Body piercing and/or tattoo establishments - maintenance.

A body piercing and/or tattoo establishment must be maintained in a clean, sanitary, vermin-free condition and in good repair.

(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-303. Body piercing and/or tattoo establishments - inspection.

A body piercing and/or tattoo establishment must be inspected at least annually by the City Police Department to determine compliance with this chapter.

(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-304. Required equipment for body piercing and/or tattoo establishments.

A body piercing and/or tattoo establishment must be equipped with a steam pressure autoclave capable of producing 15 pounds of pressure per square inch for at least 3 minutes at a temperature of 250 degrees Fahrenheit.

(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-305. Required equipment for tattoo artists and/or tattoo establishments.

A tattoo artist must have the following minimum equipment:

- (1) 25 liner tubes of whatever style and design preferred in sealed sterile envelopes;
- (2) 25 shader tubes of whatever style and design preferred in sealed sterile envelopes;
- (3) 50 needle bar setups with needles attached in sealed sterile envelopes.

Each tattoo establishment must have the following minimum equipment:

- (1) 500 disposable pigment containers;
- (2) 300 disposable latex or vinyl examination gloves;
- (3) One gallon each of germicidal soap, isopropyl alcohol and distilled water for prepping skin;
- (4) Access to the applicable sterilization and sanitization measures in this chapter;
- (5) Closed dust-proof containers for the exclusive storage of instruments, dyes, pigments, stencils, and other equipment;
- (6) Gauze and bandages.

(Ord. No. 1168, 12-6-93)

Sec. 10-306. Required equipment for body piercing establishment.

A body piercing artist must have the following minimum equipment:

- (a) Twenty-five disposable single-use needles of each size used;
- (b) Twenty-five forceps;
- (c) Two hundred cotton swabs in sealed containers;
- (d) Two hundred disposable cups;
- (e) Three hundred disposable latex or vinyl examination gloves;
- (f) One gallon each of germicidal soap, isopropyl alcohol, and distilled water for prepping skin;
- (g) Access to the applicable sterilization and sanitation measures as required in this chapter;
- (h) Closed dustproof containers for the exclusive storage of instruments and other equipment;
- (i) Sealed gauze and bandages.

Single-use products may be used only once and must then be discarded.

(Ord. No. 1350, 3-22-04)

Sec. 10-307. Body piercing and/or tattoo artist - restricted activities.

A body piercing and/or tattoo artist may not engage in the practice of body piercing and/or tattooing while under the influence of alcohol or other mind-altering drugs. Minors are prohibited from the practice of body piercing and/or tattooing. A body piercing and/or tattoo artist who knowingly has an infectious disease in a communicable stage must take precautions to prevent disease transmission to the patron. Infectious diseases include rashes, skin lesions, boils, and blood borne diseases such as viral hepatitis B and human immunodeficiency virus infection. A body piercing and/or tattoo artist shall wear clean, laundered clothing and shall wear a clean outer garment or cover-up during the body piercing and/or tattooing. The body piercing and/or tattoo artist's hair shall be secured, tied, or covered in such fashion to prevent the hair from falling in front of the artist's shoulders when in a normal working position.

(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-308. Consent of patrons required - notice posted.

A body piercing and/or tattoo artist may not pierce or tattoo the body of a patron without first obtaining a signed consent. The consent must include a statement by the patron that the patron is free from infectious or contagious diseases in a communicable stage. This includes rashes, skin lesions, boils and blood borne diseases such as viral hepatitis B and human immunodeficiency virus infection. A body piercing and/or tattoo artist may not pierce or tattoo the body of a patron with evident skin lesions or skin infections. The consent form shall request information about medical problems that can cause the patron difficulty afterwards, e.g., diabetes, allergic reaction to certain metals or medications, hemophilia, blood clotting problems, or use of anticoagulation medications which may cause bleeding problems.

Minors may not be body pierced and/or tattooed unless the minor's parents have signed a consent form authorizing the body piercing and/or tattoo. No body piercing and/or tattoo artist may body piercing and/or tattoo a patron who is under the influence of alcohol or other mind altering drugs.

A body piercing and/or tattoo artist shall conspicuously post a notice stating that it is illegal to body piercing and/or tattoo any person under the age of 18 without the parents' signed consent. (Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-309. Communicable disease reporting.

A body piercing and/or tattoo artist shall immediately report to the department any known or suspected communicable disease associated with the practice of body piercing and/or tattooing. A body piercing and/or tattooing artist shall consult with the artist's medical provider or the department for medical management of any needle-stick injuries. The toll free number for the reporting of communicable diseases is 1-800-592-1861. (Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-310. Record of patrons.

A body piercing and/or tattoo artist shall keep a record of each patron which includes name, address, age, consent form with medical inquiry and the locations and description of body piercing and/or tattoos. This record must be available for inspection by the Finance Officer or his designated representative, and kept for a period of at least two years. A sample record form will be prepared and furnished each body piercing and/or tattoo artist by the Finance Office. (Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-311. Sterilization methods.

Equipment requiring sterilization must be sterilized by using the method of steam pressure sterilization with at least 15 pounds of pressure per square inch for at least 30 minutes at a temperature of 250 degrees Fahrenheit in an autoclave. This must be certified by a chemical indicator which is attached to the autoclave bag and turns color when the required temperature has been reached. A body piercing and/or tattoo establishment owner or operator shall provide lab result slips which state that each autoclave has been bacteriologically tested monthly and has passed the test. These tests may be performed in the establishment by the owner with test procedures and criteria approved by the Department. Dry heat is not an acceptable method of sterilization for the purpose of this article.

(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-312. Packaging and storage.

All sterile equipment and supplies must be stored in a closed dust-proof container in such a manner as to prevent being contaminated. All needles and tubes must be packaged prior to autoclaving either individually or in quantities for individual body piercing and/or tattoos. Autoclave packages must be constructed so that the contents are visible without opening the package. Autoclave packages containing equipment which has been autoclaved must be dated with an expiration date. The expiration date may not exceed 30 days from the date autoclaved. Sterile equipment may not be used after the expiration date without being re-sterilized. A body piercing and/or tattoo machine must be stored in a manner that will prevent contamination. (Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-313. Needle construction - sterilization required.

All needles must be either stainless steel or nickel-plated carbon steel. Needles must be individually packaged and autoclaved before use. Needles are single-use items and once used must be disposed of. (Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-314. Tube construction - sterilization required.

All tubes, including the grips on the tube, must be either stainless steel, nickel-plated carbon steel, or Lexan. The grips may also be constructed of anodized aluminum. Lead bearing solder may not be used in the construction of the tubes. Tubes must be thoroughly cleaned and sterilized between patrons. (Ord. No. 1168, 12-6-93)

Sec. 10-315. Body piercing and/or tattoo machine sanitization.

The open end of the body piercing and/or tattoo machine must be cleaned and sanitized with an approved sanitizer before each use. See Section 328 for a listing of approved sanitizing solutions. (Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-316. Razor requirement.

Razors must be disposable single use only. Single use razors may be used for one patron only and must then be discarded. (Ord. No. 1168, 12-6-93)

Sec. 10-317. General use equipment - sanitization required.

All surfaces, counters, and general-use equipment in the body piercing and/or tattoo area must be cleaned and sanitized before a patron is seated. To ensure a sterile operating field, a sterile disposable paper sheet or drape must be used. Drapes must be moisture resistant. The top surface of the drape is considered a sterile area and edges are not. Only sterile items may be placed on the sterile field. See Appendix B at the end of this SDR 44:12 for a list of approved environmental cleaning solutions. (Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-318. Linen cleaning and storage.

Cloth towels, robes, and similar items used in conjunction with body piercing and/or tattooing must be laundered in a washing machine with hot water, laundry detergent and chlorine bleach between uses. A closed dust proof container must be provided for the storage of clean towels and linen. A hamper or similar receptacle must be provided for the storage of soiled towels and linen. (Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-319. Hygienic practices - gloves required.

A body piercing and/or tattoo artist shall use antiseptic techniques at all times in the practice of body piercing and/or tattooing. A body piercing and/or tattoo artist shall scrub his hands with liquid soap and water thoroughly before beginning preparation to body piercing and/or tattoo. Hands must be dried with individual single use towels. At all times when preparing the skin and while applying the actual body piercing and/or tattoo, the body piercing and/or tattoo artist must wear latex or vinyl examination gloves, which must be discarded upon completion of the body piercing and/or tattoo. A body piercing and/or tattoo artist must discard the gloves he is wearing, rewash his hands, and put on new gloves after an interruption in the body piercing and/or tattoo process which requires him to use his hands. (Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-320. Skin preparation.

The skin area to be body piercing and/or tattooed must be shaved if needed and must be washed with germicidal soap and water, rinsed, dried, and washed again with 70 percent isopropyl alcohol. A single use gauze pad or tissue may be used for washing the skin. All single use products used must be discarded after they are used. (Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-321. Pigment requirements.

All pigments must be nontoxic and antiseptic. All pigments which are in a dry form must be suspended in a solution of isopropyl alcohol, distilled water, or witch hazel with only nontoxic and antiseptic additives. Pigments must be dispensed from a main plastic container with a sealable top which allows a single service portion of the pigment to be dispensed into a single use container. All pigment dispensed and the material into which it has been dispensed must be immediately discarded upon completion of the body piercing and/or tattoo. (Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-322. Design layout.

The methods in this section are approved for the design layout of the body piercing and/or tattoo on the skin. In the first method, the body piercing and/or tattoo artist sketches the design directly into the skin with nontoxic ink to serve as a guideline for the actual body piercing and/or tattoo. In the second method, the body piercing and/or tattoo artist makes a stencil using nontoxic ink on tracing paper and transfers the design to the skin by spraying germicidal soap and distilled water directly onto the area to be body piercing and/or tattooed and laying the stencil over the sprayed area. (Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-323. Body piercing and/or tattoo application.

Before placing the body piercing and/or tattoo design on the patron's skin, the body piercing and/or tattooist must apply a thin coating of a petroleum jelly or antibacterial ointment over the area to be body piercing and/or tattooed. This *must* be applied with cotton swabs, gauze, or wooden tongue depressors which must immediately be discarded. This application may not be directly spread with an ungloved hand.

(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-324. Changing pigments.

When changing pigments, a body piercing and/or tattoo artist may use a solution of germicidal soap and water or an ultrasonic cleaner to rinse the needle and tube, if the needle and tube are used on the same patron. Ultrasonic cleaner solutions and solution containers and *covers* must be discarded between patrons.

(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-325. Washing of excess pigment.

Washing of excess pigment from the skin during the body piercing and/or tattoo process must be done with single use gauze pads or tissue with a solution of germicidal soap and distilled water.

(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-326. Use of styptics.

Styptics, if used to arrest bleeding, may be used only in liquid or powder form and must be applied with cotton swabs or gauze which is immediately discarded.

(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-327. Use of antibacterial ointment required - care instructions for tattooing.

Upon completion of the tattoo, a tattoo artist must apply an antibacterial ointment to the body piercing and/or tattoo with a single use cotton swab, gauze pad, or wooden tongue depressor which is immediately discarded. After application of the antibacterial ointment, the body piercing and/or tattoo artist must apply a sterile bandage. The tattoo artist must provide written instructions regarding the proper care and precautions for a new tattoo to each patron. Care instructions must include the following minimum recommendations:

- (a) Remove the bandage after 24 hours;
- (b) Wash tattoo gently with mild soap and water and pat dry;
- (c) Apply an antibacterial ointment at least twice daily;
- (d) Avoid exposing the body piercing and/or tattoo to direct sunlight for two weeks;
- (e) Avoid swimming or soaking of the tattoo until healed;
- (f) Avoid scratching or picking of the tattoo;
- (g) If redness or swelling develops, contact your doctor.

(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-328. Jewelry preparation.

Jewelry or an insertion taper that has been autoclaved and never worn must be placed in a medical antibacterial prep soak for ten minutes and dried thoroughly before insertion. Jewelry previously worn by the patron must be soaked in a medical and antibacterial prep soak for ten minutes in a separate container that is disposed of or sterilized immediately after the service. Jewelry worn by a person other than the patron must be cleaned and autoclaved before insertion. (Ord. No. 1350, 3-22-04)

Sec. 10-329. Care instructions for body piercing.

Upon completion of the body piercing, a body piercing artist must apply antibacterial clearer to the body piercing with a single-use cotton swab or gauze pad. The body piercing artist must provide each new patron written instructions regarding the proper care and precautions for a body piercing. Care instructions must include the following minimum recommendations:

- (a) Wash the body piercing gently with mild soap and water and pat dry;
- (b) Apply an antibacterial cleaner at least twice daily;
- (c) Avoid swimming or soaking of the body piercing until healed;
- (d) Avoid scratching, picking, or touching of the body piercing;
- (e) If redness or swelling develops, contact your doctor.

(Ord. No. 1350, 3-22-04)

Sec. 10-330. Care instructions for oral piercing.

The patron of oral piercing must rinse the mouth with an antibacterial mouthwash containing no sugar or alcohol or with a hydrogen peroxide solution before the procedure. The body piercing artist must provide written instructions regarding the proper care and precautions for a new oral body piercing to each patron. Care instructions must include the following minimum recommendations:

- (a) Rinse mouth twice a day with an antibacterial mouthwash containing no sugar or alcohol. The mouthwash may be diluted up to 75% to reduce irritation. Continue rinsing for the duration of the healing process;
- (b) Avoid placing anything other than food in the mouth, including cigarettes, fingers, and gum;
- (c) Eat and drink only for nutritional needs until healed;
- (d) If excessive swelling or pain develops, contact your doctor.

(Ord. No. 1350, 3-22-04)

Sec. 10-331. Ear piercing.

If ear piercing is conducted using individually packaged sterilized studs that are inserted using a commercial ear piercing gun and no other form of body piercing is provided, the body piercing artist is required only to notify in writing the municipality in which the ear piercing is conducted. If the ear piercing gun is reused, it must be cleaned between patrons with one of the products from Appendix A at the end of this article.

(Ord. No. 1350, 3-22-04)

Sec. 10-332. Use of ear piercing gun.

An ear piercing gun may only be used to apply studs in a patron's ears, following manufacturer's instructions. The use of an ear piercing gun to apply a stud or any other jewelry to other areas of the body is prohibited.

(Ord. No. 1350, 3-22-04)

Sec. 10-333. Disposal of contaminated products.

Gauze, cotton swabs, or other single use products which are contaminated with body fluids must be disposed of in impervious double plastic bags which are securely sealed. When needles, tubes, or other multiple use products used in conjunction with the practice of body piercing and/or tattooing are disposed of, they must be sterilized and placed in an impervious rigid container, which is securely sealed.

(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-334. Approved immersion methods.

The following methods are approved for immersion of soiled equipment, such as instruments, needles, and tubes prior to cleaning and sterilization:

- A. Immersion in glutaraldehyde 2 percent solution mixed according to manufacturer's instruction. Minimum contact time is 10 minutes. Thorough rinsing of equipment is required after use. Solution may cause chemical burns on the skin. Wear gloves.
- B. Immersion in a 500 ppm solution of chlorine. (This requires a 1:100 dilution of 5.235 percent sodium hypochlorite (bleach) which is equivalent to 2 teaspoons bleach per quart of water) A minimum contact time of 10 minutes is required to be effective. This solution must be mixed fresh daily and may corrode metal instruments.
- C. Immersion in a solution of 70 percent isopropyl alcohol for a minimum of 10 minutes. Flammable. Use and store in a cool, well-ventilated area.
- D. Immersion in a phenolic germicidal detergent solution for a minimum of 10 minutes. Mix according to the manufacturer's instruction.
- E. Immersion in an iodophor germicidal detergent solution formulated as a disinfectant. Minimum contact time is 10 minutes. May stain instruments.

Note: After immersion in any of these solutions, instruments, needles, tubes, or similar equipment must be thoroughly cleaned, rinsed with warm water, dried thoroughly, and individually packaged for sterilization as described in Section 311.

(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-335. Approved cleaning methods.

The following methods are approved for cleaning of environmental surfaces such as counter tops, floors, walls, chairs, and the open end of body piercing and/or tattoo machines:

- A. Application of a quaternary ammonium germicidal detergent solution. Benzalkonium chloride is not acceptable. Dilutions must be according to the manufacturer's instruction.

- B. Application of phenolic germicidal detergent solution mixed according to the manufacturer's instruction. May cause skin irritation.
- C. Application of 100 ppm solution of chlorine. This requires a 1:500 dilution of 5.25 percent sodium hypochlorite (bleach) which is equivalent to 1/2 teaspoon bleach per quart of water. A minimum contact time of 10 minutes is required to be effective. This solution must be mixed fresh daily.

Note: If using spray bottles for application of these solutions, the following procedure must be followed: Each time the bottle needs refilling, any remaining old solution must be discarded, the bottle rinsed, and fresh solution poured into the spray bottle. Always label spray bottles with the name of the contents. Never add fresh solution to remaining old solution.

(Ord. No. 1168, 12-6-93; Ord. No. 1350, 3-22-04)

Sec. 10-336. Inspection fee.

In the event the City requests a State inspection the body piercing and/or tattoo establishment will be responsible to reimburse the City for any fee charged by the State.

Sec. 10-337. General penalty. Continuing violations.

In addition to a denial, suspension or revocation of license pursuant to Section 294 for a violation of this ordinance, any person who commits an act prohibited by this ordinance or any failure to follow any provision of this ordinance which results in a conviction for such violation shall be punishable by a fine of not less than \$1.00 nor more than \$500.00 or by imprisonment not to exceed thirty (30) days or by both fine and imprisonment. A failure to comply with each section of this ordinance and each act violating a section shall constitute a separate offense.

(Ord. No. 1350, 3-22-04; Ord. No. 1421, 2-5-07)

ARTICLE XVIII. VIDEO LOTTERY MACHINES

Sec. 10-338. Authorizing Placement of Video Lottery Machines.

A) Effective July 1, 2005, applicants for video lottery machine placement shall meet the requirements set forth in subsection A) (1) of this section and shall then be selected according to the criteria set forth in subsection A) (2), (3), (4), (5), and (6) of this section.

- (1) Consistent with SDCL 42-7A-37.1 and amendments thereto video lottery establishments shall be a bar, restaurant or lounge which is primarily maintained and operated for the selling and consumption of alcoholic beverages and food on the premises. Proposed video lottery establishments must derive 75 percent or more of their income from sources other than from video lottery. Any applicant for authorization as a video lottery establishment shall certify that the applicant complies with this subsection. The City may require the applicant to provide proof through business records of compliance with this requirement.
- (2) The type of business the applicant proposes for the proposed new video lottery site and the manner in which the applicant proposes to operate it.
- (3) The number of existing video lottery establishments and/or the proximity of the proposed new video lottery site to existing establishments.

- (4) The location of the proposed new video lottery site to other businesses, residential areas, or activities within the same general area.
- (5) The extent to which minors frequent a business connected to the proposed new video lottery site.
- (6) The effect the proposed new video lottery site has on economic development.

B) The City of Madison may issue a video lottery license to bona fide chartered veterans' organizations, religious, charitable or fraternal organizations provided the organization meets all rules, regulations or laws and requirements of state government.

C) No establishment authorized for video lottery machine placement prior to July 1, 2005 may be denied authorization in subsequent years for failure to meet the provisions of Subsection A. (Ord. No. 1375, 6-13-05)

Sec. 10-339. License Fee for Video Lottery Machines.

No business, organization or person shall operate a video lottery establishment without a license issued by the City of Madison. There is imposed on any person who is licensed pursuant to SDCL 35-4-2 (4), (12) or (16) and who is issued a video lottery establishment license pursuant to SDCL 42-7A-41 an annual license fee of Fifty (\$50.00) Dollars per machine for the privilege of locating video lottery machines upon the licensed premises. The fee for each video lottery machine shall be payable at the same time as the alcoholic beverage license fees. (Ord. No. 1375, 6-13-05)

ARTICLE XIX. RESIDENTIAL RENTAL UNITS

Sec. 10-340. Purpose.

The purpose of this article is to protect the health, safety, and welfare of the citizens of the city by requiring registration of residential rental housing units. (Ord. No. 1457, 4-28-08)

Sec. 10-341. Definitions.

Residential rental unit means any building or structure including the real property upon which it is located, which is rented or offered for rent as living quarters. It does not mean on-campus housing, hospital units, nursing home units, or hotels or motels with daily rental units, or temporary rental arrangements to immediate family members, all of which shall be exempt from any requirements of this article. (Ord. No. 1457, 4-28-08)

Sec. 10-342. Registration.

No person shall allow to be occupied, advertise for occupancy, solicit occupants of, or let to another person for occupancy any residential rental unit within the city that has not been registered as residential rental unit by the city. A residential rental property owner and/or the designated agent shall notify the city in writing within 20 calendar days after any change to the information. The registration shall require the following information:

- (1) Name, mailing address, and phone number of the property owner, and, if the owner is not a natural person, the name, address, and phone number of a designated agent for the owner.

(2) The street address of the residential unit.

(3) The number and type of units; i.e., dwelling units or sleeping rooms.

(Ord. No. 1457, 4-28-08)

Sec. 10-343. Registration permit cost.

There shall be no cost or other fee charged for the registration of rental properties pursuant to this article.

(Ord. No. 1457, 4-28-08)

Sec. 10-344. Manner of registration.

This ordinance shall become effective on January 1, 2009 and all owners of residential rental units shall register with the City by that day.

(Ord. No. 1457, 4-28-08)

Sec. 10-345. Registration expiration.

Each registration shall expire either on the 31st day of December in the third year following the year of issuance or earlier when such registration shall immediately expire and be considered revoked.

(Ord. No. 1457, 4-28-08)

Sec. 10-346. Property transfers.

To transfer a registration for a residential rental unit from one owner to another, the applicant shall give notice, including the name and address of the transferee, to the city of the transfer within 30 days after such transfer. Any registration for a residential rental unit being transferred shall expire upon its original expiration date.

(Ord. No. 1457, 4-28-08)

Sec. 10-347. No waiver of code compliance.

No registration for a residential rental unit shall be deemed to cure, waive, or grant a right of continued operation for property that is determined to be in violation of any applicable ordinances of the city.

(Ord. No. 1457, 4-28-08)

Sec. 10-348. Control.

The Finance Officer, under the direction of the Board of Commissioners shall accomplish the registration of residential rental housing units.

(Ord. No. 1457, 4-28-08)

Sec. 10-349. Failure to Register.

Failure to register as herein prescribed shall be punishable pursuant to Section 1-8 of the City of Madison Revised Ordinances.

(Ord. No. 1457, 4-28-08)

ARTICLE XX. BOXING, KICKBOXING AND MIXED MARTIAL ARTS

Sec. 10-350. Definitions.

For the purposes of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

“Admission Fee,” any amount charged or minimum amount required to be expended in exchange for entrance to the premises where a boxing, kickboxing, or mixed martial arts event is being held. “Admission Fee” shall not include membership fees charged by health clubs, fitness facilities, gymnasiums, or fees charged for professional instruction in the sports of boxing, kickboxing, and the mixed martial arts;

“Boxing,” to compete with the fists;

“City Commission,” the Madison City Commission or its duly authorized representative;

“Contestant,” any person who competes in any boxing, kickboxing, or mixed martial arts match or exhibition;

“Exhibition,” a boxing, kickboxing, or mixed martial arts engagement in which the participants show or display their skills without necessarily striving to win;

“Fight nights,” activities occurring in bars, clubs and other establishments that encourage or permit untrained, unskilled persons to engage in boxing, kickboxing, or mixed martial arts and other combinations of punching and kicking as a form of entertainment;

“Kickboxing,” to compete with the fists, feet, legs, or any combination thereof;

“Licensed Physician,” a medical doctor (M.D.) or doctor of osteopathy (D.O.) licensed to practice medicine in the State of South Dakota;

“Match,” contest, bout or competition that involves the sports of boxing, kickboxing, or mixed martial arts in which the participants strive earnestly to win;

“Mixed Martial Arts,” unarmed combat involving the use of a combination of techniques from different disciplines of the martial arts, including, but not limited to, grappling, kicking, and striking. “Toughman,” “ultimate fighting,” “extreme fighting,” “cage fighting,” or any similar competition will be considered “Mixed Martial Arts” for the purpose of this chapter;

“Promoter,” any person, firm, or organization responsible for coordinating the match or exhibition;

“Sanctioning Body,” an organization approved by the City Commission or designee as a body authorized to sanction boxing, kickboxing, or mixed martial arts matches or exhibitions in the City of Madison.

(Ord. No. 1505, 5-31-11)

Sec. 10-351. Regulation of Matches and Exhibitions.

It shall be unlawful to promote, participate in, or allow any boxing, kickboxing, mixed martial arts and other combinations of punching and kicking or fight night match or exhibition in the City of Madison on any premises licensed to sell alcohol, any premises where alcohol is served, or any premises that charges an admission fee to enter the location where the match is held, unless the promoter first obtains a permit from the City Commission or designee. If a law enforcement officer determines that the requirements of this chapter have not been satisfied, the law enforcement officer may immediately terminate the match or exhibition.

(Ord. No. 1505, 5-31-11)

Sec. 10-352. Permit Requirements.

In order to receive a permit for a boxing, kickboxing, or mixed martial arts match or exhibition, the promoter shall pay a permit application fee and certify the following:

- (A) The match is governed and authorized under the rules of USA boxing (boxing), the International Federation of Kickboxing (kickboxing), the International Sports Combat Federation (mixed martial arts) or another sanctioning body approved by the City Commission or designee.
- (B) In addition to following the rules of any sanctioning organization, the promoter must certify:
 - (1) There will be a licensed physician, either a doctor of medicine (M.D.) or doctor of osteopathy (D.O.), ringside.
 - (2) There will be a waiting ambulance on the premises with at least two certified emergency medical technicians.
 - (3) A portable defibrillator with all additional equipment necessary for its operation and oxygen will be available ringside.
 - (4) The contestants, and any alternates, will be registered and matched at least seven days before the match.
 - (5) The contestants, and any alternates, shall be matched according to the weight classes and rules of the sanctioning body, as recognized by the City Commission or its designee, for the particular sport in which the contestant is competing.
 - (6) A licensed physician shall conduct a pre-match physical of all contestants to ensure that the contestants are fit to participate and that they have not consumed any alcohol or illegal drugs.
 - (7) A licensed physician shall conduct a post-match physical of all contestants to ensure that the contestants do not require emergency medical attention.
 - (8) Health insurance for each participant to provide medical coverage for any injuries sustained in a match, certificates of which shall be furnished as part of the permit application.
 - (9) The contestants will wear protective headgear approved by the sanctioning body, as recognized by the City Commission, for the particular sport in which the contestant is competing. If the sanctioning body does not recognize or require headgear, headgear consistent with the rules and regulations set by the United States Olympic Committee (USOC)/USA Boxing must be worn.
 - (10) The contestants will each wear custom-made or individually fitted mouthpieces.
 - (11) The contestants will wear boxing gloves that correspond with the weight class of the contestants as established by the sanctioning body, as recognized by the City Commission, for the particular sport in which the contestant is competing.
 - (12) That the promoter has arranged with a local law enforcement agency for the presence of an adequate number of sworn law enforcement officers at the premises where the match or exhibition will be held. The Chief of Police shall determine the number of sworn law enforcement officers required to be on the premises to provide adequate security. In addition, the promoter shall be responsible for paying the local law enforcement agency for providing the security required under this section.

- (C) Proof of a bond or certificate of liability insurance in the amount of at least \$1,000,000, indemnifying the public against damages sustained as a result of holding any match or exhibition as described in this chapter. Such bond or certificate shall be subject to approval of the City Attorney.
- (D) The match or exhibition must be held in compliance with all other City of Madison Code of Ordinances.
- (E) The match or exhibition shall be controlled by officials and referees recognized by the sanctioning body, as recognized by the City Commission, for the particular sport in which the contestant is competing.
- (F) The provisions of this section shall not apply to any boxing, kickboxing or mixed martial arts match or exhibition conducted as part of an interscholastic or intercollegiate athletic program, or as part of an athletic program sponsored by or under the supervision of the National Athletic Union, Law Enforcement Athletic Leagues, or the United States Olympic Committee/USA Boxing in which all contestants are subject, or to any boxing, kickboxing, or mixed martial arts match or exhibition conducted under the control or supervision of the U.S. Armed Forces.

(Ord. No. 1505, 5-31-11)

Sec. 10-353. Permit Fees.

- (A) A fee of \$300 shall be required to be paid by cash or cashier's check.
- (B) Payment of fees tendered by check to the City which if dishonored for insufficient funds, or for any other reason, shall be cause for the City Commission or designee to cancel the permit issued or withhold issuance of additional permits.

(Ord. No. 1505, 5-31-11)

Sec. 10-354. Permit Review.

- (A) Upon submission of a completed application for an event permit under the City Commission or designee shall have 30 days to either approve or reject the permit application in open, regular session. A permit application shall be rejected unless the applicant makes an affidavit swearing that all of the itemized requirements will be met. The City Commission may attach additional conditions including, but not limited to, hours of operation, duration of the event, whether the event may be held indoors or outdoors, or other limitations deemed necessary for the health, safety, and welfare of the public.
- (B) Denial of a permit application by the City Commission may be appealed to the appropriate Circuit Court.

(Ord. No. 1505, 5-31-11)

10-355. Display of Permit and Match List.

The promoter of any boxing, kickboxing, or mixed martial arts match or exhibition shall be responsible for the display of the following items at the front entrance of the premises where the event is to occur:

- (A) The event permit;
- (B) The list of matched pairings of contestants and alternates for each match; and
- (C) An affidavit signed under penalty of perjury that the contestants were matched at least seven days in advance of the match or exhibition.

(Ord. No. 1505, 5-31-11)

10-356. Approval of Sanctioning Bodies.

- (A) The City Commission or designee shall approve an organization as a sanctioning body upon verification of the following:

- (1) The organization has adopted and agrees to enforce a defined set of rules that applies to all matches which will adequately protect the safety of the participants and the public; and
- (2) Those rules have been consistently adhered to during the course of all events approved by said organization for at least the last 5 years.

- (B) The organization approving and governing the matches or exhibitions must be approved by the City Commission in the particular sport involved in the match or exhibition being governed.

(Ord. No. 1505, 5-31-11)

10-357. Exhibitions Prohibited on Public Property.

All exhibitions and events described herein are prohibited on public property.

(Ord. No. 1505, 5-31-11)

10-358. Revocation.

- (A) The City Commission or designee may revoke a permit required under this chapter at any time if information is obtained after the permit is issued from which the City Commission or its designee may reasonably conclude that the permit should have been denied.

- (B) The City Commission or designee may revoke the permit if it finds:

- (1) The person, group, association, or body which had been authorized under the permit has deviated or will deviate from what was approved in the permit;
- (2) The contestants are violating the law or permit conditions; or
- (3) Other emergency conditions require the event to be concluded to protect public safety.

(Ord. No. 1505, 5-31-11)

10-359. Re-application.

No applicant may request a permit if the applicant is found to have been in violation of any of the provisions of this ordinance within the previous 12 months.

(Ord. No. 1505, 5-31-11)

10-360. Penalty.

- (A) Any person, firm, corporation or agent who shall fail to comply with any provision of this chapter, or cause same to be done, shall be guilty of a violation of this chapter. Violations of this chapter shall be punishable under Madison City Revised Ordinance Section 1-8.
- (B) Each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed or continued shall be deemed to be a separate offense punishable as provided by this chapter.
- (C) The City Commission shall have the authority to enforce the provisions of this chapter by injunction or other appropriate judicial writ or proceeding notwithstanding the fact that a violation of any of the provisions herein is subject to the penalties provided in division (A) above.
- (D) Whoever opposes, obstructs or resists any enforcement officer or any person authorized by the enforcement officer in the discharge of his or her duties as provided by this chapter shall be subject to the penalties provided herein.
- (E) This ordinance is in addition to any state statutes pertaining to the activities prescribed herein.

(Ord. No. 1505, 5-31-11)

[The next page is 2200]