



City of Covina/Successor Agency to the
Covina Redevelopment Agency/
Covina Public Finance Authority/
Covina Housing Authority

Mayor Kevin Stapleton – Mayor Pro Tem Walt Allen, III
Council Members Peggy Delach – John King – Bob Low

REGULAR MEETING AGENDA

125 E. College Street, Covina, California

Council Chamber of City Hall

Tuesday, September 4, 2012

6:30 p.m.

- As a courtesy to Council/Agency/Authority Members, staff and attendees, everyone is asked to silence all pagers, cellular telephones and any other communication devices.
- Any member of the public may address the Council/Agency/Authority during both the public comment period and on any scheduled item on the agenda. Comments are limited to a maximum of five minutes per speaker unless, for good cause, the Mayor/Chairperson amends the time limit. Anyone wishing to speak is requested to submit a yellow Speaker Request Card to the City Clerk; cards are located near the agendas or at the City Clerk's desk.
- Please provide 10 copies of any information intended for use at the Council/Agency/Authority meeting to the City Clerk prior to the meeting.
- MEETING ASSISTANCE INFORMATION: In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at (626) 384-5430. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.
- DOCUMENT AVAILABILITY: Any writings or documents provided to a majority of the Council/Agency/Authority regarding any item on this agenda will be made available for public inspection at the City Clerk's Office counter at City Hall located at 125 E. College Street and the reference desk at the Covina Library located at 234 North Second Avenue during normal business hours. In addition, such writings and documents are available in the City Clerk's Office and posted on the City's website at www.covinaca.gov.
- Pursuant to Government Code Section 54954.2, no matter shall be acted upon by the City Council/Successor Agency to the Covina Redevelopment Agency/Public Finance Authority/Covina Housing Authority unless listed on agenda, which has been posted not less than 72 hours prior to meeting.
- If you challenge in court any discussion or action taken concerning an item on this Agenda, you may be limited to raising only those issues you or someone else raised during the meeting or in written correspondence delivered to the City at or prior to the City's consideration of the item at the meeting.
- The Sr. Deputy City Clerk of the Covina City Council hereby declares that the agenda for the **August 21, 2012** meeting was posted on **August 16, 2012** near the front entrance of the City Hall, 125 East College Street, Covina, in accordance with Section 54954.2(a) of the California Government Code.

September 4, 2012

**CITY COUNCIL/SUCCESSOR AGENCY TO THE
COVINA REDEVELOPMENT AGENCY/
COVINA PUBLIC FINANCE AUTHORITY/COVINA HOUSING AUTHORITY
JOINT MEETING—CLOSED SESSION
6:30 p.m.**

CALL TO ORDER

ROLL CALL

Council/Agency/Authority Members Delach, King, Low, Mayor Pro Tem/Vice Chairperson Allen and Mayor/Chairperson Stapleton

PUBLIC COMMENTS

The Public is invited to make comment on Closed Session items only at this time. To address the Council/Agency/Authority please complete a yellow speaker request card located at the entrance and give it to the City Clerk. Your name will be called when it is your turn to speak. Individual speakers are limited to five minutes each.

The City Council/Successor Agency to the Covina Redevelopment Agency/Covina Public Finance Authority/Covina Housing Authority will adjourn to Closed Session for the following:

CLOSED SESSION

- A. G.C. §54957.6 – CONFERENCE WITH LABOR NEGOTIATOR
Agency representative: Marco A. Martinez, City Attorney
Unrepresented Employee Title: City Manager

- B. G.C. §54956.9(a) – CONFERENCE WITH LEGAL COUNSEL – Existing Litigation
Case name: City of Covina v. Hassen Imports Partnership
Case Number: KC 062804, Los Angeles Superior Court

RECESS

**CITY COUNCIL/SUCCESSOR AGENCY TO THE
COVINA REDEVELOPMENT AGENCY/
COVINA PUBLIC FINANCE AUTHORITY/COVINA HOUSING AUTHORITY
JOINT MEETING—OPEN SESSION
7:30 p.m.**

RECONVENE/CALL TO ORDER

ROLL CALL

Council/Agency/Authority Members Delach, King, Low, Mayor Pro Tem/Vice Chairperson Allen and Mayor/Chairperson Stapleton

PLEDGE OF ALLEGIANCE

Led by Mayor Stapleton

INVOCATION

Led by Covina Police Chaplain Dr. Patricia Venegas

PRESENTATIONS

- Presentations – Covina Police Officer Memorial
- Italian Catholic Federation fundraiser
 - Prospero Park fundraiser
 - San Gabriel Valley Postal Credit Union fundraiser

Daryl Parrish, City Manager, Update on Pension Reform Bill SB340

PUBLIC COMMENTS

To address the Council/Agency/Authority please complete a yellow speaker request card located at the entrance and give it to the City Clerk/Agency/Authority Secretary. Your name will be called when it is your turn to speak. Those wishing to speak on a LISTED AGENDA ITEM will be heard when that item is addressed. Those wishing to speak on an item NOT ON THE AGENDA will be heard at this time. State Law prohibits the Council/Agency/Authority Members from taking action on any item not on the agenda. Individual speakers are limited to five minutes each.

COUNCIL/AGENCY/AUTHORITY COMMENTS

Council/Agency/Authority Members wishing to make any announcements of public interest or to request that specific items be added to future City Council/Successor Agency to the Covina Redevelopment Agency/Public Finance Authority/Housing Authority Agendas may do so at this time.

CITY MANAGER COMMENTS

CONSENT CALENDAR

All matters listed under consent calendar are considered routine, and will be enacted by one motion. There will be no separate discussion on these items prior to the time the Council/Successor Agency to the Covina Redevelopment Agency/Public Finance Authority/Housing Authority votes on them, unless a member of the Council/Agency/Authority requests a specific item be removed from the consent calendar for discussion.

- CC 1.** City Council to approve the minutes from the August 21, 2012 regular meeting of the City Council/Successor Agency to the Covina Redevelopment Agency/Public Finance Authority/Housing Authority.
- CC 2.** City Council to adopt **Resolution No. 12-7093**, approving the amended Conflict of Interest Code.
- CC 3.** City Council to adopt **Resolution No. 12-7100**, accepting grant funding from the Office of Traffic Safety for traffic safety enforcement and training; and adopt **Resolution No. 7101**, authorizing an increase to the Police Department 2012-2013 budget in the amount of \$60,000.
- CC 4.** City Council to approve allocating the remaining available funds from fiscal year 2011-2012 to approve fiscal year 2012-2013 Community Development Block Grant (CDBG) programs; and adopt **Resolution No. 12-7102**, amending the fiscal year 2012-2013 City of Covina budget to reflect an appropriation of available funds for the Economic Development and Residential Rehabilitation program.
- CC 5.** City Council to adopt **Resolution No. 12-7103**, amending the fiscal year 2012-2013 City of Covina budget for the Community Facilities District.
- CC 6.** City Council to award the bid for heating/ventilation/air conditional (HVAC) preventative maintenance, Project No. F-1205.

PUBLIC HEARING

- PH 1.** City Council to hold public hearing, consider public testimony, introduce and waive further reading of an Ordinance amending certain sections on the Town Center Specific Plan to reclassify the sale of alcohol for on-site consumption by a restaurant or food service establishment from a permitted use to Conditional Use.

Staff Recommendation:

- 1) City Council to open the hearing and consider public testimony; and
- 2) City Council to introduce and waive further reading of **Ordinance No. 12-2011**, amending the Town Center Specific Plan to reclassify the sale of alcohol for on-site consumption by a restaurant or food service establishment from permitted use to conditional use.

CONTINUED BUSINESS

CB 1. City Council to consider second reading and adoption of an Ordinance for application ZCH 12-001, a Zone Change from C-3A Commercial to C-P Commercial.

Staff Recommendation:

- 1) City Council to consider second reading, thereby adopting **Ordinance No. 12-2012**, amending the Covina Zoning Map for property located at 535 South Second Avenue, to reflect the change of zone from C-3A Commercial to C-P Commercial.

NEW BUSINESS

NB 1. City Council to consider appointment to fill vacancy on the Covina Cultural Arts Advisory Commission.

Staff Recommendation:

- 1) City Council to consider suggested applicant, Lauren Tuma appointment to the Covina Cultural Arts Advisory Commission.

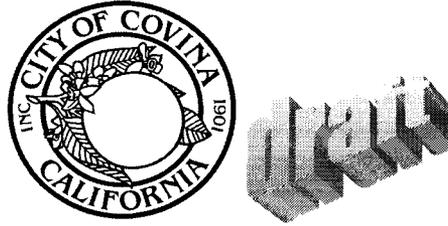
NB 2. City Council to consider adopting an Urgency Ordinance providing for the regulation of tattoo/body art practitioners and facilities within the City.

Staff Recommendation:

- 1) City Council to consider adopting **Urgency Ordinance No. 12-2013**, providing for the regulation of tattoo/body art practitioners and facilities within the City of Covina.

ADJOURNMENT

The Covina City Council/Successor Agency to the Covina Redevelopment Agency/Covina Public Finance Authority/Covina Housing Authority will adjourn to its next regular meeting, **Tuesday, September 18, 2012** at 6:30 p.m. for closed session and at 7:30 p.m. for open session in the Council Chamber located inside of City Hall, 125 East College Street, Covina, California, 91723.



MINUTES OF THE AUGUST 21, 2012 REGULAR MEETING OF THE COVINA CITY COUNCIL/SUCCESSOR AGENCY TO THE COVINA REDEVELOPMENT AGENCY /COVINA PUBLIC FINANCE AUTHORITY/COVINA HOUSING AUTHORITY HELD IN THE COUNCIL CHAMBER OF CITY HALL, 125 EAST COLLEGE STREET, COVINA, CALIFORNIA

CALL TO ORDER

Mayor Stapleton called the City Council/Successor Agency to the Covina Redevelopment Agency/Public Finance Authority/Housing Authority meeting to order at 6:39 p.m. All Council Members were present except for Council Member Low. City Attorney Marco Martinez announced the closed session items listed on the regular meeting agenda. There was no public comment.

ROLL CALL

Council Members Present: ALLEN, DELACH, KING, STAPLETON

Council Members Absent: LOW (with notice)

Elected Members Present: MANNING

Staff Members Present: Human Resources Director, City Attorney, Police Chief, Parks and Recreation/Library Director, Assistant to the City Manager, Finance Director, Public Works Director, Assistant Director of Public Works, Police Captain, City Planner, Sr. Human Resources Analyst, Sr. Management Analyst, Sr. Deputy City Clerk and Administrative Technician

AGENDA POSTING DECLARATION

The Sr. Deputy City Clerk of the City of Covina hereby declared that the agenda for the August 21, 2012 City Council/Successor Agency to the Covina Redevelopment Agency/Public Finance Authority/Housing Authority meeting was posted on August 16, 2012 near the front entrance of City Hall, 125 East College Street, Covina, in accordance with §54954.2(a) of the California Government Code.

CLOSED SESSION

- A. G.C. §54957.6 – CONFERENCE WITH LABOR NEGOTIATORS
 Agency representative: Anthony Arroyo, Human Resources Director
 Employee Organizations: A.F.S.C.M.E. – American Federation of State, County & Municipal Employees
 P.A.C. – Police Association of Covina
 P.M.G. – Police Management Group
 Executive Group
 Unaffiliated Employees
- B. G.C. §54957.6 – CONFERENCE WITH LABOR NEGOTIATOR
 Agency representative: Marco A. Martinez, City Attorney
 Unrepresented Employee Title: City Manager

RECONVENE THE MEETING

The City Council/Successor Agency to the Covina Redevelopment Agency/Public Finance Authority/Housing Authority meeting reconvened at 7:31 p.m.

City Attorney Marco Martinez reported City Council/Agency/Authority met in closed session to discuss the items listed on the regular meeting agenda. All members present except for Council Member Low. City Attorney Martinez reported there is no reportable action related to the closed session items.

PLEDGE OF ALLEGIANCE

Council Member King led the pledge of allegiance.

INVOCATION

Covina Police Chaplain Dave Truax gave the invocation.

PRESENTATIONS

Mayor Stapleton invited George Peterson, President of the Covina Downtown Association to the lectern. Mr. Peterson presented Police Chief Raney with a \$1,000 fundraiser check towards the Covina Police Memorial Project.

Katrina Moramarco, Executive Director of the Miss Covina Scholarship Pageant Organization highlighted Miss Covina Sarah Gleason's recent trip to the Miss California pageant. Miss Gleason provided an update on her many community activities.

Mayor Stapleton, along with Mayor Pro Tem Allen, invited Deane Salter of Reynolds Buick to the lectern and presented him with a certificate for being recognized by the Guinness Book of World Records for serving as the longest continuous car salesperson for over 55 years at the same car dealership.

PUBLIC COMMENTS

Tony Olaerts, Covina resident, spoke regarding concerns he is having with his former landlord and the Covina Police Department.

Mayor Stapleton suggested that Mr. Olaerts speak with Captain Povero, who is in the audience.

Public Works Director Steve Henley stated he is retiring at the end of August and publically thanked Council for the friendship and support given to the Public Works Department.

Dale Kvnes, Covina resident and employee, expressed his appreciation to the City Council, Public Works Director Steven Henley and Assistant Director of Public Works Kalieh Honish. He wished Steve Henley the best in retirement.

Ray Blair stated he is here to report curb and gutter repairs needed to correct standing water issues in front of the property located at 1146 Fenimore Avenue. Mr. Blair presented photos and a street repair petition signed by Fenimore residents.

COUNCIL/AGENCY/AUTHORITY COMMENTS

Council Member King spoke on the success of the Dare to Care event. Council Member King spoke on the memorial services for Lance Cpl. Marine Curtis J. Duarte, giving a special thanks to Kay Manning and members of the Yellow Ribbon Committee. Council Member King wished his wife of 25 years, happy anniversary.

Council Member Delach stated the Dare to Care event gets better every year and gave accolades to those that worked the event. Council Member Delach thanked Kay Manning for her efforts with the memorial services for Lance Cpl. Marine Curtis Duarte.

Mayor Pro Tem Allen thanked Steve Henley for his service to the City and no-nonsense, can-do attitude when working with City Council. Mayor Pro Tem Allen thanked the many people that assisted with the Dare to Care event.

Mayor Stapleton noted that a new restaurant located on Citrus Avenue, Stella Dog, is now open. Mayor Stapleton recognized Mark Cook, Citrus Taco Bell restaurant owner, for supporting many City events. Mayor Stapleton thanked Steve Henley for an outstanding job as Director.

Mayor Stapleton reminded everyone that City offices are closed on Monday, September 3, 2012 in observation of the Labor Day holiday.

Mayor Stapleton announced that on Saturday, September 8, 2012, from 2:00 p.m. to 6:00 p.m., the Covina Yellow Ribbon Committee would host the 3rd Annual Car Show. For additional information, contact Kay Manning at covinayellowribbon@hotmail.com or (626) 260-6855.

Mayor Stapleton announced *Covina Day* at the Los Angeles County Fair would be held on Saturday, September 22, 2012.

CITY MANAGER COMMENTS

None.

CONSENT CALENDAR

On a motion made by Council Member Delach, seconded by Council Member King, the City Council/Successor Agency to the Covina Redevelopment Agency/Public Finance Authority/Housing Authority approved Consent Calendar items CC1, CC2, CC3, CC4, CC5, CC6, CC7, CC8, CC9, CC10, CC11, CC12, CC13, CC14, CC15, CC16, CC17, CC18, CC19, CC20 and CC21. **Motion carried 4-0, with Council Member Low absent.**

CC 1. City Council approved the minutes from the July 17, 2012 regular meeting of the City Council/Successor Agency to the Covina Redevelopment Agency/Public Finance Authority/Housing Authority.

- CC 2. City Council approved the minutes from the August 7, 2012 special meeting of the City Council/Successor Agency to the Covina Redevelopment Agency/Public Finance Authority/Housing Authority.
- CC 3. City Council received and filed the City of Covina strategic plan update.
- CC 4. City Council received and filed the Public Works Department monthly activity report.
- CC 5. City Council received and filed the Quarterly Report of the Treasurer to the City Council for the quarter ended June 30, 2012.
- CC 6. City Council approved the Payment of Demands in the amount of \$3,861,673.64.
- CC 7. City Council approved the creation of a Reserve Police Officer position.
- CC 8. City Council approved the job specifications for Senior Public Safety Dispatcher and Senior Police Records Clerk.
- CC 9. City Council approved the creation of a Senior Housing & CDBG Economic Development Manager position.
- CC 10. City Council adopted **Resolution No. 12-7087**, authorizing the destruction of obsolete records for the Finance Department for fiscal year ended June 30, 2012.
- CC 11. City Council adopted **Resolution No. 12-7088**, authorizing the destruction of obsolete records related to Community Development Block Grant for fiscal years prior to 2006-2007.
- CC 12. City Council adopted **Resolution No. 12-7090**, authorizing the destruction of obsolete records for the Successor Agency to the Covina Redevelopment Agency for fiscal year ended June 30, 2012.
- CC 13. City Council adopted **Resolution No. 12-7091**, authorizing the destruction of obsolete records for the City Clerk's Office for fiscal year ended June 30, 2012.
- CC 14. City Council adopted **Resolution No. 12-7094**, accepting reprogrammed grant funding from the 2009 California Homeland Security Grant Program (SHSGP) in the amount of \$165,387 for the purchase of UHF portable radios; and adopted **Resolution No. 12-7095**, authorizing an increase of \$165,387 in the 2012-2013 Police Department budget to reflect an appropriation to purchase UHF portable radios.
- CC 15. City Council adopted **Resolution No. 12-7096**, accepting grant funding from the Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, Edward Byrne Memorial Justice Assistance Grant (JAG) Program Local Solicitation for fiscal year 2012; and adopted **Resolution No. 12-7097**, amending the Police Department 2012-2013 budget by \$12,477 resulting from a grant award by the Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, Edward Byrne Memorial Justice Assistance Grant (JAG) Program local solicitation for fiscal year 2012.

- CC 16.** City Council adopted **Resolution No. 12-7098**, establishing the 2012-2013 Appropriation Limit for the City of Covina.
- CC 17.** Successor Agency to the Covina Redevelopment Agency received and filed the Quarterly Report of the Treasurer to the Successor Agency to the Covina Redevelopment Agency for the Quarter ended June 30, 2012.
- CC 18.** Successor Agency to the Covina Redevelopment Agency approved the Payment of Demands in the amount of \$267,287.42.
- CC 19.** Covina Housing Authority/City of Covina as Successor Agency to the Covina Redevelopment Agency approved and authorized the City Manager/Executive Director, or his designee, to enter into a Financial Assistance and Cooperation Agreement for services between the Successor Agency and the Authority; and adopted Successor Agency **Resolution No. 12-007**, approving a Financial Assistance and Cooperation Agreement with the Covina Housing Authority; and adopted Authority **Resolution No. 12-006**, approving a Financial Assistance and Cooperation Agreement with the Successor Agency to the Covina Redevelopment Agency.
- CC 20.** City Council approved the amendment to extend the term of the City Manager's employment agreement.
- CC 21.** City Council adopted **Resolution No. 12-7099**, establishing the 2011-2012 Appropriation Limit for the City of Covina.

PUBLIC HEARING

- PH 1.** Public hearing was before City Council to introduce and waiver further reading of **Ordinance No. 12-2012**, to consider and application ZCH 12-001, a Zone Change from C-3A Commercial (Regional/Community Shopping Center) to C-P Commercial (Administrative and Professional Office) to permit AltaMed Health Services Corporation to operate a facility upon property located at 535 South Second Avenue, Covina.

At 8:21 p.m., Mayor Stapleton opened the public hearing and took public testimony. There was no comment. At 8:21 p.m., Mayor Stapleton closed the public hearing.

On a motion made by Council Member King, seconded by Council Member Delach, the City Council waived further reading and introduced **Ordinance No. 12-2012**, for application ZCH 12-001, a Zone Change from C-3A Commercial (Regional/Community Shopping Center) to C-P Commercial (Administrative and Professional Office). **Motion carried 4-0, with Council Member Low absent.**

- PH 2.** Public hearing was before City Council to consider adopting **Resolution No. 12-7092**, finding the City to be in conformance with the Congestion Management Program (CMP) and adopting the CMP Local Development Report in accordance with California Government Code Section 65089.

At 8:22 p.m., Mayor Stapleton opened the public hearing and took public testimony.

Assistant Director of Public Works Kalieh Honish provided a brief report of the item for consideration by Council.

There was no public comment. At 8:23 p.m., Mayor Stapleton closed the public hearing.

On a motion made by Council Member Delach, seconded by Mayor Pro Tem Allen, the City Council adopted **Resolution No. 12-7092**, finding the City to be in conformance with Congestion Management Program (CMP) and adopting the CMP Local Development Report. **Motion carried 4-0, with Council Member Low absent.**

ADJOURNMENT

The Covina City Council/Successor Agency to the Covina Redevelopment Agency/Covina Public Finance Authority/Covina Housing Authority adjourned to its next regular meeting of the Council/Agency/Authority, **Tuesday, September 4, 2012**, at 6:30 p.m. for closed session and 7:30 p.m. for open session in the Council Chamber located inside of City Hall, Covina, California, 91723.

Respectfully Submitted:

Catherine M. LaCroix, CMC
Senior Deputy City Clerk

Approved this 4th day of September, 2012.

Mayor/Chairperson Stapleton

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: September 4, 2012

ITEM NO.: CC 2

STAFF SOURCE: Daryl J. Parrish, City Manager *DP*
Anthony Arroyo, Human Resources Director
Catherine LaCroix, Sr. Deputy City Clerk *CLC*

ITEM TITLE: Adoption of Resolution approving the amended Conflict of Interest Code

STAFF RECOMMENDATION

Staff recommends that the City Council adopt **Resolution No. 12-7093**, approving an amended Conflict of Interest Code (the "Code") pursuant to the Political Reform Act of 1974.

FISCAL IMPACT

There is no direct fiscal impact associated with this item.

BACKGROUND

The City's Conflict of Interest Code was first adopted in June 1977 and since that time, all designated Covina City Employees have filed Statement of Economic Interests annually with the City Clerk's Office.

The Political Reform Act, pursuant to Government Code §87300, requires every local government agency review its Conflict of Interest Code biennially to determine if it is accurate or, alternatively, to amend the Code. Circumstances within the City have made it advisable and necessary, pursuant to Government Code §87306 and 87037, to amend and update the Code.

Attached are the proposed amendments of the Conflict of Interest Code, a legislative version of the Conflict of Interest Code and the adopting Resolution. If approved, the effective date of the amendments is October 4, 2012. Proper noticing has been provided in accordance with the law. A copy of the proposed amended Code is available for review in the City Clerk's Office.

RELEVANCE TO THE STRATEGIC PLAN

Not applicable.

EXHIBITS

- A. Resolution No. 12-7093
- B. Final version of Conflict of Interest Code
- C. Summary of revisions to Conflict of Interest Code

REVIEW TEAM ONLY	
City Attorney: <i>[Signature]</i>	Finance Director: <i>[Signature]</i>
City Manager: <i>[Signature]</i>	Other: <i>[Signature]</i>

RESOLUTION NO. 12-7093

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COVINA,
CALIFORNIA, APPROVING AND ADOPTING AN AMENDED
CONFLICT OF INTEREST CODE PURSUANT TO THE POLITICAL
REFORM ACT OF 1974**

WHEREAS, the State of California enacted the Political Reform Act of 1974, Government Code Section 81000, et seq. (the “Act”), which contains provisions relating to conflicts of interest governing officers, employees and consultants of the City of Covina (the “City”), and which requires all public agencies to adopt and promulgate a conflict of interest code; and

WHEREAS, the City Council adopted a Conflict of Interest Code (the “Code”) which was amended on December 7, 2010, in compliance with the Act; and

WHEREAS, changed circumstances within the City have made it advisable and necessary pursuant to Sections 87306 and 87307 of the Act to amend and update the City’s Conflict of Interest Code; and

WHEREAS, the potential penalties for violation of the provisions of the Act are significant and may include criminal and civil liability, as well as equitable relief which could result in the City being restrained or prevented from acting in cases where the provisions of the Act may have been violated; and

WHEREAS, notice of the time and place of a public meeting on, and of consideration by the City Council of, the proposed amended Code was provided to each affected designated employee and was publicly posted for review at the Office of the City Clerk; and

WHEREAS, a public meeting was held regarding the proposed amended Code at a regular meeting of the City Council on September 4, 2012, at which all persons present were given an opportunity to be heard on the proposed amended Code.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Covina, California, as follows:

1. The City Council does hereby approve and adopt the proposed amended Conflict of Interest Code, a copy of which is attached hereto as “Exhibit A” and which shall remain on file with the Senior Deputy City Clerk, and which shall be made available to the public for inspection and copying during regular business hours.
2. The said amended Conflict of Interest Code shall become effective thirty (30) days after the date of its adoption and approval.
3. The City Clerk shall certify to the adoption of this Resolution.

PASSED AND ADOPTED this 4th day of September, 2012.

Kevin Stapleton, Mayor

ATTEST:

Kay Manning, City Clerk

APPROVED AS TO FORM;

Marco A. Martinez, City Attorney

CERTIFICATION

I, Catherine M. LaCroix, Senior Deputy City Clerk of the City of Covina, California, do hereby certify that the forgoing Resolution No. 12-7093 was introduced and adopted by the Covina City Council at a regular meeting thereof held on the 4th of September, 2012, by the following vote of the Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

Catherine M. LaCroix, Sr. Deputy City Clerk

CONFLICT OF INTEREST CODE
FOR THE
CITY OF COVINA

CONFLICT OF INTEREST CODE OF THE CITY OF COVINA

(Amended September 4, 2012)

The Political Reform Act (Gov. Code § 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. § 18730) that contains the terms of a standard conflict of interest code which can be incorporated by reference in an agency's code. After public notice and hearing Section 18730 may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This incorporation page, Regulation 18730, and the attached Appendix designating positions and establishing disclosure categories, shall constitute the conflict of interest code of the **City of Covina (the "City")**.

All officials and designated positions required to submit a statement of economic interests shall file their statements with the **Senior Deputy City Clerk** as the City's Filing Officer. The **Senior Deputy City Clerk** shall make and retain a copy of all statements filed by the Mayor, Members of the City Council and Planning Commission, the City Treasurer, City Attorney, and City Manager, and forward the originals of such statements to the Fair Political Practices Commission. The **Senior Deputy City Clerk** shall retain the originals of the statements filed by all other officials and designated positions and will make all statements available for public inspection and reproduction during regular business hours (Gov. Code Section 81008).

APPENDIX

CONFLICT OF INTEREST CODE

OF THE

CITY OF COVINA

(Amended September 4, 2012)

EXHIBIT "A"

The Mayor, Members of the City Council and Planning Commission, the City Manager, the City Attorney, the City Treasurer, and all Other City Officials who manage public investments as defined by 2 Cal. Code of Regs. § 18701(b), are NOT subject to the City's Code but must file disclosure statements under Government Code Section 87200 et seq. [Regs. § 18730(b)(3)]

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

It has been determined that the positions listed below are Other City Officials who manage public investments¹.

These positions are listed here for informational purposes only:

Finance Director

Financial Consultant

¹ Individuals holding one of the above-listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by § 87200.

DESIGNATED POSITIONS

GOVERNED BY THE CONFLICT OF INTEREST CODE

<u>DESIGNATED POSITIONS'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
Accounting Supervisor	4
Assistant City Manager	1, 2,
Assistant Community Development Director	1, 2
Assistant Planner	2,6
Assistant Director of Public Works	2, 3, 5
Assistant to the City Manager	1, 2
Associate Civil Engineer	2, 3, 5, 6
Associate Planner	1,2
Building Official	5, 6
Business License Technician	5, 6
Chief Deputy City Clerk	5
City Attorney (not filing under GC 87200)	1, 2
City Clerk	5
City Engineer	1, 2
City Planner	1,2
Director of Community Development/Deputy Director of CRA	1, 2
Community Relations Supervisor	5
Community Resources Coordinator	5
Community Resources Specialist	5
Community Services Supervisor	5
Senior IT Coordinator	5
Construction Inspector I/II	6
Deputy Building Official	5, 6
Deputy City Clerk (All)	5
Director of Library Services	5
Environmental Services Manager	5

DESIGNATED POSITIONS'
TITLE OR FUNCTION

DISCLOSURE CATEGORIES
ASSIGNED

Equipment Maintenance Supervisor	5
Finance Manager	4
General Building Inspector I/II	6
Human Resources Analyst	5
Human Resources Director	5
Human Resources Manager	5
Information Technology Coordinator	5
Information Technology Services Manager	5
Library Circulation Supervisor	5
Literacy Program Coordinator	5
Management Analyst	4
Marketing Manager	1, 2
Parks & Recreation Director	2, 3, 5
Parks & Recreation Manager	5
Parks Foreman	5
Parks Maintenance Supervisor	5
Plan Checker	6
Police Captain	5
Police Chief	5
Police Lieutenant	5
Police Records Supervisor	5
Principal Librarian	5
Printing and Central Services Specialist	5
Public Information Supervisor	5
Public Safety Communications Supervisor	5
Public Works Director	1, 2
Public Works Manager	5
Public Works Superintendent	5
Recreation Services Coordinator	5

DESIGNATED POSITIONS'
TITLE OR FUNCTION

DISCLOSURE CATEGORIES
ASSIGNED

Recreation Services Supervisor	5
Risk Manager	5
Senior Equipment Mechanic	5
Senior General Building Inspector	5, 6
Senior Human Resources Analyst	5
Senior Librarian	5
Senior Management Analyst	4
Senior Planner	1, 2
Street Maintenance Foreman	5
Water Maintenance Supervisor	5
Water Services Supervisor	5

MEMBERS OF BOARDS,
COMMITTEES AND COMMISSIONS

Cultural Arts Advisory Commission	5
Historic Preservation Board	1, 2
Housing & Community Development Advisory Commission	1, 2
Oversight Board to Successor Agency	1, 2
Parking Place Commission	1, 2
Public Library Board	1, 2
Successor Agency	1, 2

Consultants and New Positions²

² Individuals serving as a consultant as defined in FPPC Reg 18701 or in a new position must file the broadest disclosure category set forth in this Code subject to the following limitation:

The City Manager may determine that, due to the range of duties or contractual obligations, it is more appropriate to designate a limited disclosure requirement. A clear explanation of the duties and a statement of the extent of the disclosure requirements must be in a written document. The City Manager's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

EXHIBIT “B”

DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of economic interests that the designated position must disclose for each disclosure category to which he or she is assigned.

Category 1: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are located in, do business in, or own real property within the jurisdiction of the City.

Category 2: All interests in real property which is located in whole or in part within, or not more than two (2) miles outside the jurisdiction of the City.

Category 3: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are engaged in land development, construction, or the acquisition or sale of real property within the jurisdiction of the City.

Category 4: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the City.

Category 5: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the designated position's department, unit or division.

Category 6: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are subject to the regulatory, permit, or licensing authority of the designated position's department, unit or division.

LEGISLATIVE VERSION
(showing changes made)

CONFLICT OF INTEREST CODE

FOR THE

CITY OF COVINA

BBK - ~~December 2010~~ July 2012

EXHIBIT C - 9 pages total

**CONFLICT OF INTEREST CODE
OF THE
CITY OF COVINA**

(Amended September 4, 2012)

The Political Reform Act (Government Code Section ~~§~~ 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. § 18730) ~~which~~ that contains the terms of a standard conflict of interest code which can be incorporated by reference in an agency's code. After public notice and hearing ~~it~~ Section 18730 may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations ~~Section~~ section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This incorporation page, regulation ~~Regulation~~ 18730, and the attached Appendix designating ~~officials and employees~~ positions and establishing disclosure categories, shall constitute the conflict of interest code of the **City of Covina (the "City")**.

All officials and designated positions required to submit a statement of economic interests shall file their statements with the **Chief Deputy City Clerk** as the City's Filing Officer. The ~~Filing~~ Senior Deputy City Clerk shall make and retain a copy of all statements filed by the Mayor, Members of the City Council and Planning Commission, the City Treasurer, City Attorney, and City Manager, and forward the originals of such statements to the Fair Political Practices Commission. The **Filing Officer Senior Deputy City Clerk** shall retain the originals of the statements ~~of~~ filed by all other officials ~~who manage public investments and Designated Employees~~ and designated positions. ~~The Filing Officer~~ and will make all ~~retained~~ statements available

LAW OFFICES OF
BEST BEST & KRIEGER LLP

LEGISLATIVE VERSION

(SHOWS CHANGES MADE)

for public inspection and reproduction during regular business hours (Gov. Code Section 81008).

APPENDIX

CONFLICT OF INTEREST CODE OF THE CITY OF COVINA

(Amended ~~December 7, 2010~~ September 4, 2012)

EXHIBIT "A"

The Mayor, Members of the City Council and Planning Commission, the City Manager, the City Attorney, the City Treasurer, and all Other City Officials who manage public investments as defined by 2 Cal. Code of Regs. § 18701(b), are NOT subject to the City's Code but ~~are subject to the disclosure requirements of the Act. (must file disclosure statements under Government Code Section 87200 et seq.)~~ [Regs. § 18730(b)(3)]

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

It has been determined that the positions listed below are Other City Officials who manage public investments¹.

These positions are listed here for informational purposes only:

Finance Director

Financial Consultant

¹ Individuals holding one of the above-listed positions may contact the FPPC Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The FPPC Political Practices Commission makes the final determination whether a position is covered by § 87200.

DESIGNATED POSITIONS

GOVERNED BY THE CONFLICT OF INTEREST CODE

<u>DESIGNATED EMPLOYEES' POSITIONS'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
<u>Accounting Supervisor</u>	4
Assistant City Manager	1, 2,
Assistant Community Development Director	1, 2
Assistant Planner	2,6
Assistant <u>Director of Public Works Director</u>	2, 3, 5
Assistant to the City Manager	1, 2
Associate Civil Engineer	2, 3, 5, 6
Associate Planner	1,2
Building and Code Enforcement Coordinator	6
Building Inspector	3, 6
Building Official	5, 6
Business License Technician	5, 6
Chief Deputy City Clerk	5
City Attorney (not filing under GC 87200)	1, 2
City Clerk	5
City Engineer	1, 2
City Planner	1,2
<u>Director of Community Development Director/Deputy Director of CRA</u>	1, 2
Community Relations Supervisor	5
<u>Community Resources Coordinator</u>	5
<u>Community Resources Specialist</u>	5
Community Services Supervisor	5
Computer Systems Analyst <u>Senior IT Coordinator</u>	5
<u>Construction Inspector I/II</u>	6

BEST BEST & KRIEGER
ATTORNEYS AT LAW

DESIGNATED POSITIONS'
TITLE OR FUNCTION

DISCLOSURE CATEGORIES
ASSIGNED

Deputy Building Official	5, 6
Deputy City Clerk <u>(All)</u>	5
Deputy Director CRA	1, 2
Director of Library Services	5
Environmental Services Manager	5
Equipment Foreman <u>Maintenance Supervisor</u>	5
Finance Manager	4
General Building Inspector <u>I/II</u>	6
Human Resources Analyst	5
Human Resources Director	5
Human Resources Manager	5
<u>Information Technology Coordinator</u>	<u>5</u>
Information Technology <u>Services Manager</u>	5
Library Circulation Supervisor	5
Literacy <u>Program</u> Coordinator	5
Management Analyst	4
Marketing Manager	1, 2
Network Supervisor	5
Parks & Recreation Director/ <u>Library Director</u>	2, 3, 5
Parks & Recreation Manager	5
Parks Foreman	5
Parks Maintenance Supervisor	5
Plan Checker	6
Police Captain	5
Police Chief	5
Police Lieutenant	5
Police Records Supervisor	5
Principal Librarian	5

DESIGNATED POSITIONS'
TITLE OR FUNCTION

DISCLOSURE CATEGORIES
ASSIGNED

Printing and Central Services Specialist	5
Public Information Supervisor	5
Public Safety Communications Supervisor	5
Public Works Director	1, 2
Public Works Manager	5
Public Works Superintendent	5
Recreation Services Coordinator	5
Recreation Services Supervisor	5
Redevelopment Manager	1, 2
Risk Manager	5
Senior Equipment Mechanic	5
Senior General Building Inspector	5, 6
Senior Human Resources Analyst	5
Senior Information Technology Coordinator	5
Senior Librarian	5
Senior Management Analyst	4
Senior Planner	1, 2
Senior Redevelopment Manager	1, 2
Street Maintenance Foreman	5
Support Services Manager	5
Water Maintenance Supervisor	5
Water Services Supervisor	5

MEMBERS OF BOARDS,
COMMITTEES AND COMMISSIONS

Cultural Arts Advisory Commission	5
Historic Preservation Board	1, 2
Housing & Community Development Advisory Commission	1, 2

DESIGNATED POSITIONS'
TITLE OR FUNCTION

DISCLOSURE CATEGORIES
ASSIGNED

<u>Oversight Board to Successor Agency</u>	<u>1, 2</u>
Public Library Board	1, 2
Parking Place Commission	1, 2
<u>Successor Agency</u>	<u>1, 2</u>

Consultants and New Positions ²

² ~~Consultants shall be included in the list of Designated Employees and shall disclose pursuant to Individuals serving as a consultant as defined in FPPC Reg 18701 or in a new position must file the broadest disclosure category set forth in this Code subject to the following limitation:~~

~~The City Manager may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this Section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. that, due to the range of duties or contractual obligations, it is more appropriate to designate a limited disclosure requirement. A clear explanation of he duties and a statement of the extent of the disclosure requirements must be in a written document. The City Manager's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.~~

EXHIBIT "B"

DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of ~~investments, business entities, sources of income, including gifts, loans and travel payments, or real property~~ economic interests that the Designated Employee position must disclose for each disclosure category to which he or she is assigned.

Category 1: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are located in, do business in, or own real property within the jurisdiction of the City.

Category 2: All interests in real property which is located in whole or in part within, or not more than two (2) miles outside the jurisdiction of the City.

Category 3: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are engaged in land development, construction, or the acquisition or sale of real property within the jurisdiction of the City.

Category 4: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, ~~supplies~~ products, materials, machinery, vehicles or equipment of a type purchased or leased by the City.

Category 5: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, ~~supplies~~ products, materials, machinery, vehicles or equipment of a type purchased or leased by the ~~Designated Employee's~~ position's department, unit or division.

Category 6: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are subject to the regulatory, permit, or licensing authority of the ~~Designated Employee's~~ position's department, unit or division.

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: September 4, 2012

ITEM NO.: CC3

STAFF SOURCE: Kim Raney, Chief of Police 

ITEM TITLE: Resolution of the City Council of the City of Covina, County of Los Angeles, State of California, to accept grant funding from the Office of Traffic Safety for traffic safety enforcement and training.

STAFF RECOMMENDATION:

1. Adopt **Resolution No. 12-7100** to accept grant funding from the Office of Traffic Safety for traffic safety enforcement and training.
2. Adopt **Resolution No. 12-7101** which authorizes an increase to the Police Department 2012-2013 budget in the amount of \$60,000.
3. Authorize the City Manager or his designee to execute the grant documents on behalf of the City of Covina.

FISCAL IMPACT:

There is no additional appropriation needed from the general fund; however, the adoption of this resolution will increase the Police Department's expenditure account 22301130 50030 STEP by \$60,000 and the revenue account 22301130 42190 STEP by \$60,000 which is the amount allocated for the City of Covina Police Department.

BACKGROUND:

On July 27, 2012, the Covina Police Department received notification that we had received approval for our grant funding request through the Office of Traffic Safety (OTS) in the amount of \$60,000. This grant funding will be utilized for selected traffic safety enforcement programs, such as Driving Under the Influence, Pedestrian in a Crosswalk, Suspended License and Unlicensed Driver enforcement patrols. In the past, the police department has utilized OTS grant funds for similar programs such as crosswalk stings and roving DUI cars and had a great deal of success enforcing traffic safety laws and making the streets of Covina safer.

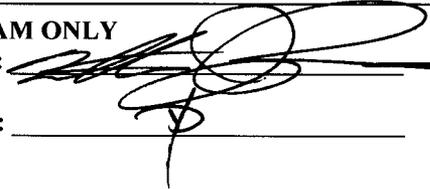
RELEVANCE TO THE STRATEGIC PLAN:

None

EXHIBITS:

- A. Copy of confirmation letter dated July 27, 2012
- B. Resolution No. 12-7100
- C. Resolution No. 12-7101

REVIEW TEAM ONLY

City Attorney: 

Finance Director: 

City Manager: _____

Other: _____

OFFICE OF TRAFFIC SAFETY

2208 KAUSEN DRIVE, SUITE 300
ELK GROVE, CA 95758
www.ots.ca.gov
(916) 509-3030
(800) 735-2929 (TT/TDD-Referral)
(916) 509-3055 (FAX)



July 27, 2012

Grant No. PT1304

John Malinoski
Traffic Investigator
Covina Police Department
444 North Citrus Avenue
Covina, CA 91723

Dear Investigator Malinoski:

Congratulations! Through a competitive process, the Office of Traffic Safety (OTS) has tentatively approved your funding request for the proposal titled "Selective Traffic Enforcement Program" in the amount of approximately \$60,000.00.

Your OTS Coordinator will contact you to discuss your proposal and explain the Grant Agreement process. It is our goal to have all new grants start no later than October 1, 2012. If approval from your City Council or Board of Supervisors is required, you should begin that process now. Do not incur grant reimbursable costs prior to the receipt of your official approval packet from OTS or before your grant start date.

OTS will initiate a statewide media news release regarding 2013 proposals selected for funding. Your agency should not publically announce this tentative award until the grant agreement is fully negotiated and signed by OTS.

Again, congratulations on the success of your proposal. If you have any questions, please contact Karen Coyle, Regional Coordinator, at (916) 509-3012 or e-mail at karen.coyle@ots.ca.gov.

Sincerely,

A handwritten signature in black ink that reads "Chris Murphy".

CHRISTOPHER J. MURPHY
Director

KC:kn

RESOLUTION NO. 12-7100

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
COVINA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA,
TO ACCEPT \$60,000 IN FUNDING RESULTING FROM A GRANT
AWARD BY THE OFFICE OF TRAFFIC SAFETY.**

WHEREAS, the City of Covina is a municipal corporation duly organized and existing pursuant to the Constitution and laws of the State of California (“City”); and

WHEREAS, the City of Covina was notified of funding approval from the Office of Traffic Safety, Grant No. PT1304 in the amount of \$60,000 on July 27, 2012; and

WHEREAS, these funds will be for used for the Selective Traffic Enforcement Program proposal submitted and approved by the Office of Traffic Safety; and

WHEREAS, the acceptance of this award may be made by the City Manager or his designee and shall be by approval and Resolution of the City Council;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the City Council of the City of Covina, as follows:

SECTION 1. The City Clerk shall certify to the adoption of this resolution.

PASSED, APPROVED AND ADOPTED this 4th DAY OF September 2012.

Kevin Stapleton, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM;

Marco Martinez, City Attorney

RESOLUTION NO. 12-7101

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COVINA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, TO INCREASE THE POLICE DEPARTMENT 2012-2013 BUDGET BY \$60,000 RESULTING FROM A GRANT AWARD BY OFFICE OF TRAFFIC SAFETY.

WHEREAS, the City of Covina is a municipal corporation duly organized and existing pursuant to the Constitution and laws of the State of California (“City”); and

WHEREAS, the City of Covina was notified of funding approval from the Office of Traffic Safety, Grant No. PT1304 in the amount of \$60,000 on July 27, 2012; and

WHEREAS, accepting this award will increase the Police Department’s appropriation and revenue accounts by the same amount; and

WHEREAS, the reallocation of appropriations may be made by the City Manager, amendments (increases/decreases) to the Budget shall be by approval and Resolution of the City Council;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the City Council of the City of Covina, as follows:

SECTION 1. Amend the fiscal year 2012-2013 Police Department Budget as follows:

Appropriation account	XXXX-1130-50030	\$60,000
Revenue account	XXXX-1130-42090	\$60,000

SECTION 2. The City Clerk shall certify to the adoption of this resolution.

PASSED, APPROVED AND ADOPTED this 4th DAY OF September 2012.

Kevin Stapleton, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM;

Marco Martinez, City Attorney

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: September 4, 2012

ITEM NO.: CC 4

STAFF SOURCE: Dilu de Alwis, Finance Director
Debbie Pacheco, Senior Management Analyst

ITEM TITLE: Approve allocating the remaining available funds from Fiscal Year 2011-2012 to approved FY 2012-2013 CDBG programs.

STAFF RECOMMENDATION

- a. Approve the allocation of available Community Development Block Grant (CDBG) funds from FY 2011-2012 to approved FY 2012-2013 CDBG programs, and when approved by the Los Angeles County Community Development Commission, authorize the City Manager or his designee to execute related documents.
- b. City Council to adopt **City Resolution 12-7102**, amending the fiscal year 2012-2013 City of Covina budget to reflect an appropriation of \$399,786 from the Community Development Block Grant available funds to provide program funding for the Economic Development and the Residential Rehabilitation programs.

FISCAL IMPACT

Funds are budgeted through the federal CDBG account, as follows; \$323,961 will be drawn down from available funds in the CDBG program and will be transferred to Account 2100-4750-07-42050 and 2100-4750-07-53750, and \$75,825 will be drawn down from available funds in the CDBG program and will be transferred to Account 2100-4850-00-42050 and 2100-4850-00-53750.

BACKGROUND:

Staff is recommending that the remaining unspent and unallocated fiscal year 2011-2012 CDBG funds in the amount of \$399,786 be re-allocated as follows in the approved CDBG program budget for FY 2012-2013:

Economic Development Program: add \$323,961 for a total budget of \$482,530;

Residential Rehabilitation Program: add \$75,825 for a total budget of \$176,208.

Economic Development Program

Staff's outreach for the Economic Development Program has led to quite a number of meetings with businesses interested in participating in the program. Staff will continue to market the program to let the business community know that funds are available for qualified businesses for job creation for low-to moderate income persons.

Of the businesses already approved and active in the program, the businesses associated with the four loan/grants approved for participation in late Fiscal Year 2011-2012 did not expend all their funds, and will be expending the balance of their funds in the current fiscal year. Another two businesses were approved in August 2012, and have just begun to expend funds.

Residential Rehabilitation Program

Staff has a list of approximately 45 residents that are waiting for assistance through the Residential Rehabilitation program. This program assists homeowners who are low income to remain in their homes by addressing and repairing health and safety concerns, and also helps maintain the aging housing stock in the City.

Staff is currently working with three residents and hopes to assist three more residents by the end of the year. The process is slow as lead-based paint and asbestos testing and remediation must take place in the renovation. Homes with health and safety concerns are given priority.

RELEVANCE TO THE STRATEGIC PLAN

Providing funds for Economic Development will assist the financial viability of local businesses and will enhance the financial stability of the City.

EXHIBITS

A. City Resolution 12-7102.

REVIEW TEAM ONLY	
City Attorney: 	Finance Director: 
City Manager: 	Other: _____

RESOLUTION NO. 12-7102

**A RESOLUTION OF THE CITY OF COVINA AMENDING
THE FISCAL YEAR 2012-2013 CITY OF COVINA BUDGET
TO APPROVE APPROPRIATION OF CDBG REVENUE
AND EXPENDITURES FOR RESIDENTIAL
REHABILITATION AND ECONOMIC DEVELOPMENT
PROGRAMS**

WHEREAS, the City of Covina wishes to assist new and existing Covina businesses with needed economic development stimulus during these challenging economic times and provide for increasing and securing good jobs for our community; and

WHEREAS, the City of Covina wishes to assist qualifying Covina residents with needed home repairs during these challenging economic times; and

WHEREAS, the City of Covina is a politic body duly organized and existing pursuant to the Constitution and laws of the State of California (“Agency”); and

WHEREAS, the budget for the City for fiscal year commencing July 1, 2012 and ending June 30, 2013 was approved on June 19, 2012; and

WHEREAS, the approved budget is in accordance with all applicable ordinances of the Agency and all applicable statutes of the State; and

WHEREAS, the allocation of increased revenue (21004750-42050-75007) and expenditures (21004750-53750-75007) by \$323,961 in the CDBG Economic Development fund budget shall be by approval and Resolution of the City Council; and

WHEREAS, the allocation of increased revenue (21004850-42050-85000) and expenditures (21004850-53750-75000) by \$75,825 in the CDBG Residential Rehabilitation fund budget shall be by approval and Resolution of the City Council;

WHEREAS, the City of Covina is dedicated to improving the Economic Development and assisting residents of the City;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF COVINA AS FOLLOWS:

SECTION 1. Amend the fiscal year 2012 – 2013 Community Development Block Grant operating budget as follows: \$323,961 appropriated from available CDBG funds to the Economic Development expenditure Account Number 21004750-53750-75007 and revenue

account number 21004750-42050-75007 and \$75,825 appropriated from available CDBG funds to the Residential Rehabilitation expenditure Account Number 21004850-53750-85000 and revenue account number 21004850-42050-85000.

SECTION 2. The City Clerk shall certify to the adoption of this resolution.

PASSED, APPROVED AND ADOPTED this 4th day of September, 2012.

Mayor

ATTEST:

City Clerk

Approved as to form:

City Attorney

CERTIFICATION

I, Catherine M. LaCroix, Deputy City Clerk of the City of Covina, hereby CERTIFY that Resolution No. 11-7011 was adopted by the Covina City Council at a regular meeting of the City Council held this 20th day of September, 2011, and was approved and passed by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Catherine M. LaCroix
Deputy City Clerk

**CITY OF COVINA
AGENDA ITEM COMMENTARY**

MEETING DATE: September 4, 2012

ITEM NO: CC 5

STAFF SOURCE: Dilu de Alwis, Finance Director

ITEM TITLE: Council review and approve the Fiscal Year 2012-2013 Communities Facilities District (CFD) budget

STAFF RECOMMENDATION

1. Approve the fiscal year 2012-2013 Communities Facilities District (CFD) budget, and
2. City Council to adopt **City Resolution 12-7103**, amending the fiscal year 2012-2013 city of Covina budget to reflect an appropriation of \$28,256.54 for the CFD.

FISCAL IMPACT

None. The City anticipates that \$28,256.54 of Community Facilities District revenues will be available to the City. These funds will reimburse prior year expenditures of this district and pay for consulting and administration expenditures in the current year.

BACKGROUND

The Covina City Council established a Community Facilities District No. 2007-1 (Public Services) in 2007 and established a procedure to levy certain developed properties within the District unless exempted by law or other provisions. The levy information has been submitted to the Los Angeles County Assessor for the fiscal year 2012-2013. The levy will primarily fund the start-up costs paid for by the CFD fund with cash advanced by the General Fund. The budget details are outlined in Exhibit B.

RELEVANCE TO THE STRATEGIC PLAN

Levying of special taxes as approved by Council will continue to fund the benefits associated with these developments and maintain the fiscal strength of these special funds.

EXHIBITS

- A. City Resolution No. 12-7103.
- B. CFD Budget Details

REVIEW TEAM ONLY	
City Attorney: _____	Finance Director: _____
City Manager: _____	Other: _____

RESOLUTION NO. R-12-7103

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF COVINA, CALIFORNIA, AMENDING THE
FISCAL YEAR 2012-2013 COMMUNITY
FACILITIES DISTRICT FUND**

WHEREAS, the City of Covina is a municipal corporation duly organized and existing pursuant to the Constitution and laws of the State of California (“City”); and

WHEREAS, the budget for the City of Covina for fiscal year commencing July 1, 2012 and ending June 30, 2013 was approved on June 19, 2012; and

WHEREAS, the approved budget is in accordance with all applicable ordinances of the City and all applicable statutes of the State; and

WHEREAS, the reallocation of the appropriations between departmental activities may be made by the City Manager, amendments (increases/decreases) to the Budget shall be by approval and Resolution of the City Council;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the City Council of the City of Covina, as follows:

SECTION 1. Amend the fiscal year 2012-2013 Community Facilities District Fund Budget as follows:

2740-4800-45800	\$28,256.54
2740-4800-51005	287.80
2740-4800-50010	7,293.48

SECTION 2. The City Clerk shall certify to the adoption of this resolution.

PASSED, APPROVED AND ADOPTED this 4TH DAY OF SEPTEMBER.

Kevin Stapleton, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM;

Marco Martinez, City Attorney

City of Covina		
2012/13 Budget Worksheet		
Community Facilities District 2007-1 (Public Services)		
Levy Components	2011-2012	2012-2013
PRINCIPAL AND INTEREST		
Principal	\$0.00	\$0.00
Interest	0.00	0.00
TOTAL	\$0.00	\$0.00
ADMINISTRATION COSTS		
Agency Administration	\$15,282.75	\$7,293.48
Finance Manager	0.00	0.00
Accounting Staff	0.00	0.00
Engineering Staff	0.00	0.00
City Manager Staff	0.00	0.00
Other Staff	0.00	0.00
Agency Auditor Fees	0.00	0.00
Attorney Fees	0.00	0.00
Office Expenses, Paid by Agency	0.00	0.00
Other Expenses, Paid by Agency	0.00	0.00
Total Agency Staff and Expenses	\$15,282.75	\$7,293.48
County Auditor and Assessor Fees	0.00	0.00
Registrar/Transfer/Paying Agent Fees	0.00	0.00
Consulting Services	0.00	259.80
Consulting Expenses	0.00	28.00
Delinquency Management Allowance	0.00	0.00
TOTAL	\$15,282.75	\$7,581.28
Total Principal, Interest and Admin Costs	\$15,282.75	\$7,581.28
ADJUSTMENTS APPLIED TO LEVY		
Reserve Fund Credit	\$0.00	\$0.00
Special Tax Fund Credit	0.00	0.00
Replenishment/(Credit)	0.00	20,675.26
Capitalized Interest Credit	0.00	0.00
Adjustment for Prior Year Delinquencies	0.00	0.00
TOTAL	\$0.00	\$20,675.26
TOTAL CHARGE		
Total Charge	\$15,282.75	\$28,256.54
Applied Charge	\$15,282.75	\$28,256.54
Difference (due to rounding)	\$0.00	\$0.00
REJECT SUMMARY		
Handbilled Parcels:	0	0
Handbilled Charge:	\$0.00	\$0.00
Rejected Parcels:	0	0
Rejected Charge:	\$0.00	\$0.00
Re-applied Parcels:	0	0
Re-applied Charge:	\$0.00	\$0.00
Difference (due to parcel changes):	\$0.00	\$0.00
ADDITIONAL INFORMATION		
Number of Active Parcels		34
Number of Parcels Levied		31
Admin Costs as a percent of Annual Levy	100.00%	26.83%

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: September 4, 2012

ITEM NO.: CC 6

STAFF SOURCE: Kalieh Honish, Interim Director of Public Works
Paul Hertz, Public Works Superintendent



ITEM TITLE: Award the Bid for the Heating/Ventilation/Air-Conditioning (HVAC) Preventative Maintenance

STAFF RECOMMENDATION:

Award the bid for Heating/Ventilation/Air-Conditioning (HVAC) Preventative Maintenance to Christian Brothers Mechanical Services, Inc.. as the lowest responsive and responsible bidder in the amount of \$8,424.00.

FISCAL IMPACT:

There is no impact to the General Fund, as these funds are budgeted in the current fiscal year for routine maintenance and repair of the HVAC systems in question. Specifically, the service contract total of \$8,424.00 will be funded as follows:
\$1,680 from the Civic Center (1010-0930-52490);
\$1,092 from the Yard Center (1010-2900-52400); and
\$5,652 from the Police Department (1010-1000-52400).

BACKGROUND:

The City Hall, Public Works Yard and Police facilities have been without an HVAC preventative maintenance service contract since August 1, 2010 when the previous amended performance services agreement for energy reduction and modernization was completed at the end of its term with Siemens Industry, Inc. That contract was a long term lease-purchase agreement for the equipment, but was not cost effective for maintenance purposes.

Project No. F-1205 consists of routine preventative maintenance, extraordinary maintenance, and additional maintenance and repair of HVAC systems for locations that are the responsibility of the City of Covina in accordance with Exhibits A (Service Locations-City Hall, PW Yard, Police Dept.), B (Routine Preventative Maintenance - Non-Public Safety Service Locations), C (Routine Preventative Maintenance – Public Safety Locations) and D (Extraordinary Maintenance) of the advertised notice of inviting bid package. The service contract will cover a period of three (3) years. The City reserves the right to renew the contract for a maximum of two (2) years per renewal for a maximum of two (2) renewals. A renewal will be predicated on satisfactory performance and mutual consent.

The project was duly noticed and advertised, and bids for the project were received in the City Clerk's office on August 14, 2012. As shown on the attached summary of bids, Christian

Brothers Mechanical Services, Inc. submitted the lowest responsive bid in the amount of \$8,424.00. The highest bid was \$21,807.00 by Anderson Air Conditioning L.P.

Christian Brothers Mechanical Services, Inc. currently carries a valid Class "C20" license, as required, and staff has also verified that they have successfully completed similar maintenance agreements for the City of Encinitas, Long Beach, and also the City of Santa Fe Springs.

RELEVANCE TO THE STRATEGIC PLAN:

While not directly responsive to any of the currently identified objectives of the Strategic Plan, securing a service maintenance agreement will lock in costs and provide aid in budgetary planning for the next several years which enhances financial stability. Also, a preventative maintenance plan will promote the longevity and life of the current, older and aging, HVAC equipment.

EXHIBITS:

- A. Project Bid Results Summary Sheet
- B. Notice of Inviting Bid Package on file with the City Clerk

REVIEW TEAM ONLY	
City Attorney: 	Finance Director: 
City Manager: 	Other: _____

BID RESULTS
HVAC PREVENTATIVE MAINTENANCE
BID OPENING: 8/14/12

BID RECEIVED FROM	DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL PRICE
Christian Brothers Mechanical	City Hall P.M.	6	\$280.00	\$1,680.00
	City Yard P.M.	6	\$182.00	\$1,092.00
	Police Department P.M.	12	\$471.00	\$5,652.00
			Grand Total =	\$8,424.00
ACCO Engineered Systems	City Hall P.M.	6	\$875.00	\$5,250.00
	City Yard P.M.	6	\$467.00	\$2,802.00
	Police Department P.M.	12	\$665.00	\$7,980.00
			Grand Total =	\$16,032.00
Anderson Air Conditioning L.P.	City Hall P.M.	6	\$835.00	\$5,010.00
	City Yard P.M.	6	\$449.00	\$2,697.00
	Police Department P.M.	12	\$1,175.00	\$14,100.00
			Grand Total =	\$21,807.00

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: September 4, 2012

ITEM NO.: PH 1

STAFF SOURCE: Lisa Brancheau, Assistant to the City Manager
William J. Priest, Assistant City Attorney



ITEM TITLE: Public Hearing of the City Council and Introduction of Ordinance No. 12-2011, Amending the Town Center Specific Plan to Reclassify the Sale of Alcohol for On-Site Consumption by a Restaurant or Food Service Establishment From a Permitted Use to a Conditional Use.

STAFF RECOMMENDATION

That the City Council:

- 1.) Open the public hearing and take public testimony; and
- 2.) Introduce and waive further reading of Ordinance No. 12-2011 (attached hereto as Exhibit "A") amending the Town Center Specific Plan to reclassify the sale of alcohol for on-site consumption by a restaurant or food service establishment from a permitted use to a conditional use.

FISCAL IMPACT

There is no impact to the General Fund.

BACKGROUND

The Covina Municipal Code generally requires that any restaurant or bona fide eating establishment within the City obtain a Conditional Use Permit ("CUP") from the Planning Commission prior to selling alcohol to customers for on-site consumption. (CMC §17.62.026). Until July 3, 2012, one exception applied to restaurants/food service establishments located within two areas of the Covina Town Center Specific Plan ("TCSP"). Under those regulations, restaurants/food service establishments were permitted to sell alcohol to customers for on-site consumption within the TCSP-IV (Mixed Use) and TCSP-V (Retail and Service Core) Focused Activity Areas as a permitted use without obtaining a CUP.

This last July, concerns had been raised about the proliferation of restaurants/food service establishments proposing to sell alcohol within the TCSP-IV and TCSP-V Areas, with the corresponding increase in crowd control difficulties, disorderly conduct, crime and need for police response. At the time, Staff expressed the belief that these uses merited more scrutiny through the CUP process.

Due to concerns that several restaurants seeking to sell alcohol for on-site consumption without a CUP could become established within the TCSP Area before a standard ordinance would become effective, the City Council adopted Ordinance No. 12-2010 on July 3, 2012 as an urgency measure. Pursuant to Government Code, Section 36937, Urgency Ordinance No. 12-

2010 became effective immediately. However, as a matter of general practice, Staff is processing the attached Ordinance as a standard non-urgency ordinance in parallel with Urgency Ordinance No. 12-2010.

The attached Ordinance is identical to Urgency Ordinance No. 12-2010, except that it is not an urgency measure. Staff again would like to emphasize that the attached Ordinance (like the Urgency Ordinance) does not outright prohibit restaurants/food service establishments from selling alcohol for on-site consumption. Rather, it allows the Planning Commission to review and approve these applications through the public hearing process and, if approved, to impose reasonable conditions of approval to address any negative land use impacts tied to alcohol sales. As stated above, this is already the case everywhere outside the TCSP Area and the proposed Ordinance merely brings the TCSP into line with the rest of the City.

Proceedings at the Planning Commission

This Ordinance affects the use of land within the City in that it affects how restaurants and food service establishments may sell alcohol on-site. Pursuant to California Government Code, Sections 65854 and 65855, the Planning Commission is required to conduct a noticed public hearing to consider any non-urgency ordinance that, among other things, regulates the use, height, size or intensity of land, buildings or structures. After such a hearing, the Commission is required to make a written recommendation to the City Council regarding the Ordinance which both (i) explains the reasons for the recommendation and (ii) makes a finding that that the proposed ordinance is consistent with the General Plan.

On August 14, 2012, the Planning Commission held the required noticed public hearing and adopted Resolution No. 2012-002 PC recommending that the City Council adopt Ordinance No. 12-2011. A copy of Resolution No. 2012-002 PC is attached as Exhibit "A" and includes the text of Ordinance No. 12-2011. For the reasons more specifically set forth in the Resolution, the Planning Commission found that the Ordinance is in the public interest and is consistent with the Covina General Plan in that it merely adds a CUP requirement to restaurants/food service establishments seeking to sell alcohol on-site. This allows the Planning Commission to review and approve on-site alcohol applications through the public hearing process and, if approved, to impose reasonable conditions of approval to address any negative land use impacts tied to on-site alcohol sales. This balances moderate economic development in the Downtown with the need to protect the public from the negative impacts tied to on-site alcohol sales. All other land use standards of the Covina General Plan, TCSP and Zoning Code remain unchanged by the proposed Ordinance.

RELEVANCE TO THE STRATEGIC PLAN

There is no relevance to the Strategic Plan.

EXHIBITS

A. Resolution No. 2012-002 PC (Includes Ordinance No. 12-2011 as an attachment)

REVIEW TEAM ONLY	
City Attorney: 	Finance Director: 
City Manager: _____	Other: _____

COPY

RESOLUTION NO. 2012-002 PC

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COVINA RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF COVINA APPROVAL OF ORDINANCE NO. 12-2011, AMENDING CERTAIN SECTIONS OF THE TOWN CENTER SPECIFIC PLAN TO RECLASSIFY THE SALE OF ALCOHOL FOR ON-SITE CONSUMPTION BY A RESTAURANT OR FOOD SERVICE ESTABLISHMENT FROM A PERMITTED USE TO A CONDITIONAL USE.

WHEREAS, California Government Code, Section 65800 et seq. authorizes the adoption and administration of zoning laws, ordinances, rules and regulations by cities as a means of implementing the General Plan; and

WHEREAS, City staff has prepared Ordinance No. 12-2011, which amends certain sections of the Covina Town Center Specific Plan to reclassify the sale of alcohol for on-site consumption by a restaurant or food service establishment from a permitted use to a conditional use; and

WHEREAS, the Planning Commission has carefully considered all pertinent testimony and the staff report presented during a duly noticed public hearing for Ordinance No. 12-2011.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF COVINA DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1: Based on the entire record before the Planning Commission, all written and oral evidence presented to the Planning Commission, and the findings made in the staff report and this Resolution, the Planning Commission of the City of Covina hereby recommends that the City Council adopt Ordinance No. 12-2011 entitled: “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA, AMENDING CERTAIN SECTIONS OF THE TOWN CENTER SPECIFIC PLAN TO RECLASSIFY THE SALE OF ALCOHOL FOR ON-SITE CONSUMPTION BY A RESTAURANT OR FOOD SERVICE ESTABLISHMENT FROM A PERMITTED USE TO A CONDITIONAL USE.”, which is attached hereto as Attachment “A” and incorporated herein by reference.

SECTION 2: The Planning Commission finds that the above referenced ordinance is in the public interest and reasonably related to the public welfare because it allows the Planning Commission to review and approve on-site alcohol applications for restaurants and food service establishments through the public hearing process and, if approved, to impose reasonable conditions of approval to address any negative land use impacts tied to on-site alcohol sales. This balances moderate economic development in the Downtown with the need to protect the public from the negative impacts tied to on-site alcohol sales.

COPY

SECTION 3: The Planning Commission also finds that adoption of this ordinance is consistent with the City of Covina General Plan because it merely reclassifies on-site alcohol sales by restaurants/food service establishments from a permitted use as of right to a conditional use. With the exception of requiring a Conditional Use Permit to operate, on-site alcohol sales by restaurants and food service establishments are still allowed to operate in the same TCSP Focused Activity Areas as in the prior TCSP regulations and remain subject to the same setback, height, floor area and other development standards as in the prior TCSP regulations. Overall, the minor revisions to the TCSP made by Ordinance No. 12-2011 remain consistent with the objectives and policies of each element of the General Plan and do not obstruct their attainment.

SECTION 4: The ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) because the activity, which merely involves reclassifying on-site alcohol sales by a restaurant/food service establishment will not result in a direct or reasonably foreseeable indirect physical change in the environment; and 15060(c)(3) because the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. As specific projects subject to this ordinance are proposed to the City, appropriate CEQA analysis will be conducted on a project-specific basis.

SECTION 5: The Secretary shall certify to the adoption of this resolution.

APPROVED AND ADOPTED by the members of the Planning Commission of Covina this 14th day of August, 2012.

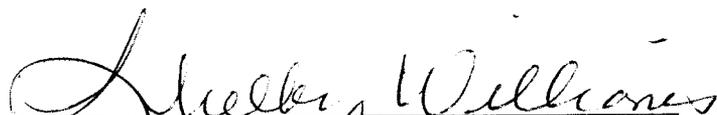


CHAIRMAN DANIEL MC MEEKIN
CITY OF COVINA PLANNING COMMISSION

COPY

I hereby certify that the foregoing is a true copy of a resolution adopted by the Planning Commission of the City of Covina at a regular meeting thereof held on the 14th day of August, 2012, by the following vote of the Planning Commission:

AYES: CONNORS, HODAPP, MANNING, MCMEEKIN, PATTERSON
NOES: None
ABSENT: None
ABSTAIN: None


COVINA PLANNING COMMISSION SECRETARY

COPY

Attachment "A"

“AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA, AMENDING CERTAIN SECTIONS OF THE TOWN CENTER SPECIFIC PLAN TO RECLASSIFY THE SALE OF ALCOHOL FOR ON-SITE CONSUMPTION BY A RESTAURANT OR FOOD SERVICE ESTABLISHMENT FROM A PERMITTED USE TO A CONDITIONAL USE.”

[Attached behind this page]

COPY

ORDINANCE NO. 12 - 2011

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA AMENDING CERTAIN SECTIONS OF THE COVINA TOWN CENTER SPECIFIC PLAN TO RECLASSIFY THE SALE OF ALCOHOL FOR ON SITE CONSUMPTION BY A RESTAURANT OR FOOD SERVICE ESTABLISHMENT FROM A PERMITTED USE TO A CONDITIONAL USE.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. That the regulations governing "Conditional Uses" within the Town Center Specific Plan Mixed Use Focused Activity Area (TCSP-4) as more particularly set forth in Chapter V, Section H, subsection 1, paragraph d. (pgs. V-30 through V-31), are hereby amended as follows:

- “ V. Land Use and Circulation Plan
 -
 - H. Regulatory Requirements
 - 1. Development Standards by Focused Activity Area
 -
 - d. Mixed Use Focused Activity Area (TCSP-4). . . .

Conditional Uses: The following uses are permitted subject to a conditional use permit:

- **Single-Room Occupancy residential (SRO).** Residential uses that provide multiple single-room dwelling units, each intended for occupancy by one person. Such units may contain food preparation, sanitary facilities, or both, or contain shared food preparation and sanitary facilities.
- **Parking Facilities.** Freestanding publicly- or privately-operated parking facilities, surface parking lots or parking structures.
- **Light industrial uses.** Light industrial uses, including storage associated with light industrial uses, that are of a scale and type of operation, fabrication, assembly, manufacture, or processing that is consistent with the intent of the Mixed-Use Focused Activity Area.
- **Sale of alcohol.** The sale of alcohol for on-site consumption, including in conjunction with entertainment uses, ~~that is~~ ***whether or*** not part of a ***restaurant or*** food service establishment. Additionally, the display and sale of beer and wine (but not hard alcohol or spirits) for off-site consumption, irrespective of geographic distance from another similar use or a sensitive use.

- ~~Outdoor eating or sales.~~ Food service or sales, which include the sale or consumption of alcohol, that occur within a public right of way, such as sidewalk cafes and sales, but only in conjunction with business located in an adjacent building.
- **Automobile service.** Automobile service, repair, and retail sales of gasoline and other automobile products.”

SECTION 2. That the regulations governing “Permitted Uses and Conditional Uses” within the Town Center Specific Plan Retail and Service Core Focused Activity Area (TCSP-5) as more particularly set forth in Chapter V, Section H, subsection 1, paragraph e. (pgs. V-32 through V-33), are hereby amended as follows:

“ V. Land Use and Circulation Plan

.....

H. Regulatory Requirements

1. Development Standards by Focused Activity Area

.....

e. Retail and Service Core Focused Activity Area (TCSP-5)

Permitted Uses: Permitted uses in the Retail and Service Core Focused Activity Area include:

- **Retail.** Retail business uses of all types, except adult-oriented businesses.
- **Food service.** Restaurants and food service establishments. ~~—T~~ **which do not include** the sale **or consumption** of alcohol ~~for consumption on site must be in conjunction with a restaurant or other food service establishment.~~
- **Other Services.** Business offices and professional uses of all types, provided, however, that said uses are permitted only above the first floor of any building located along Citrus Avenue between San Bernardino Road and Badillo Street. For buildings located elsewhere within the focused activity area, said uses are permitted on any floor.
- **Dwellings.** Single family dwellings, two family dwellings, and multiple dwellings, but only above the first floor of any building.
- **Entertainment and performance establishments.** Live and non-live entertainment and performing uses, including movie theaters; live theaters; comedy, music, and dance clubs; and video, mechanical, and other arcade games (if no more than three such games); but excluding adult-oriented businesses.

- **Arts and crafts sales and galleries.** Uses involved in the exhibit, sales, public education, manufacture, and distribution of all manner of arts, crafts, sculpture, and the like. The floor area devoted to the manufacture of arts, crafts, sculpture, and the like shall not exceed the floor area devoted to exhibits and/or sales.
- **Lodging.** Lodging facilities, such as hotels, motels, and bed-and-breakfast inns. The term "bed-and-breakfast inn" or "bed-and-breakfast lodge" shall be defined as follows: A single-family, two-family or multiple dwelling (whether or not located on the first floor) in which paying guests are lodged on an overnight transient basis, with meals served in connection with their lodging. Such inns or lodges shall contain not greater than six (6) lodging units. Meals shall only be served to residents or guests of the inn/lodge and not to the general public. There shall be no separate or additional kitchen facilities for guests. The period for consecutive overnight lodging for any guest shall not exceed thirty (30) calendar days.
- **Parking facilities.** Freestanding publicly- or privately-operated parking facilities, surface parking lots or parking structures.
- **Outdoor eating or sales.** Food service or sales, which do not include the sale or consumption of alcohol, that occur within a public right-of-way, such as sidewalk cafes and sales, but only in conjunction with business located in an adjacent building.

Conditional Uses: The following uses are permitted subject to a conditional use permit:

- **Single-Room Occupancy residential (SRO).** Residential uses above the first floor in any building that provide multiple single-room dwelling units, each intended for occupancy by one person. Such units may contain food preparation, sanitary facilities, or both, or contain shared food preparation and sanitary facilities.
- **Sale of alcohol.** The sale of alcohol for on-site consumption, including in conjunction with entertainment uses, ~~that is~~ whether or not part of a restaurant or food service establishment. Additionally, the display and sale of beer and wine (but not hard alcohol or spirits) for off-site consumption, irrespective of geographic distance from another similar use or a sensitive use.
- **Parking Facilities.** Freestanding publicly- or privately-operated parking facilities, surface parking lots or parking structures.
- **Arcades.** Video, mechanical, and other arcade games in excess of three.
- **Automobile service.** Automobile service, repair, and retail sales of gasoline and other automobile products.

~~Outdoor eating or sales. Food service or sales, which include the sale or consumption of alcohol, that occur within a public right of way, such as sidewalk cafes and sales, but only in conjunction with business located in an adjacent building.”~~

SECTION 3. This ordinance shall take effect thirty (30) days after its adoption.

SECTION 4. The City Council finds that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 5. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion or the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 6. The City Clerk shall certify to the adoption of this ordinance. Not later than fifteen (15) days following the passage of this ordinance, the ordinance, or a summary of the ordinance, along with the names of the City Council members voting for and against the ordinance, shall be published in a newspaper of general circulation in the City of Covina.

SIGNED AND APPROVED this _____ day of _____, 2012.

KEVIN STAPLETON, MAYOR

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

COPY

I HEREBY CERTIFY that the above and foregoing ordinance was duly passed and adopted by the Covina City Council at its regular meeting held on the ____ day of _____, 2012, by the following vote, to wit:

AYES;

NOES:

ABSENT:

City Clerk

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: September 4, 2012

ITEM NO.: CB 1

STAFF SOURCE: Lisa Brancheau, Assistant to the City Manager
Shelby Williams, City Planner

LB

ITEM TITLE: City Council to consider second reading and adoption of an Ordinance for application ZCH12-001, a Zone Change from C-3A Commercial to C-P Commercial

STAFF RECOMMENDATION

City Council to consider second reading, thereby adopting Ordinance No. 12-2012, amending the Covina Zoning Map for property located at 535 South Second Avenue, to reflect the change of zone from C-3A Commercial to C-P Commercial.

FISCAL IMPACT

Applicant paid applicable Zone Change application fee.

BACKGROUND

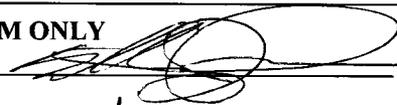
At the August 21, 2012 City Council meeting, the City Council waived further reading read by title only and introduced Ordinance No. 12-2012. The vote was 4-0. The August 21, 2012 Agenda Report containing a more detailed explanation of the ordinance is attached. If adopted tonight, the Ordinance will become effective in 30 days.

RELEVANCE TO THE STRATEGIC PLAN

The zone change for the subject property will enhance economic development in the City.

EXHIBITS

- A. August 21, 2012 Agenda Report
- B. Ordinance No. 12-2012

REVIEW TEAM ONLY	
City Attorney: 	Finance Director: 
City Manager: 	Other: _____

CITY OF COVINA
AGENDA ITEM COMMENTARY

COPY

MEETING DATE: August 21, 2012

STAFF SOURCE: Lisa Brancheau, Assistant to the City Manager
Shelby Williams, City Planner

ITEM TITLE: City Council to hold public hearing, consider public testimony and introduce and waive further reading of an Ordinance for application ZCH 12-001, a Zone Change from C-3A Commercial (Regional/Community Shopping Center) to C-P Commercial (Administrative and Professional Office).

STAFF RECOMMENDATION

- 1) City Council to open the hearing and consider public testimony; and
- 2) City Council to introduce and waive further reading of **Ordinance No. 12-2012** to consider an application ZCH 12-001, a Zone Change from C-3A Commercial (Regional/Community Shopping Center) to C-P Commercial (Administrative and Professional Office) to permit AltaMed Health Services Corporation to operate a facility upon property located at 535 South Second Avenue, Covina.

FISCAL IMPACT

Applicant paid fee(s) for Zone Change Application. No City funds were used.

BACKGROUND

This zone change application (ZCH 12-001) was considered by the Covina Planning Commission during their regular meeting held on June 26, 2012. The Commission voted 3-0 to recommend to the City Council approval of application ZCH 12-001. The zone change request is to allow the applicant to lease a site for an AltaMed Health Services Center which offers medical services to its program participants, as well as adult day care services and activities known as the PACE program. Currently the subject property's zoning designation is C-3A Commercial Zone which does not permit medical or dental businesses, but the C-P Commercial Zone does.

In conclusion, staff believes the following further supports the applicant's zone change request:

1. The location at 535 South Second Avenue has been vacant for more than two (2) years and the property owner currently has a business (AltaMed Health Services) interested in the site; however, a zone change of the property from C-3A Commercial to C-P Commercial is necessary for the business to operate the medical clinic component with

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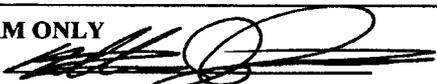
the proposed adult day care. In this particular case, the applicant as well as the landowner could benefit economically by the proposed zone change.

2. The proposed zone change if granted would allow AltaMed to operate an Adult Day Health Center/PACE program for the elderly. The applicant's Business would directly benefit elderly persons residing in the City of Covina and Los Angeles County areas.

3. The proposed zone change from C-3A Commercial to C-P Commercial would not change the current General Plan designation of the subject property which is General Commercial. General Commercial permits various types of retail and service businesses and administrative, professional and governmental offices that serve a diverse population and that comply with the applicable use, operation and other provisions of the Covina Zoning Ordinance. Staff believes the applicant's zone change request is consistent with the City's General Plan designation of General Commercial.

EXHIBITS

- A. Ordinance No. 12-2012
- B. Minutes of the regular Planning Commission meeting of June 26, 2012
- C. Planning Commission staff report dated June 26, 2012

REVIEW TEAM ONLY	
City Attorney: 	Finance Director: 
City Manager: 	Other: _____

ORDINANCE NO. 12-2012

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA, AMENDING THE OFFICIAL ZONING MAP OF THE CITY, BY ESTABLISHING A C-P ZONE DESIGNATION (ADMINISTRATIVE AND PROFESSIONAL OFFICE) FOR CERTAIN PROPERTY IN THE CITY OF COVINA, APPLICATION ZCH 12-001, AND MAKING CERTAIN FINDINGS AND CONDITIONS

WHEREAS, an application for a zone change (ZCH 12-001) was submitted to the City of Covina to permit AltaMed Health Services Corporation to operate a facility upon property located at 535 South Second Avenue, Covina.

THE CITY COUNCIL OF THE CITY OF COVINA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Pursuant to public hearing and processing in the manner set forth by State law and local ordinance, and after recommendation thereon by the Planning Commission at a duly noticed public hearing on June 26, 2012, the property classification set forth in Section 2 is made for the reasons of public interest, convenience, and necessity.

SECTION 2. The following described real property in the City of Covina, County of Los Angeles, State of California, is hereby zoned "Administrative and Professional Office (C-P)" as such zone is defined in Title 17 of the Covina Municipal Code:

Tract 17008 N 17' of Lot 30 measured at R/A on N Line of SD Lot and all of Lot 29 as documented in Tax Assessors Records in the County of Los Angeles, State of California.

SECTION 3. After giving full consideration to all evidence presented at said HEARING, both oral and documentary, and after being fully informed, said City Council does hereby find and decide:

1. The location at 535 South Second Avenue has been vacant for more than two (2) years and the property owner currently has a business (AltaMed Health Services) interested in the site; however, a zone change of the property from C-3A Commercial to C-P Commercial is necessary for the business to operate the medical clinic component with the proposed adult daycare. In this particular case, the applicant as well as the landowner could benefit economically by the proposed zone change;
2. The proposed zone change if granted would allow AltaMed to operate an Adult Day Health Center/PACE program for the elderly. The applicant 's business would directly benefit elderly persons residing in the City of Covina and Los Angeles County areas; and
3. The proposed zone change from C-3A Commercial to C-P Commercial would not change the current General Plan designation of the subject property which is General Commercial. General Commercial permits various types of retail and service business and administrative, professional and governmental offices that serve businesses and administrative, professional and governmental offices that serve a diverse population and that comply with the applicable use, operation and other provisions of the Covina Zoning Ordinance. The applicant's zone change request is therefore consistent with the City's General Plan designation of General Commercial.

SECTION 4. In considering this application relative to the California Environmental Quality Act (CEQA) Guidelines, the City Council has reaffirmed the determination of the Planning Commission that the Zone Change petition is categorically exempt from the CEQA Guidelines (pursuant to Class 1, Section 15301 (a)), signifying that that the application and appurtenant interior building and exterior site improvements would not have a significant effect on the environment.

SECTION 5. The application for an Administrative and Professional Office (C-P) zone designation, which pertains to allowing AltaMed Health Services and which was submitted with Site Plan Review (SPR – for overall project proposal) and Conditional Use Permit (CUP – for the adult daycare and compact parking) petitions that were approved by the Planning Commission at the June 26, 2012 public hearing, is hereby granted, subject to the following conditions of approval which are deemed necessary to protect the public health, safety, and general welfare of the community and which were imposed on this application and the aforesaid two zoning petitions:

(Conditions of Approval available in City Clerk's Office)

SECTION 6. The City Clerk shall certify the passage of this ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute

CERTIFICATION

I, Catherine LaCroix, Deputy City Clerk of the City of Covina, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Covina, duly held the 21st day of August, 2012, it was duly passed and adopted by the following vote of the Council:

AYES:

NOES:

ABSTAIN:

ABSENT:

Catherine LaCroix
Deputy City Clerk

CITY OF COVINA
AGENCY ITEM COMMENTARY

MEETING DATE: September 4, 2012

ITEM NO.: NB 1

STAFF SOURCE: Anthony Arroyo, Human Resources Director
Catherine LaCroix, Sr. Deputy City Clerk *CLC*

ITEM TITLE: City Council to consider appointment to fill vacancy on the Covina Cultural Arts Advisory Commission

STAFF RECOMMENDATION

City Council to consider the suggested appointment to the Covina Cultural Arts Advisory Commission.

FISCAL IMPACT

There is no fiscal impact associated with this item.

BACKGROUND

In April 2012, recruitment efforts began for the City's Boards, Commissions and Committees; however, insufficient applications were received to fill all the vacancies. The City Clerk's Office has since received one application for the remaining vacancy on the Cultural Arts Advisory Commission. The applicant meets the requirements for appointment.

The applicant appointment would be for the remainder of the term, expiring on June 30, 2015.

RELEVANCE TO THE STRATEGIC PLAN

There is no direct relevance to the Covina Strategic Plan.

EXHIBITS

A. Application: Lauren Tuma

REVIEW TEAM ONLY	
City Attorney: <i>[Signature]</i>	Finance Director: <i>[Signature]</i>
City Manager: <i>[Signature]</i>	Other: _____

CITY OF COVINA

BOARD, COMMISSION AND COMMITTEE MEMBER
CANDIDATE APPLICATION

INSTRUCTIONS: Complete this application and return it to the City Clerk's Office, 125 East College Street, Covina, CA 91723
If you have any questions, please telephone the City Clerk Department at (626) 384-5430. Please TYPE or PRINT clearly in ink.

Board, Commission or Committee: CULTURAL ARTS ADVISORY COMMISSION

Your Name: LAUREN TUMA

Home Address: [REDACTED]

Business Address: _____

Home Telephone No: [REDACTED] Cell Telephone No: ([REDACTED])

Occupation: _____ Business Telephone No.: ()

Why do you wish to serve the City? _____

What experience or education have you had relative to this field of concern?

I TOOK 3 YEARS OF ART IN HIGH SCHOOL (COVINA) AND ALSO TOOK A COUPLE CLASSES
IN COLLEGE, ALSO I AM AN ARTIST, (SELFEMPLOYED)

What other City Boards, Commissions or Committees have you served?

NONE

To what civic service organizations do you belong? NONE

How did you become interested in this field of concern? FROM BOARD MEMBERS

SUGGESTING I LOOK INTO IT AT COVINA'S FIRST CHALK ART FESTIVAL

Will you be able to attend all Board, Commission or Committee meetings?

Yes No _____

(If NO, please explain) _____

Are you willing to file a State financial disclosure statement as required?

Yes No _____

Are you able and willing to complete the Local Government 101 requirements?

Yes No _____

(If No, please explain) _____

Is this an application for re-appointment? Yes _____ No _____

RECEIVED BY
COVINA CITY CLERK
12 AUG - 7 PM 12:30

[REDACTED SIGNATURE]

Signature of Applicant

Dated: 08/06/12

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: September 4, 2012

ITEM NO.: NB 2

STAFF SOURCE: Lisa Brancheau, Assistant to the City Manager
William J. Priest, Assistant City Attorney

LB

ITEM TITLE: Urgency Ordinance No. 12-2013 Providing for the Regulation of
Tattoo/Body Art Practitioners and Facilities within the City of Covina.

STAFF RECOMMENDATION

Adopt Urgency Ordinance No. 12-2013 providing for the regulation of tattoo/body art practitioners and facilities within the City of Covina (attached hereto as Exhibit "A").

FISCAL IMPACT

There is no General Fund Impact

BACKGROUND

Currently, the Covina Municipal Code does not regulate the practice of tattooing, application of permanent cosmetics, body piercing or other forms of body art ("Body Art") nor does it list such uses as permitted within any zone of the City. If a use is not listed in the Zoning Code as permitted, it is deemed prohibited. Therefore, the City's current Code effectively bans the practice of Body Art.

Anderson v. City of Hermosa Beach – Body Art is First Amendment Expression

However, in September, 2010, the Ninth Circuit Federal Court of Appeals, in *Anderson v. City of Hermosa Beach*, ruled that Body Art is a form of free speech under the First Amendment. Therefore, it cannot be completely banned. That being said, because there is evidence linking Body Art to certain negative effects such as increased crime, gang activity, disease transmission, drugs, etc., cities may reasonably regulate this use to minimize negative effects. One of those ways is through limiting the zones in which Body Art may be practiced.

The proposed urgency ordinance would allow Body Art facilities to be located in the C-5 (Commercial Zone – Specified Highway) and M-1 (Light Manufacturing) zones as a permitted use. The First Amendment requires local zoning to provide a sufficient number of sites to provide expressive uses a reasonable opportunity to open and operate in the free market. In other words, zoning cannot restrict expressive uses to a "backwater" portion of the City. Factors that must be considered include (i) potential availability of sites for purchase/lease, (ii) site accessibility to the public, (iii) proper infrastructure (street, sidewalks, lighting), (iv) ability of sites to serve a generic commercial purpose, (v) regional market demand and supply.

Planning staff has analyzed potential sites in the C-5 and M-1 zones and believe that they would satisfy First Amendment requirements. Staff estimates that there would be approximately 500 sites within these zones, most of which are centrally located either on San Bernardino Road or on major secondary streets only a few blocks from San Bernardino Road. Nearly all of these sites

are served with proper infrastructure and most appear to be of a size and capacity to serve a generic commercial purpose such as a Body Art Facility.

The proposed Ordinance would make Body Art facilities a permitted use in the C-5 and M-1 zones - no Conditional Use Permit (CUP) would be required. The courts have held in the context of similar First Amendment uses (e.g. adult businesses) that a CUP requirement vests too much discretion to deny approval based upon the content of the “message”, thereby chilling First Amendment expression. Because Body Art has now been determined to be First Amendment expression, the City Attorney’s office believes that the courts would not support a CUP requirement.

Assembly Bill 300 – The California Safe Body Art Act

In addition to First Amendment issues, the proposed Ordinance also addresses Assembly Bill 300 – the California Safe Body Art Act (the “Act”). The Act became effective on July 1, 2012 and sets forth detailed minimum performance standards for Body Art practitioners and facilities. These include health and hygiene standards, materials standards for jewelry, ink and other Body Art decorations, client consent/notification requirements, and training standards. For your reference, a copy of AB 300 is attached to this Commentary as Exhibit “B”.

AB 300 is largely preemptive, providing that a city may adopt regulations that do not conflict with, or are more stringent than, the provisions of the Act. Because the health, safety and operational standards in AB 300 are comprehensive and appear reasonable, the proposed Ordinance largely adopts them by reference.

AB 300 provides that it is enforceable by the “local enforcement agency”. However, that term is defined as the “local health agency of the city, county or city and county.” Because Covina does not have a health department, it is open to interpretation whether Covina may enforce some of the standards of AB 300. Even so, Covina may not have the medical or technical expertise to enforce some of these standards.

However, Los Angeles County does. Therefore, the proposed Ordinance incorporates the County’s registration, permitting and enforcement scheme under Los Angeles County Code, Chapter 11.36. For your reference a copy of LACC Chapter 11.36 is attached to this Commentary as Exhibit “C”. Chapter 11.36 requires individual Body Art practitioners to register with the County and for Body Art facilities to obtain a health facility permit. The proposed Ordinance requires a practitioner or facility to provide the City a copy of its registration/permit prior to commencing operations and to post it conspicuously at its place of business.

At the City level, the proposed Ordinance requires Body Art practitioners and facilities to obtain a business license. As applicable, it also requires site plan review, building permits, and other local approvals to open a facility. The City is authorized to suspend or revoke a business license, site plan review and other local approvals for violations of this Ordinance, the County Code or the Act. The proposed Ordinance also authorizes inspections during regular business hours and, if necessary, impoundment of Body Art equipment and instruments.

Reason for Urgency Ordinance

This issue arises out of a pending application from a Body Art facility seeking to locate in Shopper's Lane. As the application was being reviewed, Planning Staff contacted the City Attorney's Office for advice and the proposed Ordinance is the result.

The application is scheduled to be heard by the Planning Commission later this month. Therefore, there is insufficient time for a standard ordinance to work through the legal process of Planning Commission recommendation, Council approval and the 30-day effectiveness period. On the other hand, without an ordinance in place, the City will either have to consider the application without adequate regulations or rely upon an unconstitutional ban.

Therefore, the attached Ordinance is being proposed as an urgency measure to address these concerns immediately. Pursuant to Government Code, Section 36937, the City Council may adopt an ordinance as an urgency measure upon a 4/5 supermajority vote and upon making certain findings that the ordinance addresses a current and immediate threat to the public health, safety and welfare. Findings to this effect are included in attached Urgency Ordinance No. 12-2013. If approved by the Council this evening, Urgency Ordinance No. 12-2013 would become effective immediately.

EXHIBITS

- A. Urgency Ordinance No. 12-2013
- B. Text of Assembly Bill 300
- C. Text of Los Angeles County Code, Chapter 11.36

REVIEW TEAM ONLY	
City Attorney: 	Finance Director: 
City Manager: 	Other: 

URGENCY ORDINANCE 12-2013

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA, ADDING CHAPTER 5.38 TO TITLE 5 OF THE COVINA MUNICIPAL CODE AND ADDING CHAPTER 17.67 TO TITLE 17 OF THE COVINA MUNICIPAL CODE, PROVIDING FOR THE REGULATION OF TATTOO AND BODY ART PRACTITIONERS AND FACILITIES WITHIN THE CITY OF COVINA, AND SETTING FORTH THE FACTUAL BASIS FOR SAME AS AN URGENCY ORDINANCE.

WHEREAS, the Covina Municipal Code does not currently regulate the practice of tattooing, application of permanent makeup, body piercing or other forms of body art nor does it list such uses as permitted within any zone of the City. As such, these uses are deemed prohibited in all zones by the Covina Municipal Code; and

WHEREAS, the City has received an application to operate a tattoo/body art facility at 640-642 Shopper's Lane; and

WHEREAS, in September 2010, the United States Ninth Circuit Court of Appeals ruled in *Anderson v. City of Hermosa Beach* that tattooing and body art are forms of free speech under the First Amendment of the United States Constitution and cannot be completely prohibited through zoning by a local jurisdiction; and

WHEREAS, on advice from the City Attorney, the City of Covina must make accommodation for tattoo/body art practitioners and facilities in order to comply with Federal Constitutional Law; and

WHEREAS, in 1997, the City of Santa Clara Police Department conducted a study on secondary effects of crime from regulated businesses, which include tattoo and body art facilities, and concluded that these facilities can be a magnet for organized crime, gang activity, loitering, and increased police calls. The study is on file in the office of the Covina Planning Division; and

WHEREAS, in May 2011, the Los Angeles Police Department and federal agents with the Bureau of Alcohol, Tobacco, Firearms and Explosives, arrested nineteen alleged members of the gang "Venice 13", at an undercover tattoo parlor called "Villainz Ink" that attracted a number of suspected criminal street gang members and associates who in the course of a four-month investigation sold illegal narcotics, committed numerous firearms violations, and sold a firearm to an ATF undercover agent; and

WHEREAS, due to said secondary effects, there is a valid legal basis to restrict the locations of tattoo and/or body art facilities within the City, while still honoring the First Amendment rights of tattoo and/or body art facilities to operate within the City; and

WHEREAS, several California cities such as Watsonville, Signal Hill, West Covina, Glendora and Menifee have adopted ordinances to restrict locations of tattoo and/or body art facilities based on secondary effects; and

WHEREAS, regulation of the tattoo and/or body art facilities is necessary to ensure that their secondary effects do not lead to blight and loss of property values of residential neighborhoods and businesses in close proximity to such uses. This Ordinance will limit such facilities to the C-5 and M-1 zones of the City. As such, this Ordinance is consistent with the following elements, objectives and policies of the Covina General Plan:

Land Use Element:

- Gen. Plan Objective 1, Policy 3(a)(7) (pg. A-14) – Accommodate new and expanded commercial and industrial developments, for community economic betterment and image enhancement and related reasons, in a fashion that neither adversely affects the integrity of established commercial and/or industrial areas nor unreasonably encroaches into residential neighborhoods and that does not impose an undue burden on local infrastructure or services;
- Gen. Plan Objective 2, Policy 1(a)(9) (pg. A-17) – Discourage illogical or peculiar land use arrangements or land use configurations that could lead to blight or physical and/or visual conflicts of that could induce unlawful or criminal activity;
- Gen. Plan Objective 3, Policy 1(a) (pg. A-21) – Achieve land use arrangements that provide for adequate separation and physical and visual buffers between land uses characterized by different functions, intensities, and/or densities to ensure their compatibility and to avoid conflicts;
- Gen. Plan Objective 3 Policy 1(b) (pg. A-21) – Identify, mitigate, and, where possible, eliminate major conflicting and peculiar land use situations and uses, particularly those that could lead to blight or criminal or unlawful activities;
- Gen. Plan Objective 4, Policy 1(t) (pg. A-25) – Attempt to reduce crime to persons and property by alleviating the underlying causes of and opportunities for crime through physical design, economic development and crime prevention programs, and available social efforts.

Safety Element:

- Policy 4(g) (pg. E-52) – Monitor and, to the greatest extent possible, work with businesses using, storing, and/or generating hazardous waste material to ensure compliance with or facilitate business understanding of property disposal procedures;
- Policy 5(aa) (pg. E-57) – Attempt to reduce crime to persons and property by alleviating the underlying causes of and opportunities for offenses through physical design, City programs, and community development and neighborhood preservation activities;
- Policy 5(dd) (pg. E-57) – Where appropriate, apply standards for defensible space in

reviewing new and expanded developments to best promote personal security. (Defensible space refers to planning and design techniques that can be used to discourage crime);

- Policy 5(ff) (pg. E-58) – Require that new, expanded, or altered potentially problematic or public safety-threatening developments, uses and businesses mitigate any impacts on services that may result from the proposals through measures acceptable to the City.

WHEREAS, for the reasons set forth above, the City Council finds that the practice of tattooing and body art, without adequate local regulation, presents a current and immediate threat to the public health, safety and welfare; and

WHEREAS, on July 1, 2012, Assembly Bill 300, known as the “California Safe Body Art Act” became effective (California Health and Safety Code Section 119300 et seq.) (the “Act”). The Act sets forth minimum operation and performance standards for tattoo and/or body art practitioners and facilities; and

WHEREAS, the Act defines the “local enforcement agency” charged with its enforcement as “the local health agency of the city, county or city and county”; and

WHEREAS, Section 119324 of the Act provides that a city, county or city and county may adopt regulations or ordinances that do not conflict with, or are more stringent than, the provisions of the Act as they relate to body art; and

WHEREAS, because the City of Covina does not have a local health department, the City Council finds that utilizing the County of Los Angeles’s registration, permitting and enforcement scheme pursuant to Los Angeles County Code Chapter 11.36, in tandem with City mechanisms, is efficient and convenient to implement the Act and to protect the health, safety and welfare of the citizens of the City of Covina; and

WHEREAS, Los Angeles County Code Section 11.36.400(A) expressly contemplates the adoption of said ordinance and regulations by municipal jurisdictions within Los Angeles County.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. Findings. Based on the foregoing recitals, the facts and evidence discussed therein, and all public comments and testimony received at the public hearing(s), which are hereby incorporated by reference, the City Council hereby adopts the following findings:

A. This urgency ordinance is necessary for the current and immediate protection of the public health, safety and welfare of the City and its residents for the following reasons:

1. Tattoo and/or body art facilities have a deleterious effect on sensitive land uses, and tattoo and/or body art facilities pose a threat to the residents of the City of Covina due to the harmful secondary effects of such businesses;

2. The City's Municipal Code does not currently regulate tattoo and/or body art practitioners and facilities, however, the Courts have held that accommodation must be made for this form of expression within the City;

3. There is a pending application to locate and operate a tattoo and/or body art facility within the City; and

4. Reasonable regulation of tattoo and/or body art facilities is necessary to ensure that secondary effects do not lead to blight and loss of property values of residential neighborhoods and businesses in close proximity to such uses, and to protect against harmful impacts on other sensitive land uses.

B. The restrictions imposed by this Ordinance still provide sufficient avenues of communication for those wishing to open and operate tattoo and/or body art facilities, and provide a reasonable number of locations for such facilities to locate within the City.

C. That this Ordinance is consistent with applicable State and Federal law.

D. That the City Council has reviewed this Ordinance and found it to be in the best interests of the community and its health, safety and general welfare and that it is consistent with the Covina General Plan.

SECTION 2. Chapter 5.38 is hereby added to Title 5 of the Covina Municipal Code and shall read as follows:

"Chapter 5.38

BODY ART PRACTITIONERS AND ESTABLISHMENTS

Sections:

- 5.38.010 Purpose.**
- 5.38.020 Definitions.**
- 5.38.030 Body Art Practitioner – County Registration Required.**
- 5.38.040 Body Art facilities – County Health Facility Permit Required; Operating Hours.**
- 5.38.050 Exemptions.**
- 5.38.060 Body Art Practitioners and Facilities – City Business License Required – Changes of Business.**
- 5.38.070 Body Art Procedures – Client or Parental Consent Required – Certain Procedures on Minors Prohibited.**
- 5.38.080 Body Art Procedures – Health and Hygiene Standards.**
- 5.38.090 Health Standards for Jewelry, Ink, Permanent Cosmetics, and Instruments.**
- 5.38.100 Health and Safety Standards for Permanent Body Art Facilities.**
- 5.38.110 Health and Safety Standards for Temporary Body Art Facilities.**
- 5.38.120 Sterilization Procedures.**

- 5.38.130 Mechanical Stud and Clasp Ear Piercing – Notification and Operating Standards.**
- 5.38.140 Inspection/Impoundment of Instruments.**
- 5.38.150 Suspension or Revocation of Business Licenses, Permits, or Registration.**
- 5.38.160 Violation – Penalty.**

5.38.010 Purpose.

It is the purpose and intent of this Chapter to implement the provisions of the California Safe Body Art Act (California Health and Safety Code Sections 119300 et seq.) which requires local registration of Body Art Practitioners, issuance of local health permits for Temporary and Permanent Body Art Facilities and allows cities to require notification forms be completed by ear piercing facilities that use only a mechanical stud and clasp device.

5.38.020 Definitions.

- A. "Act" means the California Safe Body Art Act (California Health and Safety Code Sections 119300 et seq.), as it may be amended from time to time.
- B. "Body Art" means Body Piercing, Tattooing, Branding, or application of Permanent Cosmetics.
- C. "Body Art Facility" of "Facility" means the specified building, section of a building, or vehicle in which a Practitioner performs Body Art, including reception areas, the Procedure Area, and the Decontamination and Sterilization Area. "Body Art Facility" does not include a facility that only pierces the ear with disposable, single-use, presterilized clasp and stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear.
- D. "Body Art Practitioner" or "Practitioner" means a person who performs Body Art on a Client.
- E. "Body Piercing" means the creation of an opening in a human body for the purpose of inserting jewelry or other decoration. "Body piercing" includes, but is not limited to, the piercing of an ear, including the tragus, lip, tongue, nose, or eyebrow. "Body piercing" does not include the piercing of an ear, except for the tragus, with a disposable, single-use, presterilized clasp and stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear.
- F. "Branding" means the process in which a mark or marks are burned into human skin tissue with a hot iron or other instrument, with the intention of leaving a permanent scar.
- G. "Client" means an individual upon whom a Practitioner performs Body Art.
- H. "County" means the County of Los Angeles.
- I. "Decontamination and Sterilization Area" means a room, or specific section of a room, that is set apart and used only to decontaminate and sterilize Instruments.

- J. Enforcement officer” means any of the following:
1. The California Department of Public Health;
 2. The Los Angeles County Department of Public Health; or
 3. The City of Covina Police Department or Building and Safety Department.

K. "Instrument" means a nonmedical application device used in performing Body Art, including, but not limited to, needles, needle bars, needle tubes, forceps, hemostats, tweezers, razors, or razor blades.

L. “Mobile Body Art Facility” means a vehicle or other movable Facility where a Body Art Practitioner performs Body Art for more than seven (7) days in a 90-day period.

M. "Owner" means either of the following:

1. The Person(s) whose name(s) appear on the County public health facility permit, City business license, property deed, or rental agreement of a Body Art Facility.
2. A Person, other than a Client, who employs or independently contracts for the services of Body Art Practitioners regulated by this Chapter.

N. "Permanent Cosmetics" means the application of pigments in human skin tissue for the purpose of permanently changing the color or other appearance of the skin. This includes, but is not limited to, permanent eyeliner, eyebrow, or lip color.

O. “Person” means any individual, proprietorship, partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.

P. "Procedure Area" means a room, or designated portion of a room, that is set apart and only used to perform Body Art.

Q. "Sponsor" means an individual or business entity, including an event coordinator or manager, responsible for the organization of a convention, trade show, or other temporary event that includes a Body Art demonstration booth. A sponsor may also be a Body Art Practitioner.

R. "Tattooing" means the insertion of pigment in human skin tissue by piercing with a needle.

S. “Temporary Body Art Facility” means a temporary demonstration booth or facility where a Body Art Practitioner performs Body Art for no more than seven (7) days in a 90-day period. Vehicles or other movable facilities where a Body Art Practitioner performs Body Art for seven (7) days or less in a 90-day period are Temporary Body Art Facilities for purposes of this Chapter.

The definitions contained in this Section 5.38.020 are intended to conform to those set forth in the Act. To the extent that any term set forth in this Ordinance is not defined herein or conflicts with the definitions set forth in the Act, the definition as set forth in the Act shall govern.

5.38.030 Body Art Practitioner – County registration required.

A. It shall be unlawful for any Person to perform Body Art in the City of Covina, whether as an individual or in connection with a Body Art Facility, without possessing a current certificate of registration from the County, pursuant to Los Angeles County Code Section 11.36.320, as it may be amended from time to time. As a condition of registration or renewal, the applicant shall do all of the following:

1. Provide to the County all of the information required by Section 119306(b) of the Act and Chapter 11.36 of the Los Angeles County Code;
2. Provide to the County proof that he or she has completed a Bloodborne Pathogens Exposure Control Training program, along with any annual updates, pursuant to Section 119307 of the Act; and
3. Pay all registration fees required by the County.

B. Except as set forth in Section 5.38.110 of this Chapter, at least fifteen (15) calendar days prior to performing Body Art in the City of Covina, the Body Art Practitioner shall file a copy of his or her County certificate of registration with the Covina Police Department, along with any renewals.

C. A Body Art Practitioner shall display, in a place readily visible to the public at the Body Art Facility where the Practitioner is performing Body Art, his or her County current certificate of registration.

D. The County certificate of registration shall have a term as set forth by Los Angeles County Code, after which the Body Art Practitioner shall be required to renew the certificate of registration in accordance with Los Angeles County Code Section 11.36.320, as it may be amended from time to time.

E. All Body Art Practitioners shall notify the County and Covina Police Department or designee of a change in the Practitioner's place or business or location where he or she performs Body Art, within thirty (30) calendar days after such change.

F. Nothing in this Section shall exempt a Body Art Practitioner from the requirement to obtain a City of Covina business license or such other permits and licenses as may be required by applicable provisions of this Code.

5.38.040 Body Art Facilities – County health facility permit required; Operating Hours.

A. It shall be unlawful for any Body Art Facility, including Temporary Body Art Facilities and Mobile Body Art Facilities, to conduct business within the City of Covina without possessing a current County public health facility permit, pursuant to Los Angeles County Code Section 11.36.350, as it may be amended from time to time. An application for a County public health facility permit shall include all of the following:

1. A copy of the Body Art Facility's Infection Prevention and Control Plan, as required by Sections 119312(b) and 119313 of the Act;
2. All fees required by the County, which shall not exceed the amount necessary but that is sufficient to cover the actual costs of administration of the County's permitting program.

B. Except as set forth in Section 5.38.110 of this Chapter, at least fifteen (15) calendar days prior to conducting business within the City of Covina, the Owner of a Body Art Facility shall file a copy of the County public health facility permit with the Covina Police Department, along with any renewals.

C. The County public health facility permit shall be posted in a conspicuous place at the Body Art Facility. Certificates of registration for all Body Art Practitioners performing Body Art at a Body Art Facility shall also be prominently displayed either near the County public health facility permit or at the individual Body Art Practitioner's Procedure Area, if each Body Art Practitioner has such a designated area.

D. A County public health facility permit is valid only for the location of the Body Art Facility and may not be transferred to another Owner or Facility, unless approved by the County. All Body Art Facilities that have received approval of the County to transfer a public health facility permit shall notify the Covina Police Department of designee of such transfer within thirty (30) calendar days after such change.

E. A County public health facility permit shall have a term of as set forth in Los Angeles County Code, after which the Body Art Facility shall be required to renew the permit in accordance with Los Angeles County Code Section 11.36.360, as it may be amended from time to time.

F. Nothing in this Section shall exempt a Body Art Facility from the requirement to obtain a City of Covina business license, building permit, site plan review or such other permits and licenses as may be required by applicable provisions of this Code. It shall be unlawful for any person to commence construction, reconstruction or alteration of a Body Art Facility or Mobile Body Art Facility without first submitting plans, specifications and such other information as may be required to determine compliance with this Code and the Act in advance of applying for any building, plumbing, or electrical permits for the facilities to be constructed, reconstructed or altered.

G. Business operating hours for any Body Art Facility shall be limited to the hours of 10:00 a.m. to 10:00 p.m. Any Body Art begun any time before 10:00 p.m. must nevertheless terminate at 10:00 p.m. All Clients shall be excluded from the Body Art Facility during these hours and be advised of these hours. The hours of operation must be displayed in a conspicuous public place in the Reception Area and in the front window clearly visible from the outside. During its business hours, no Body Art Facility may lock any of its doors through which the public enters from an outside location nor may it lock any of its doors leading to a room in which Body Art is performed.

5.38.050 Exemptions.

The requirements of this Chapter shall not apply to the activities of a physician and surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or a physician assistant licensed under Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code. Nothing in this Chapter authorizes a Body Art Practitioner to perform activities that are restricted under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and professions Code.

5.38.060 Body Art Practitioners and Facilities – City Business License Required – Changes of Business.

A. Every Body Art Practitioner and every Body Art Facility performing Body Art within the City shall possess and maintain a City business license and shall ensure that the applicable business license taxes and fees are paid. A Body Art Practitioner employed by or operating out of a Body Art Facility shall not be required to possess and maintain a City business license for himself or herself, unless that Practitioner also performs Body Art within the City as an individual outside of the Body Art Facility. The annual business license tax for Body Art Practitioners and Body Art Facilities shall be the amounts set forth in Chapter 5.04 of this Code. The annual business license application fee for Body Art Practitioners and Body Art Facilities shall be the amounts set forth in Section 5.04.235 of this Code.

B. Any business license issued pursuant to this Chapter shall be expressly contingent upon continuing compliance with this Chapter, Chapter 11.36 of the Los Angeles County Code, the Act, and applicable terms or conditions of a County certificate of registration or public health facility permit.

C. All business licenses issued by the City pursuant to this section shall expire on the first day of January of each year. A renewal business license may be issued upon payment of prescribed taxes and fees in accordance with Chapter 5.04 of this Code. In the event that a license holder fails to apply to renew his or her business license within those times prescribed by Chapter 5.04 of this Code, the license holder shall have to requalify as a new applicant, subject to all provisions and fees herein.

D. An application for a business license to perform Body Art shall include the following:

1. All information required by Section 5.04.160 of this Code;
2. For an individual Body Art Practitioner, a copy of his or her County certificate of registration. For a Body Art Facility, a copy of its County public health facility permit and copies of County certificates of registration for all Body Art Practitioners employed or contracted by it to perform Body Art at that Facility; and
3. All business license application taxes and fees as required by Chapter 5.04, or other applicable provision of this Code.

E. Prior to issuing a business license pursuant to this chapter, the City may make reasonable investigations into the information provided in the business license application. The

City may deny the application if the applicant provides materially false information or for those other grounds set forth in this Code.

F. Every Body Art Facility Owner shall report immediately to the City Finance Department any and all changes of ownership or management of the Body Art Facility, including, but not limited to, changes of manager or other person principally in charge, stockholders holding more than 5% of the stock of the corporation, officers, directors and partners in any and all changes of name, style or designation under which the business is to be conducted and all changes of address or telephone numbers of the Body Art Facility.

5.38.070 Body Art Procedures – Client or Parental Consent Required – Certain Procedures on Minors Prohibited.

A. Body Art Practitioners may only perform Body Art upon a Client 18 years of age or older with the Client’s written consent. Prior to the performance of Body Art, the Client shall:

1. Read, complete and sign an informed consent form that, at minimum, includes all information required by Section 119303(a) of the Act; and
2. Receive, complete and sign a health history questionnaire that, at minimum, includes all of the information required by Section 119303(b) of the Act. Pursuant to Section 119303(c) of the Act, the questionnaire and all responses contained therein shall be considered confidential information and the Body Art Facility shall maintain the privacy of the information.

B. Subject to the limitations set forth herein, Body Art Practitioners may only perform Body Art upon a Client under the age of 18 years with the written consent of the Client’s parent or legal guardian. Prior to the performance of Body Art, the Client’s parent or legal guardian shall:

1. Read, complete and sign an informed consent form that, at minimum, includes all information required by Section 119303(a) of the Act; and
2. Receive, complete and sign a health history questionnaire that, at minimum, includes all of the information required by Section 119303(b) of the Act. Pursuant to Section 119303(c) of the Act, the questionnaire and all responses contained therein shall be considered confidential information and the Body Art Facility shall maintain the privacy of the information.

C. The following Body Art procedures may be offered or performed on Clients under the age of 18 years with written consent of a parent or legal guardian:

1. Body Piercing, except of the nipples or genitals, provided that the procedure is performed in the presence of the parent or legal guardian;

2. Application of Permanent Cosmetics to the nipples when applied by a registered permanent cosmetic technician and as directed by a physician.

D. The following Body Art procedures may not be offered or performed on Clients under the age of 18 years, regardless of written consent of a parent or legal guardian:

1. Tattooing;
2. Application of Permanent Cosmetics, except as provided in paragraph (C)(2) above;
3. Branding;
4. Body Piercing of the nipples or genitals.

5.38.080 Body Art Procedures – Health and Hygiene Standards.

A. Before performing Body Art, a Body Art Practitioner shall take all precautionary health and hygiene actions required by Section 119308(a) of the Act, which include, among other things, washing of hands as well as using clean clothing, appropriate personal protective equipment, gloves and antiseptic/antimicrobial solutions.

B. After completing any Body Art procedure, a Body Art Practitioner shall take all post-procedure actions required by Section 119308(b) of the Act, including answering Client questions, providing the Client post-procedure instructions, discarding of used sharps waste, and washing and disinfecting reusable Instruments in a Decontamination and Sterilization Area.

C. A Body Art Practitioner shall maintain a clean and sanitary environment in accordance with the standards set forth in Section 119309 of the Act, including cleaning, disinfecting and/or decontaminating solid surfaces, objects, and Instruments. No food, drink, tobacco product, or personal effects are permitted in the Procedure Area. The Body Art Practitioner shall not eat, drink, or smoke while performing a Body Art procedure. If a Client requests to eat, drink, or smoke, the Body Art procedure shall be stopped and the Procedure Area shall be protected from possible contamination while the Client leaves the Procedure Area to eat, drink or smoke.

5.38.090 Health Standards for Jewelry, Ink, Permanent Cosmetics, and Instruments.

A. Jewelry, Instruments and equipment utilized for Body Piercing shall comply with the health and materials standards set forth in Section 119310 of the Act.

B. Any ink, pigments, dyes, Permanent Cosmetics, needles, or Instruments utilized in Tattooing or applying Permanent Cosmetics shall comply with the health and materials standards set forth in Section 119311 of the Act.

5.38.100 Health and Safety Standards for Permanent Body Art Facilities.

With the exception of Temporary Body Art Facilities or Mobile Body Art Facilities, all Body Art Facilities shall comply with the health and safety standards set forth in Section 119314 of the Act.

5.38.110 Health and Safety Standards for Temporary and Mobile Body Art Facilities.

Temporary Body Art Facilities and Mobile Body Art Facilities shall comply with the health and safety standards set forth in Sections 119316 through 119318 of the Act. At least seven (7) calendar days prior to commencing operations, a Temporary Body Art Facility or Mobile Body Art Facility shall file a copy of its County certificate of registration and County public health facility permit with the Covina Police Department. Temporary Body Art Facility permits shall be valid only for the days and hours of operation specified on the application as approved by the County.

5.38.120 Sterilization Procedures.

Body Art Facilities, including Temporary Body Art Facilities and Mobile Body Art Facilities, shall comply with all of the sterilization procedures set forth in Section 119315 of the Act.

5.38.130 Mechanical Stud and Clasp Ear Piercing- Notification and Operating Standards.

A. It shall be unlawful for any person to perform piercing of the ear, except for the tragus, with a disposable, single-use, presterilized stud and clasp device or solid needle without first providing a form to the Client, prepared by the City, that includes all of the information required by Health and Safety Code Section 119326 (a) and paying a nonrefundable one-time notification fee to the City, as set by resolution of the City Council.

B. Persons performing piercing of the ear, except for the tragus, with a disposable, single-use, presterilized stud and clasp device or solid needle shall only be required to comply with the standards set forth in Sections 119325 through 119327 of the Act. Said persons shall not be required to obtain a County certificate of registration or County public health facility permit to perform the limited activities set forth in this Section 5.38.130. However, they shall be required to obtain a City business license in accordance with Chapter 5.04 of this Code.

5.38.140 Inspection/Impoundment of Instruments.

A. Body Art Facilities, or any location suspected of being a Body Art Facility, shall be subject to inspection by an Enforcement Officer during its hours of operation and other reasonable times in order to ensure compliance with this Chapter and the Act. As part of the inspection, the Enforcement Officer may take photographs, secure samples, documents and records, or collect other evidence. During an inspection, the Enforcement Officer may verify the identity of all on-duty Body Art Practitioners. The Owner consents to the inspection of the Body Art Facility by any Enforcement Officer for the purpose of determining that the provisions of this Chapter, the Act or other applicable laws or regulations are met.

B. Any Owner or his or her agent, servant or employee commits a violation if he or she refuses to permit a lawful inspection of the Body Art Facility, or any location suspected of being a Body Art Facility, by an Enforcement Officer at any time it is occupied or open for

business.

C. Body Art Facilities shall maintain records of training required this Chapter and the Act and shall make them available for inspection by an Enforcement Officer for three (3) years from the date of that training.

D. Based upon inspection findings or other evidence, the Enforcement Officer shall make a written report and provide a copy thereof to the Owner of the Body Art Facility or the Body Art Practitioner at the completion of an inspection or investigation.

E. Based upon inspection findings or other evidence, an Enforcement Officer may impound Instruments that are found to be unsafe to use. Within 30 days, the City, County or other enforcement agency that impounded the Instruments shall commence a proceeding to release the impounded Instruments or to seek an administrative or legal remedy for their disposal.

5.38.150 Suspension or revocation of business licenses, permits or registration.

A. The City business license of a Body Art Practitioner or Body Art Facility may be suspended or revoked on one or more of the following grounds:

1. That the license holder provided materially false information in his or her application to obtain a business license pursuant to Section 5.38.060(D) or (E);
2. That the license holder has employed, allowed or permitted a Body Art Practitioner without a current County certificate of registration to perform Body Art in his or her Body Art Facility;
3. That the license holder does not adhere to the requirements set forth in this Chapter, Chapter 11.36 of the County Code, or the Act, including but not limited to unannounced inspections for compliance.

B. License holders may be held responsible for violations of individual employees or contractors who practice or engage in or carry on the business of a Body Art Practitioner to the extent permitted by the Act or other state law.

C. Where a Body Art Practitioner or Body Art Facility conducts or carries on such business contrary to the provisions of this Chapter, the Act or any other ordinance or law relating to or regulating such business, the City may suspend or revoke the business license pursuant to the procedures set forth in Chapter 5.04 of this Code. Appeals of any decision shall be as provided in Chapter 5.04 of this Code.

D. Where a Body Art Facility conducts or carries on such business contrary to the provisions of this Chapter, the Act or any other ordinance or law relating to or regulating such business, the City may also revoke any site plan review or other land use entitlement applicable to the business, pursuant to the applicable procedures set forth in title 17 of this Code.

E. A County certificate of registration or public health facility permit issued may be suspended, revoked or reinstated in accordance with the procedures set forth in the Sections 119320 through 119322 of the Act or Chapter 11.36 of the County Code.

5.38.160 Violation-Penalty.

A. Any violation of any of the provisions of this Chapter shall be punishable as a misdemeanor pursuant to Chapter 1.16 of this Code.

B. Every person who violates any provision of this Chapter may be subject to administrative citations pursuant to Chapter 1.26 of this Code.

C. Any Body Art Facility operated, conducted or maintained contrary to the provisions of this Chapter or applicable state law shall be and the same is declared to be unlawful and a public nuisance. The city attorney or the district attorney may, in addition to or in lieu of any other enforcement or abatement measures, commence an action or actions, proceeding or proceedings for the abatement, removal and enjoinder thereof, in the manner provided by law. They shall also take such other steps, and shall apply to such courts or court as may have jurisdiction to grant such relief, as will abate or remove such Body Art Facility and restrain and enjoin any person from operating, conducting or maintaining a Body Art Facility contrary to the provisions of this Chapter or applicable state law."

D. Remedies under this Chapter are cumulative."

SECTION 3. Chapter 17.67 is hereby added to Title 17 of the Covina Municipal Code and shall read as follows:

"Chapter 17.67

BODY ART FACILITIES

Sections:

17.67.010 Purpose.

17.67.020 Definitions.

17.67.030 Zoning and Land Use Standards of Body Art Facilities.

11.67.010 Purpose.

The regulation of the tattoo and/or body art facilities is necessary to ensure that their secondary effects do not pose a threat to residents of the City of Covina, or lead to blight and loss of property values of residential neighborhoods and businesses in close proximity to such uses, and to protect against harmful impacts on other sensitive land uses. This Chapter contains content-neutral regulations to address such negative secondary impacts while providing sufficient avenues of communication for those wishing to open and operate tattoo and/or body art facilities, and provide a reasonable number of locations for such facilities to locate within the City.

11.67.020 Definitions.

"Body Art Facility" means the specified building, section of a building, or vehicle in which Body Art is performed, as more specifically defined in Section 5.38.020(C) of this Code.

17.67.030 Zoning and Land Use Standards for Body Art Facilities.

A. Notwithstanding any other provision of this Title 17 to the contrary, Body Art Facilities shall be a permitted use in the following zones, subject to the regulations contained herein:

1. C-5 Commercial zone (specified highway)
2. M-1 Light manufacturing zone.

B. Standards for Body Art Facilities shall be as follows:

1. Except as otherwise provided in this Chapter, each Body Art Facility shall comply with Chapter 5.38 of this Code.
2. The Body Art Facility shall be designed to screen Body Art performed on a Client's "specified anatomical areas", as defined in Section 17.55.020(B) of this Code, from persons outside the Facility. Signage, advertising or images depicting "specific anatomical areas" shall not be placed in the windows or be visible to persons outside the Facility.
3. Body Art Facility signage shall comply with standards in this Title 17.
4. Design and/or modification to a site or building in which a Body Art Facility proposes to locate shall remain subject to Site Plan Review under Chapter 17.64 of this Code.
5. Body Art cannot be provided as accessory to other permitted uses such as a barber and/or beauty shop without first complying with the provisions of this Chapter and cannot be operated as home occupations.
6. The off-street parking requirement shall be one parking space for each 300 square feet of gross floor area."

SECTION 4. Pursuant to Government Code Section 36937, this Ordinance is designed to protect the health, safety and welfare of the citizens of the City of Covina and becomes effective immediately upon adoption by a four fifths (4/5) vote of the City Council. The City Council hereby finds that there is an urgent need to adopt these regulations in order to eliminate the current and immediate threats set forth above.

SECTION 5. The City Council finds that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines,

California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 6. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion or the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 7. The City Clerk shall certify to the adoption of this urgency ordinance. Not later than fifteen (15) days following the passage of this urgency ordinance, the ordinance, or a summary of the ordinance, along with the names of the City Council members voting for and against the ordinance, shall be published in a newspaper of general circulation in the City of Covina.

SIGNED AND APPROVED this 4th day of September , 2012

KEVIN STAPLETON, MAYOR

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

I HEREBY CERTIFY that the above and foregoing urgency ordinance was duly passed and adopted by the Covina City Council at its regular meeting held on the 4th day of September, 2012, by the following vote, to wit:

AYES;
NOES;
ABSENT:

City Clerk

Assembly Bill No. 300

CHAPTER 638

An act to repeal and add Chapter 7 (commencing with Section 119300) of Part 15 of Division 104 of the Health and Safety Code, relating to body art.

[Approved by Governor October 9, 2011. Filed with
Secretary of State October 9, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 300, Ma. Safe Body Art Act.

Under existing law, every person engaged in the business of tattooing, body piercing, or permanent cosmetics is required to register with the county in which that business is conducted, obtain a copy of the county's sterilization, sanitation, and safety standards, as established by the California Conference of Local Health Officers and distributed by the State Department of Public Health, as specified, and pay a one-time registration fee of \$25. Existing law allows the county to charge an additional fee, if necessary to cover the cost of registration and inspection, and allows a county to adopt regulations that do not conflict with, or are more comprehensive than, standards adopted by the department.

Under existing law, a person who fails to register or who violates the sterilization, sanitation, and safety standards is liable for a civil penalty of up to \$500, to be collected in an action brought by the prosecuting attorney of the county or city and county in which the violation occurred.

This bill would, as of July 1, 2012, repeal these provisions and, instead, enact the Safe Body Art Act. The act would prohibit a person from performing body art, as defined, without registering annually with the local enforcement agency. The bill would require practitioners to comply with specified requirements, including, among other things, client information and questionnaires, vaccination, bloodborne pathogen training, and sanitation. The bill would also require the owner of a body art facility, as defined, to obtain and annually renew a health permit from the local enforcement agency, as specified, and to maintain the body art facility in a specified manner.

This bill would exempt from the definition of body art the piercing of an ear with a disposable, single-use, presterilized stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear, but would impose specified requirements on that practice. The bill would authorize a local enforcement agency to require facilities performing ear piercing in that jurisdiction to submit a notification form, as provided, with the local enforcement agency.

The bill would authorize the local enforcement agency to charge a one-time facility notification fee in an amount between \$25 and \$45, but not in excess of the amount required to cover the actual costs of administering and enforcing the program. The bill would authorize a county, after December 31, 2015, to charge a different fee, established by local ordinance, so long as an increased fee amount is necessary to cover the actual costs of administering and enforcing the provisions.

This bill would regulate the performance of body art in vehicles, temporary booths, and at body art events. The bill would require a person sponsoring a body art event to obtain a permit and fulfill specified requirements and would authorize a local enforcement agency to establish reasonable regulatory fees, including, but not limited to, a fee for body art events in an amount not to exceed, but sufficient to cover, the costs of enforcement.

The bill would authorize specified inspection by an enforcement officer, and would provide for the suspension or revocation of a certificate of registration or a health permit in specified circumstances. The bill would make performing body art without being registered, operation of a body art facility without a health permit, or operation of a temporary body art event without a permit a misdemeanor and would authorize the local enforcement agency to assess an administrative penalty, in an amount not less than \$25 and not more than \$1,000, for violating a provision of the bill. The bill would also authorize the local enforcement agency, in addition to these penalties, to impose a penalty of up to three times the cost of the registration or permit on a practitioner, owner of a body art facility, or sponsor of a temporary body art event who fails to obtain needed permits.

This bill would authorize a city, county, or city and county to adopt regulations or ordinances that do not conflict with, or are more stringent than, the provisions of the bill as those provisions relate to body art. Because this bill would place the inspection and enforcement requirements on local governments and because it creates a new crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

The people of the State of California do enact as follows:

SECTION 1. Chapter 7 (commencing with Section 119300) of Part 15 of Division 104 of the Health and Safety Code is repealed.

SEC. 2. Chapter 7 (commencing with Section 119300) is added to Part 15 of Division 104 of the Health and Safety Code, to read:

CHAPTER 7. BODY ART

Article 1. General Provisions

119300. (a) This chapter shall be known, and may be cited, as the Safe Body Art Act.

(b) The purpose of this chapter is to provide minimum statewide standards for the regulation of persons engaged in the business of tattooing, body piercing, and the application of permanent cosmetics in California. These requirements are intended to protect both the practitioner and the client from transmission of infectious diseases through the application of proper body art procedures and the control of cross-contamination of instruments and supplies.

119301. For purposes of this chapter, the following definitions shall apply:

(a) "Antiseptic solution" means a liquid or semiliquid substance that is approved by the federal Food and Drug Administration to reduce the number of microorganisms present on the skin and on mucosal surfaces.

(b) "Bloodborne pathogen" means a disease-causing microorganism that, when present in the blood, can be transmitted to humans, including, but not limited to, hepatitis B virus (HBV), hepatitis C virus (HCV), and human immunodeficiency virus (HIV).

(c) "Body art" means body piercing, tattooing, branding, or application of permanent cosmetics.

(d) "Body art facility" means the specified building, section of a building, or vehicle in which a practitioner performs body art, including reception areas, the procedure area, and the decontamination and sterilization area. "Body art facility" does not include a facility that only pierces the ear with a disposable, single-use, presterilized clasp and stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear.

(e) "Body piercing" means the creation of an opening in a human body for the purpose of inserting jewelry or other decoration. "Body piercing" includes, but is not limited to, the piercing of an ear, including the tragus, lip, tongue, nose, or eyebrow. "Body piercing" does not include the piercing of an ear, except for the tragus, with a disposable, single-use, presterilized stud and clasp or solid needle that is applied using a mechanical device to force the needle or stud through the ear.

(f) "Branding" means the process in which a mark or marks are burned into human skin tissue with a hot iron or other instrument, with the intention of leaving a permanent scar.

(g) "Client" means an individual upon whom a practitioner performs body art.

(h) "Decontamination and sterilization area" means a room, or specific section of a room, that is set apart and used only to decontaminate and sterilize instruments.

(i) “Department” means the State Department of Public Health.

(j) “Decontamination” means the use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item to the point where the pathogens are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.

(k) “Disinfectant” means a product that is registered by the federal Environmental Protection Agency and the Department of Pesticide Regulation, as indicated on the label, to reduce or eliminate the presence of disease-causing microorganisms, including human immunodeficiency virus (HIV) and hepatitis B virus (HBV) for use in decontaminating work surfaces.

(l) “Enforcement officer” means all local health officers, directors of environmental health, and duly authorized registered environmental health specialists and environmental health specialist trainees.

(m) “Hand hygiene” means either of the following:

(1) Thoroughly washing all surfaces of the hands and under the fingernails with soap and warm water.

(2) In the absence of contamination with blood or other bodily fluids, or obvious soiling, applying an antiseptic solution to all the surfaces of the hands and underneath the fingernails.

(n) “Instrument” means a nonmedical application device used in performing body art, including, but not limited to, needles, needle bars, needle tubes, forceps, hemostats, tweezers, razors, or razor blades.

(o) “Local enforcement agency” means the local health agency of the county, city, or city and county. In jurisdictions where the local health agency and the environmental health agency are separate departments, the jurisdiction shall specify which entity will be the local enforcement agency for purposes of this chapter.

(p) “Mucosal surface” means the moisture-secreting membrane lining of all body cavities or passages that communicates with the exterior, including, but not limited to, the nose, mouth, vagina, and urethra.

(q) “Owner” means either of the following:

(1) The person or persons whose name or names appear on the health permit, business license, property deed, or rental agreement of the body art facility.

(2) A person, acting as a principal of a corporation or partnership, who employs practitioners to perform body art or other activity regulated by this chapter.

(r) “Permanent cosmetics” means the application of pigments in human skin tissue for the purpose of permanently changing the color or other appearance of the skin. This includes, but is not limited to, permanent eyeliner, eyebrow, or lip color.

(s) “Potable water” means water that complies with the standards for transient noncommunity water systems pursuant to the California Safe Drinking Water Act (Chapter 4 (commencing with Section 116275) of Part 12).

(t) “Practitioner” means a person who performs body art on a client.

(u) "Procedure area" means a room, or designated portion of a room, that is set apart and only used to perform body art.

(v) "Procedure site" means the area or location on the human body selected for the placement of body art.

(w) "Sharps waste" has the same meaning as that term is defined in Section 117755.

(x) "Sponsor" means an individual or business entity, including an event coordinator or manager, responsible for the organization of a convention, trade show, or other temporary event that includes a body art demonstration booth. A sponsor may also be a body art practitioner.

(y) "Sterilization" means the complete destruction of all microbial life forms, including spores.

(z) "Tattooing" means the insertion of pigment in human skin tissue by piercing with a needle.

(aa) "Vehicle" means a vehicle that has been fitted or designed to perform body art.

(ab) "Workstation" means the area within a procedure area where a practitioner performs body art. The workstation includes, but is not limited to, the client chair or table, counter, mayo stand, instrument tray, storage drawer, and practitioner's chair.

Article 2. Restrictions on the Performance of Body Art

119302. (a) Pursuant to Section 653 of the Penal Code, a client shall be at least 18 years of age to be offered or to receive a tattoo or permanent cosmetics application, regardless of parental consent.

(b) Pursuant to Section 652 of the Penal Code, persons under 18 years of age shall not be offered or receive a body piercing unless the piercing is performed in the presence of his or her parent or guardian.

(c) A client shall be at least 18 years of age to be offered or to receive a branding, regardless of parental consent.

(d) The piercing or application of permanent cosmetics to the nipples or genitals of a minor is prohibited. The application of permanent cosmetics to the nipples of a minor is authorized when applied by a registered permanent cosmetic technician with the consent of the minor's parent or guardian and as directed by a physician.

(e) A body art facility may refuse to perform body piercing on a minor, regardless of parental or guardian consent.

119303. (a) Prior to the performance of body art, the client shall read, complete, and sign an informed consent form that shall include, but not be limited to, all of the following information:

(1) A description of the procedure.

(2) A description of what the client should expect following the procedure, including suggested care and any medical complications that may occur as a result of the procedure.

(3) A statement regarding the permanent nature of body art.

- (4) Postprocedure instructions that include all of the following:
 - (A) Information on the care of the procedure site.
 - (B) Restrictions on physical activities such as bathing, recreational water activities, gardening, or contact with animals, and the duration of the restrictions.
 - (C) Signs and symptoms of infection, including, but not limited to, redness, swelling, tenderness of the procedure site, red streaks going from the procedure site towards the heart, elevated body temperature, or purulent drainage from the procedure site.
 - (D) Signs and symptoms that indicate the need to seek medical care.
- (b) Prior to the performance of body art, the client shall receive, complete, and sign a questionnaire that includes all of the following information:
 - (1) Whether the client may be pregnant.
 - (2) Whether the client has a history of herpes infection at the proposed procedure site, diabetes, allergic reactions to latex or antibiotics, hemophilia or other bleeding disorder, or cardiac valve disease.
 - (3) Whether the client has a history of medication use or is currently using medication, including being prescribed antibiotics prior to dental or surgical procedures.
 - (4) Other risk factors for bloodborne pathogen exposure.
- (c) The questionnaire and all responses shall be considered confidential information. The body art facility shall maintain the privacy of the information and shall not sell, share, or transfer the information. A body art facility shall comply with all state and federal laws with respect to the protection of a client's personally identifiable information, including, but not limited to, medical information, and shall be subject to existing penalties for violation of applicable laws. The body art facility shall shred any confidential medical information after two years from performing the body art procedure on the client.

119304. This chapter does not restrict the activities of a physician and surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or a physician assistant licensed under Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code. Nothing in this chapter authorizes a practitioner to perform activities that are restricted under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

Article 3. Practitioner Registration

119306. (a) A person shall not perform body art if he or she is not registered with the local enforcement agency.
- (b) As a condition of registration, the applicant shall provide all of the following:
- (1) Evidence of current hepatitis B vaccination, including applicable boosters, unless the practitioner can demonstrate hepatitis B immunity or

has complied with current federal OSHA hepatitis B vaccination declination requirements.

(2) Evidence of completion of OSHA Bloodborne Pathogen Training consistent with Section 119307 and pursuant to paragraph (2) of subdivision (g) of Section 5193 of Title 8 of the California Code of Regulations or its successor.

(3) Proof that he or she is 18 years of age or older.

(4) Self-certification of, knowledge of, and commitment to meet state law and relevant local regulations pertaining to body art safety.

(5) For first-time registrants, documentation evidencing a minimum of six months of related experience. The local enforcement agency may require documentation that includes, but is not limited to, dates, type, and location of work, and the name and contact information of the registrant's supervisor or supervisors.

(6) His or her business address and the address at which he or she will perform any activity regulated by this chapter.

(7) Payment of a registration fee directly to the local enforcement agency. The local enforcement agency shall set the fee at an amount not to exceed the amount necessary but that is sufficient to cover the actual costs of administering the program.

(c) A practitioner shall display, in a place readily visible to the public at the body art facility where the practitioner is performing body art, the certificate confirming registration with the local enforcement agency in the jurisdiction in which that practice is conducted.

(d) A valid and current registration issued by a local enforcement agency shall be valid in any other jurisdiction for no more than five consecutive days, or 15 days total, in any one calendar year.

(e) Practitioner registration shall be renewed annually by a process to be determined by the local enforcement agency.

(f) A practitioner shall obtain all necessary permits to conduct business, including, but not limited to, being registered with the local enforcement agency. In addition to the penalties available pursuant to Article 6 (commencing with Section 119320), a practitioner who violates this subdivision shall be subject to suspension and a penalty not to exceed three times the cost of registration.

119307. (a) Prior to registering with the local enforcement agency, a practitioner shall complete a Bloodborne Pathogens Exposure Control Training program that is specific to his or her practice.

(b) An owner shall provide Bloodborne Pathogens Exposure Control Training pursuant to the requirements of paragraph (2) of subdivision (g) of Section 5193 of Title 8 of the California Code of Regulations, or its successor, for all employees, contractors, and volunteers who perform duties within the decontamination and sterilization area or procedure area.

(c) The Bloodborne Pathogens Exposure Control Training shall meet all of the following criteria:

(1) Training shall be conducted by a person or persons who are knowledgeable in exposure control and infection prevention in the body art

setting and who are approved by the local enforcement agency in accordance with the provisions of this section.

(2) Training and training materials shall be specific to performing body art.

(3) Training shall consist of not less than two hours of instruction that includes all of the following:

(A) A copy and explanation of the California Occupational Safety and Health Administration Bloodborne Pathogens Standard contained in Section 5193 of Title 8 of the California Code of Regulations, or its successor.

(B) A copy and explanation of applicable county, city, or city and county ordinances that pertain to bloodborne pathogen transmission control in body art.

(C) Discussion of transmission, control, and symptoms of the diseases caused by bloodborne pathogens.

(D) Discussion of tasks involved in performing body art and how those tasks may lead to exposure to bloodborne pathogens for the client or practitioner.

(E) Discussion of the types and uses of personal protective equipment, such as disposable gloves, including an explanation of the limitations of the equipment.

(F) Discussion of the types of tasks, proper task technique, and order of tasks before and after putting on and removing personal protective equipment, to avoid contamination.

(G) Discussion of the importance of hand hygiene and a demonstration of proper hand hygiene techniques.

(H) Discussion of choice, use, and storage of disinfectants and antiseptics.

(I) Information on the signage required for biohazard materials and the importance of properly labeling chemicals and supplies.

(J) Information on hepatitis B vaccine, including safety and accessibility.

(K) Discussion of what constitutes a bloodborne pathogen exposure incident, including all of the following:

(i) Examples of bloodborne pathogen exposure, how the exposure occurred, and what actions to take to prevent or minimize future exposures.

(ii) Risk of infection following a bloodborne pathogen exposure incident.

(iii) Procedures to be followed after an exposure incident, including medical followup.

(L) Opportunities for interactive questions and answers with the instructor.

(d) Each person required to complete a Bloodborne Pathogens Exposure Control Training program pursuant to this section shall annually complete a minimum of two hours of Bloodborne Pathogens Exposure Control Training update presented by a trainer eligible pursuant to paragraph (1) of subdivision (c).

(e) Records of training required pursuant to this section shall be maintained for three years and shall be available for inspection upon request of the enforcement officer.

119308. (a) Before performing body art, the practitioner shall do all of the following:

(1) Wash and dry his or her hands consistent with sound hygienic practices.

(2) Put on a clean apron, bib, or lap pad over clean, dry clothing.

(3) Put on personal protective equipment that is appropriate for the task.

(4) Don clean, previously unused, disposable examination gloves on both hands just prior to the procedure. Gloves shall be worn throughout the procedure. If gloves come into contact with an object or surface other than the client's prepared skin or material to be used for the procedure, or if a glove is torn or punctured, both gloves shall be removed, hand hygiene performed, and new, clean, previously unused, disposable examination gloves shall be donned. If gloves are removed for any reason during a procedure, hand hygiene shall be performed prior to donning new, clean, previously unused, disposable examination gloves.

(5) If the skin at the procedure site is to be shaved, the skin shall be first washed with soap and water. A single-use, disposable razor shall be used to shave the procedure site and then discarded into a sharps container.

(6) Immediately prior to performing the body art, the client's skin shall be prepared with an antiseptic solution, antimicrobial, or microbicide, according to manufacturer's instructions. The item used for application shall be discarded after use.

(b) At the completion of the procedure, the practitioner shall do all of the following:

(1) Answer questions regarding the procedure site.

(2) Provide postprocedure instructions.

(3) Place all used or discarded sharps waste in a sharps waste container.

(4) Wash and disinfect reusable instruments as provided in subdivisions (d) and (e) of Section 119309.

(5) Package and sterilize reusable instruments that may have come in contact with nonintact skin or mucosal surfaces.

(6) Decontaminate the workstation and procedure area.

119309. (a) The practitioner shall maintain a clean and sanitary environment.

(b) All solid surfaces and objects in the procedure area and the decontamination and sterilization area that have come into contact with the client or the materials used in performing the body art, including, but not limited to, chairs, armrests, tables, countertops, and trays, shall be immediately decontaminated after each use and then disinfected by application of a disinfectant, used according to manufacturer's directions.

(c) The surfaces and objects in the procedure area shall be disinfected again before use if the area has been used for any activity following its previous disinfection.

(d) The practitioner shall wear disposable gloves on both hands when touching, decontaminating, or handling a surface, object, instrument, or jewelry that is soiled or that is potentially soiled with human blood.

(e) An instrument or other reusable item that comes into contact with nonintact skin or mucosal surfaces shall either be single use or be washed, disinfected, packaged, and sterilized after each procedure. Sterilization shall

be accomplished pursuant to the procedures established in Section 119315 by steam autoclave.

(f) An instrument or reusable item that does not come into contact with nonintact skin or mucosal surfaces shall be washed with a solution of soap and water, using a brush that is small enough to clean the interior surfaces, and decontaminated after each procedure.

(g) A reusable item that cannot be immediately washed, disinfected, and sterilized following completion of the body art procedure shall be placed in a basin of water with or without detergent.

(h) Sterile instrument packs shall be evaluated before use, and if the integrity of a pack is compromised in any way, including, but not limited to, being torn, punctured, wet, or having evidence of potential moisture contamination, the instrument pack shall be discarded or reprocessed before use.

(i) No food, drink, tobacco product, or personal effects are permitted in the procedure area. The practitioner shall not eat, drink, or smoke while performing a procedure. If a client requests to eat, drink, or smoke, the procedure shall be stopped and the procedure site shall be protected from possible contamination while the client leaves the procedure area to eat, drink, or smoke.

(j) Branding shall not be done with another client in the procedure area. During the procedure, the practitioner and the client shall wear appropriate protective face filter masks.

119310. (a) Jewelry placed in newly pierced skin shall be sterilized prior to piercing as specified in Section 119315 or shall be purchased presterilized. Sterile jewelry packs shall be evaluated before use and, if the integrity of a pack is compromised, including, but not limited to, being torn, wet, or punctured, the pack shall be discarded or reprocessed before use.

(b) Only jewelry made of ASTM F138, ISO 5832-1, and AISI 316L or AISI 316LVM implant grade stainless steel, solid 14-karat through 18-karat yellow or white gold, niobium, ASTM F 136 6A4V titanium, platinum, or other materials found to be equally biocompatible shall be placed in newly pierced skin.

(c) Ear piercing equipment with a disposable, single-use, presterilized stud and clasp may be used only for piercing the ear pursuant to Section 119304.

(d) If measuring the body piercing site is necessary, clean calipers shall be used and the skin marked using clean toothpicks and ink.

119311. (a) A product applied to the skin prior to tattooing or application of permanent cosmetics, including, but not limited to, stencils and marking and transfer agents, including pens, shall be single use and discarded into a waste container at the end of the procedure unless the product can be disinfected for reuse.

(b) Only commercially manufactured inks, dyes, and pigments shall be used.

(c) Inks, pigments, soaps, and other products in multiple-use containers shall be dispensed in a manner to prevent contamination of the storage

container and its remaining contents through the use of a single-use receptacle.

(d) Inks and pigments shall be placed into a clean, single-use receptacle. The inks and pigments remaining in the receptacle shall be discarded immediately upon completion of the procedure.

(e) If a tray is used for inks or pigments, it shall be decontaminated after each procedure.

(f) Only single-use needles and needle bars shall be used in tattooing and the application of permanent cosmetics. Needles and needle bars that are purchased in a nonsterilized state, shall be sterilized, pursuant to the process required by Section 119315.

(g) Needles, needle bars, grommets, and razors shall be discarded into a sharps waste container immediately upon completion of the procedure.

(h) Any part of a tattooing machine that may be touched by the practitioner during the procedure shall be covered with a disposable plastic sheath that is discarded upon completion of the procedure, and the machine shall be decontaminated upon completion of the procedure.

(i) A machine used to insert pigments shall be designed with removable tip parts between the tip and motor housing, and in a manner that will prevent backflow into enclosed parts of the motor housing.

(j) A hand tool used to insert pigment shall be disposed of in a sharps container, with the sharps intact, unless the needle can be mechanically ejected from the hand tool.

Article 4. Permanent Body Art Facilities

119312. (a) A body art facility shall not conduct business without a valid health permit.

(b) The application for a health permit for a body art facility shall include all of the following:

(1) A copy of the facility's infection prevention control plan, as required by Section 119313.

(2) A fee, as set by the local enforcement agency at an amount not to exceed the amount necessary but that is sufficient to cover the actual costs of administration of the program. Fees established by this section shall be used exclusively in support of activities pursuant to this chapter.

(c) The local enforcement agency shall issue a health permit after an investigation has determined that the proposed body art facility and its method of operation meets the specifications of the approved plans or conforms to the requirements of this article.

(d) A health permit is valid only for the location of the facility and the time period indicated on the permit and may not be transferred to another owner or facility.

(e) The health permit shall be posted in a conspicuous place at the body art facility. Certificates of registration for all practitioners performing body art in that facility shall also be prominently displayed either near the health

permit or at the individual practitioner's procedure area if each practitioner has a designated area.

(f) A person proposing to construct a practice site or mobile practice site, other than a temporary body art event booth, shall submit plans to the Plan Review Unit of the local enforcement agency. The plans shall be approved in advance of the issuance of a building, plumbing, or electrical permit. All required corrections must be made and the body art facility approved to open before body art can be performed in the facility.

(g) Health permits shall be renewed annually through a process to be determined by the local enforcement agency.

(h) An owner who operates a body art facility shall obtain all necessary permits to conduct business, including, but not limited to, a permit issued by a local enforcement agency. In addition to the penalties available pursuant to Article 6 (commencing with Section 119320), an owner who violates this subdivision shall be subject to the closure of the facility and a penalty not to exceed three times the cost of the permit.

119313. (a) A body art facility shall maintain and follow a written Infection Prevention and Control Plan, provided by the owner or established by the practitioners, specifying the procedures to achieve compliance with each applicable requirement of this chapter.

(b) The Infection Prevention and Control Plan shall include all of the following:

(1) Procedures for decontaminating and disinfecting environmental surfaces.

(2) Procedures for decontaminating, packaging, sterilizing, and storing reusable instruments.

(3) Procedures for protecting clean instruments and sterile instrument packs from exposure to dust and moisture during storage.

(4) A set up and tear down procedure for any form of body art performed at the body art facility.

(5) Techniques to prevent the contamination of instruments or the procedure site during the performance of body art.

(6) Procedures for safe handling and disposal of sharps waste.

(c) The Infection Prevention and Control Plan shall be revised when changes are made in infection prevention practices, procedures, or tasks.

(d) Onsite training on the facility's Infection Prevention and Control Plan shall take place when tasks where occupational exposure may occur are initially assigned, any time there are changes in the procedures or tasks, and when new technology is adopted for use in the facility, but not less than once each year.

(e) Records of training required pursuant to this section shall be maintained for three years and shall be available for inspection upon request of the enforcement officer.

119314. (a) With the exception of a temporary demonstration booth and a mobile site, as specified in Sections 119317 and 119318, a body art facility shall comply with all of the following:

(1) Have floors, walls, and ceilings that are smooth, free of open holes, and washable.

(2) Be free of insect and rodent infestation.

(3) Be separate from any residential areas used for sleeping, bathing, or meal preparation. A body art facility associated with a residential dwelling shall have a separate entrance and toilet facility, and shall not have a door allowing direct access between the body art facility and the residential dwelling.

(b) Procedure areas in a body art facility shall meet all of the following standards:

(1) Be equipped with a light source that provides adequate light at the procedure area.

(2) Be separated, by a wall or ceiling-to-floor partition, from nail and hair activities.

(3) Be equipped with a sink supplied with hot and cold running water, containerized liquid soap, and single-use paper towels that are dispensed from a wall-mounted, touchless dispenser that is accessible to the practitioner.

(c) Decontamination and sanitation areas within a body art facility shall meet all of the following requirements:

(1) Be separated from procedure areas by a space of at least five feet or by a cleanable barrier.

(2) Be equipped with a sink, hot and cold running water, liquid soap in a wall-mounted dispenser, and single-use paper towels dispensed from a wall-mounted, touchless dispenser that is readily accessible to the practitioner.

(d) Each procedure area and decontamination and sterilization area shall have lined waste containers.

(e) Each procedure area and decontamination and sterilization area shall have a container for the disposal of sharps waste that meets the following requirements:

(1) The sharps waste container shall be portable, if portability is necessary to ensure that the sharps waste container is within arm's reach of the practitioner.

(2) The sharps waste container shall be labeled with the words "sharps waste" or with the international biohazard symbol and the word "BIOHAZARD."

(3) All sharps waste produced during the process of tattooing, body piercing, or the application of permanent cosmetics shall be disposed by either of the following methods:

(A) Removal and disposal by a company, or removal and transportation through a mail-back system approved by the department pursuant to subdivision (b) of Section 118245.

(B) As solid waste, after being disinfected by a method approved by the department pursuant to paragraph (3) of subdivision (a) of Section 118215.

(f) No animals shall be allowed in the procedure area or the decontamination and sterilization area.

119315. A body art facility shall conform to the following sterilization procedures:

(a) Clean instruments to be sterilized shall first be sealed in peel-packs that contain either a sterilizer indicator or internal temperature indicator. The outside of the pack shall be labeled with the name of the instrument, the date sterilized, and the initials of the person operating the sterilizing equipment.

(b) Sterilizers shall be loaded, operated, decontaminated, and maintained according to manufacturer's directions, and shall meet all of the following standards:

(1) Only equipment manufactured for the sterilization of medical instruments shall be used.

(2) Sterilization equipment shall be tested using a commercial biological indicator monitoring system after the initial installation, after any major repair, and at least once per month. The expiration date of the monitor shall be checked prior to each use.

(3) Each sterilization load shall be monitored with mechanical indicators for time, temperature, pressure, and, at a minimum, Class V integrators. Each individual sterilization pack shall have an indicator.

(4) Biological indicator monitoring test results shall be recorded in a log that shall be kept on site for two years after the date of the results.

(5) A written log of each sterilization cycle shall be retained on site for two years and shall include all of the following information:

(A) The date of the load.

(B) A list of the contents of the load.

(C) The exposure time and temperature.

(D) The results of the Class V integrator.

(E) For cycles where the results of the biological indicator monitoring test are positive, how the items were cleaned, and proof of a negative test before reuse.

(c) Clean instruments and sterilized instrument packs shall be placed in clean, dry, labeled containers, or stored in a labeled cabinet that is protected from dust and moisture.

(d) Sterilized instruments shall be stored in the intact peel-packs or in the sterilization equipment cartridge until time of use.

(e) Sterile instrument packs shall be evaluated at the time of storage and before use. If the integrity of a pack is compromised, including, but not limited to, cases where the pack is torn, punctured, wet, or displaying any evidence of moisture contamination, the pack shall be discarded or reprocessed before use.

(f) A body art facility that does not afford access to a decontamination and sterilization area that meets the standards of subdivision (c) of Section 119314 or that does not have sterilization equipment shall use only purchased disposable, single-use, presterilized instruments. In place of the requirements for maintaining sterilization records, the following records shall be kept and maintained for a minimum of 90 days following the use of the instruments

at the site of practice for the purpose of verifying the use of disposable, single-use, presterilized instruments:

- (1) A record of purchase and use of all single-use instruments.
- (2) A log of all procedures, including the names of the practitioner and client and the date of the procedure.

119316. (a) If a practitioner performs body art in a vehicle, a health permit is required if the practitioner will practice in the vehicle in the jurisdiction for more than seven days in a 90-day period. To obtain a health permit, the vehicle shall meet the requirements set forth in subdivisions (b) to (g), inclusive, of Section 119317.

(b) If the vehicle will be operating in the jurisdiction for less than seven days in a consecutive 90-day period, the vehicle shall be treated as a temporary booth and will be subject to Section 119317.

Article 5. Temporary Body Art Facilities

119317. A practitioner may, in the local jurisdiction of registration, practice in a temporary demonstration booth for no more than seven days in a 90-day period. The demonstration booth shall meet all of the following requirements:

(a) Be located within a building that has hand washing facilities with hot and cold running water, soap, and single-use paper towels to which practitioners have direct access.

(b) Constructed with a partition of at least three feet in height separating the procedure area from the public.

(c) Be free of insect or rodent infestation.

(d) Used exclusively for performing body art.

(e) Equipped with adequate light available at the level where the practitioner is performing body art.

(f) Equipped with hand washing equipment that, at a minimum, consists of containerized liquid soap, single-use paper towels, a five-gallon or larger container of potable water accessible via spigot, and a wastewater collection and holding tank of corresponding size. Potable water shall be refilled and the holding tank evacuated at least every four procedures or every four hours, whichever occurs first.

(g) Not allow animals within the confines of the demonstration booth.

(h) Be operating with all necessary permits to conduct business, including, but not limited to, valid permits issued by a local enforcement agency. In addition to the penalties available pursuant to Article 6 (commencing with Section 119320), a sponsor or practitioner who violates this subdivision shall be subject to closure of the temporary body art event and a penalty not to exceed three times the cost of the permit.

119317.5. A local enforcement agency may establish a fee not to exceed the amount necessary, but that is sufficient to cover, the actual costs of the administration of Section 119317.

119318. (a) The sponsor shall obtain all necessary permits to conduct business in the jurisdiction where the event will be held, including, but not limited to, valid permits issued by a local enforcement agency. A local enforcement agency may establish a fee not to exceed the amount necessary, but that is sufficient to cover, the actual costs of the administration of this section. In addition to the penalties available pursuant to Article 6 (commencing with Section 119320), a sponsor who violates this subdivision shall be subject to closure of the temporary body art event and a penalty not to exceed three times the cost of the permit.

(b) The sponsor of a temporary body art event shall be responsible for ensuring the availability of support facilities and supplies for practitioners and vendors, including, but not limited to:

- (1) Access to a potable water supply.
 - (2) Restrooms that have flush toilets supplied with toilet paper, and hand wash sinks supplied with hot and cold potable running water, soap, and single-use paper towels to which practitioners have direct access.
 - (3) Sharps waste containers for each demonstration booth.
 - (4) The use of a licensed medical waste disposal company for removal of all sharps waste containers used during the body art event.
 - (5) Frequent trash pickup from demonstration booths.
 - (6) An eye wash station.
 - (7) A decontamination and sterilization area that is separated from a procedure area by at least five feet or by a cleanable barrier.
 - (8) Adequate backup supplies that have been stored in compliance with subdivision (d) of Section 119315 and that can be purchased by practitioners, including, but not limited to:
 - (A) Presterilized tattoo needles.
 - (B) Presterilized needle tubes.
 - (C) Presterilized piercing instruments, including, but not limited to, needles, receiving tubes, corks, marking tools, and forceps.
 - (D) Plastic bags, barrier film, clip cord covers, and plastic wrap.
 - (E) Ink cups.
 - (F) Nitrile and latex gloves.
 - (G) Single-use tubes of water-based and petroleum-based lubricants.
 - (H) Absorbent dressing materials.
- (c) The name, telephone number, and directions to an emergency room near the temporary body art event shall be posted in a conspicuous location.
- (d) Each practitioner working in a booth at a temporary body art event shall display his or her certificate of registration, or keep the certificate in a folder that is available for inspection upon request of the enforcement officer or a client.

Article 6. Enforcement

119319. (a) An enforcement officer may enter a body art facility during the facility's hours of operation and other reasonable times to do any of the following:

(1) Conduct inspections, issue citations, and secure samples, photographs, or other evidence from a body art facility, or any facility suspected of being a body art facility.

(2) Check the Infection Prevention and Control Plan, required pursuant to Section 119313, to determine if persons working in the facility are following the plan, and to determine if the plan is in compliance with this chapter.

(3) Secure as evidence documents, or copies of documents, including the Infection Prevention and Control Plan, or any record, file, paper, process, invoice, or receipt for the purpose of determining compliance with this chapter.

(b) A written report shall be made and a copy shall be supplied or mailed to the owner or practitioner at the completion of an inspection or investigation.

(c) Based upon inspection findings or other evidence, an enforcement officer may impound instruments that are found to be unsafe to use. Within 30 days, the local enforcement agency that has impounded the equipment shall commence proceedings to release the instrument or to seek administrative or legal remedy for its disposal.

(d) It is a violation of this chapter for the owner or a person working in a body art facility to do any of the following:

(1) Conceal records or evidence, or to withhold evidence.

(2) Interfere with the performance of the duties of an enforcement officer.

(3) Make a false statement, representation, certification, record, report, or otherwise falsify information required to be submitted or maintained pursuant to this chapter.

119320. (a) A certificate of registration or a health permit may be suspended by a local enforcement agency for a violation of this chapter.

(b) A body art facility or practitioner whose certificate of registration or health permit has been suspended shall cease doing business until the certificate or permit has been reinstated. Suspension of the registration of one practitioner in a body art facility does not affect the status of other practitioners in the facility unless the violation or violations are for conditions or equipment that affects the ability of all the practitioners in the facility to comply with the provisions of this chapter.

(c) A body art facility for which the health permit has been revoked shall close and remain closed until a new health permit has been issued.

(d) Whenever an enforcement officer finds that a practitioner or body art facility is not in compliance with the requirements of this chapter, the enforcement officer shall issue a notice to comply or a notice of violation to the registrant or permitholder setting forth the acts or omissions with which the registrant or permitholder is charged, and informing him or her

of a right to a hearing, if requested, to show cause why the registration or permit should not be suspended or revoked.

(e) (1) A written request for a hearing shall be made by the registrant or permitholder within 15 calendar days after receipt of the notice.

(2) The hearing shall be held within 15 calendar days of the receipt of a request for a hearing. Upon written request of the registrant or permitholder, the hearing officer may postpone a hearing date, if circumstances warrant the action.

(f) A failure to request a hearing within 15 calendar days after receipt of the notice shall be deemed a waiver of the right to a hearing.

(g) The hearing officer shall issue a written notice of decision to the registrant or permitholder within five working days following the hearing. In the event of a suspension or revocation, the notice shall specify the acts or omissions with which the registrant or permitholder is charged, and shall state the terms of the suspension or that the registration or health permit has been revoked.

(h) A certificate of registration or health permit may be reinstated or a new certificate of registration or health permit issued if the local enforcement agency determines that the conditions that prompted the suspension or revocation no longer exist.

119321. If an imminent health hazard is found, the enforcement officer may suspend a registration temporarily and order the practitioner to cease operation if the hazard is not corrected. If the hazard affects the entire body art facility, then the entire facility may be closed immediately. Whenever a registration or health permit is suspended as the result of an imminent health hazard, the enforcement officer shall issue to the registrant or permitholder a notice setting forth the acts or omissions being charged, specifying the pertinent code section, and informing the registrant or permitholder of the right to a hearing.

119322. The local enforcement agency may, after providing opportunity for a hearing, modify, suspend, or revoke a certificate of registration or a health permit for serious or repeated violations of any requirement of this chapter or for interference in the performance of the duty of the enforcement officer.

119323. Performing body art without being registered, operating a body art facility without a health permit, or operating a temporary body art event without a permit shall be a misdemeanor. The local enforcement agency may also assess an administrative penalty in an amount not less than twenty-five dollars (\$25) and not more than one thousand dollars (\$1,000) for violation of a provision of this chapter. All fines are to be retained by the local enforcement agency for enforcement of the provisions of this chapter.

119324. A city, county, or city and county may adopt regulations or ordinances that do not conflict with, or are more stringent than, the provisions of this chapter as they relate to body art.

119324.5. The local fees imposed pursuant to this chapter shall not exceed the reasonable costs to a local government for issuing licenses and

permits, performing investigations, inspections, and audits, enforcing orders, and the administrative enforcement and adjudication thereof.

Article 7. Mechanical Stud and Clasp Ear Piercing

119325. (a) The piercing of the ear with a mechanical stud and clasp device does not constitute body art as defined in this chapter. It is the intent of the Legislature, in enacting this article, to provide uniform and statewide requirements for the performance of ear piercing with a mechanical stud and clasp device. The piercing of an ear with a mechanical stud and clasp device shall only be subject to the requirements in this article.

(b) The area within a facility where mechanical stud and clasp ear piercing is conducted shall be safe and sanitary and shall not constitute a threat to the public health and safety, as reasonably determined by the local enforcement agency.

(c) The mechanical stud and clasp device that is used to pierce an ear pursuant to this article shall be single-use, presterilized, stud and clasp only.

(d) The single-use mechanical stud and clasp device used to pierce an ear pursuant to this article shall meet all of the jewelry requirements in subdivisions (a) and (b) of Section 119310.

119326. (a) The local enforcement agency may require a facility that provides mechanical stud and clasp ear piercing services to submit a notification form, which shall be provided by the local enforcement agency in the jurisdiction in which the facility is located. If the local enforcement agency requires this notification form, the form shall include all of the following information:

(1) The address of all facilities within the jurisdiction where mechanical stud and clasp ear piercing will be performed.

(2) A statement that the mechanical stud and clasp ear piercing will be conducted in compliance with the requirements of this article.

(3) The contact information for the person responsible for compliance with this article and who the local enforcement agency should contact regarding complaints from the public regarding mechanical stud and clasp ear piercing at a facility listed in paragraph (1).

(b) Information for more than one location within a single jurisdiction with the same owner or operator may be included on a single notification form. If the local enforcement agency requires notification, it shall provide a notification form that allows the owner or operator of more than one facility in the jurisdiction to provide the required notification for all of its facilities in a single form designed for that purpose.

(c) No person shall be required to provide notification until and unless the local enforcement agency makes a form for this purpose available. Facilities performing mechanical stud and clasp ear piercing on the date the local enforcement agency makes the form available shall have five months from that date in which to complete and submit the form. Facilities that

begin performing mechanical stud and clasp ear piercing after the form is made available shall be required to submit the form prior to offering services.

119327. (a) A person piercing an ear with a mechanical stud and clasp piercing device shall meet the following requirements before providing mechanical stud and clasp ear piercing services:

- (1) Is at least 18 years of age.
- (2) Received one hour of training that covers all of the following topics:
 - (A) Proper use of the mechanical stud and clasp ear piercing device.
 - (B) Types of bloodborne pathogens and the prevention of the transmission of bloodborne communicable diseases.
 - (C) Proper hand hygiene.
 - (D) The safe and sanitary use of single-use equipment, including, but not limited to, gloves, towels, and disinfectant wipes.
- (3) If the person will also be piercing the cartilage of the upper ear, that person shall also receive training on proper techniques for this type of piercing.

(b) The training requirements of subdivision (a) shall not apply to an individual who was employed to perform mechanical stud and clasp ear piercing prior to the effective date of this article.

119328. (a) A local enforcement agency may charge a one-time facility notification fee in an amount between twenty-five dollars (\$25) and forty-five dollars (\$45) for each facility operating pursuant to this article. The fee charged shall not exceed the amount reasonably necessary to cover the actual costs of administering and enforcing the provisions of this article.

(b) After December 31, 2015, a county may charge a different fee, set by local ordinance, provided that the increased fee is necessary to cover the actual costs of administering and enforcing the provisions of this article.

(c) The local enforcement agency may not charge a different fee for facilities based on what part of the ear is being pierced.

SEC. 3. This act shall become operative on July 1, 2012.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred under this act because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs that may be incurred by a local agency or school district because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Title 11 HEALTH AND SAFETY

Chapter 11.36 BODY ART ESTABLISHMENTS

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Part 1 GENERAL PROVISIONS

Article 1 DEFINITIONS

11.36.010 Definitions generally.

- A. For the purpose of this chapter, the words and phrases set forth are defined and shall be construed as hereinafter set out, unless it is apparent from the context that any such word or phrase has a different meaning.
- B. Whenever any word or phrase used in this chapter is not defined herein but is defined in state law or regulation or in another section of the Los Angeles County Code, the definition set forth in such state law or regulation or other section of the Los Angeles County Code is incorporated in this chapter as though set forth herein in full, and shall apply to such word and phrase used but not defined herein. (Ord. 99-0039 § 14 (part), 1999.)

11.36.020 Approved.

"Approved" means meeting the minimum standards set forth and declared acceptable by the county health officer, the department, the State Department of Health Services or the United States Food and Drug Administration. (Ord. 99-0039 § 14 (part), 1999.)

11.36.030 Blood borne pathogen.

"Blood borne pathogen" means any microorganisms that are present in human blood and that can cause disease in humans. Such pathogens include, but are not limited to, hepatitis B virus (HBV), hepatitis C virus (HBC) and human immunodeficiency virus (HIV). (Ord. 99-0039 § 14 (part), 1999.)

11.36.040 Blood borne pathogen standards.

"Blood borne pathogen standards" means any recognized law, ordinance, regulation or standard containing requirements or recommendations, which has been adopted by the department and is applicable to the control of blood borne pathogens in the conduct of any activities regulated by this chapter. (Ord. 99-0039 § 14 (part), 1999.)

11.36.050 Body art.

"Body art" means to adorn the body through the permanent application of a tattoo or insertion of an object, such as jewelry, into a hole for display purposes. Body art is the collective term for any single activity or combination of activities defined herein and in Sections 22.08.200, 22.08.020 and 22.08.160, respectively, as tattooing, body piercing or permanent cosmetics. It shall not include activities such as, or similar to, cutting of the skin or subcutaneous tissue, cutting or modification of cartilage or bone, implantation, branding, deep tissue penetration, threading, stapling or any other invasive procedure, whether or not such act would constitute the practice of medicine requiring licensure as a physician. (Ord. 99-0039 § 14 (part), 1999.)

11.36.060 Body art activity.

"Body art activity" means any temporary or permanent application, process of application, sterilization, sanitization, cleaning, preparation, implementation or other procedure, utilized in the conduct of body art or any associated activity, which is necessary to the conduct of body art, as defined in this chapter. (Ord. 99-0039 § 14 (part), 1999.)

11.36.070 Body art establishment.

"Body art establishment" means any temporary or permanent premises, business, location, facility, room, mobile facility, or any portion thereof, used or operated as a body piercing parlor as defined in Section 22.08.020, as a permanent cosmetics parlor as defined in Section 22.08.160, or as a tattoo parlor as defined in Section 22.08.200. (Ord. 99-0039 § 14 (part), 1999.)

11.36.080 Body art technician.

"Body art technician" means a person that has completed an approved blood borne pathogen training course and is registered with the department to conduct body art activity, in a permitted body art establishment. (Ord. 99-0039 § 14 (part), 1999.)

11.36.090 Body art technician independent operator.

"Body art technician independent operator" means a body art technician conducting body art activity at a permitted body art establishment, but who is not an employee of the owner of the body art establishment. (Ord. 99-0039 § 14 (part), 1999.)

11.36.100 Body art temporary event.

"Body art temporary event" means an event, conference or meeting to demonstrate products, or provide a venue for an industry trade show or to educate body art technicians, where a body art technician conducts body art activity. A body art temporary event shall not exceed 30 consecutive days in a 90 day period at a location. (Ord. 99-0039 § 14 (part), 1999.)

11.36.110 Body piercing.

"Body piercing" means the creation of an opening in the human body for purpose of inserting jewelry or other decorations. This includes, but is not limited to, creating such an opening in the ear, lip, tongue, nose, eyebrow or navel for the purpose of inserting jewelry or other decorations. (Ord. 99-0039 § 14 (part), 1999.)

11.36.120 Client.

"Client" means any person who meets all legal requirements set forth in this chapter and has given informed consent to have body art activity performed upon his or her person. (Ord. 99-0039 § 14 (part), 1999.)

11.36.130 Consent form.

“Consent form” means a document provided by the body art establishment or body art technician independent operator to each person requesting that any body art activity be performed upon his or her person. (Ord. 99-0039 § 14 (part), 1999.)

11.36.140 Contaminated.

“Contaminated” means the presence or the reasonably anticipated presence of blood or other potentially infectious materials on a substance or in or on an item. (Ord. 99-0039 § 14 (part), 1999.)

11.36.150 Contaminated waste.

“Contaminated waste” means any contaminated substance, including but not limited to any liquid or semi-liquid blood or body fluid or any material that would release potentially infectious material in a liquid or semi-liquid state if compressed, or any contaminated sharps, or any items that are caked with dried blood or other potentially infectious material and are capable of releasing these materials during handling. (Ord. 99-0039 § 14 (part), 1999.)

11.36.160 County.

“County” means the County of Los Angeles. (Ord. 99-0039 § 14 (part), 1999.)

11.36.170 Department.

“Department” means the Los Angeles County department of public health. (Ord. 2006-0040 § 102, 2006: Ord. 99-0039 § 14 (part), 1999.)

11.36.180 Departmental regulations.

“Departmental regulations” means the regulations pertaining to body art activity and establishments promulgated by the department as currently written or as may from time to time be amended. When adopted by the department, these regulations are incorporated in and become part of this chapter. (Ord. 99-0039 § 14 (part), 1999.)

11.36.190 Existing owner.

“Existing owner” means an owner of a body art establishment operating on the effective date of the ordinance codified in this chapter.* (Ord. 99-0039 § 14 (part), 1999.)

* **Editor’s note:** Ordinance 99-0039, which enacted Ch. 11.36, is effective on July 1, 1999.

11.36.200 Exposure control plan.

“Exposure control plan” means a written plan that meets all requirements of Title 8 California Code of Regulations §§ 3203 and 5193, to minimize clients’ and employees’ risk of exposure to blood or potentially infectious material. (Ord. 99-0039 § 14 (part), 1999.)

11.36.210 Exposure incident.

“Exposure incident” means a person’s eye, mouth, other mucous membrane, non-intact skin or blood coming in contact with potentially infectious material as a result of body art activity. (Ord. 99-0039 § 14 (part), 1999.)

11.36.220 Instrument.

“Instrument” means approved equipment, devices, and components utilized to conduct body art activity, including but not limited to needles, needle bars, needle tubes, forceps, hemostats, tweezers, or other items used to insert pigment or dye, or to pierce, puncture or be inserted into any part of the human body, or to assist in such acts, for the intended purpose of making a tattoo or permanent hole. Such items also include studs, hoops, rings, or other

decorative jewelry, materials or apparatuses. (Ord. 99-0039 § 14 (part), 1999.)

11.36.230 Manager.

“Manager” means the owner or other person designated by the owner to be the owner’s on-site representative in a body art establishment, who shall meet the criteria and comply with the provisions set forth in Section 11.36.440. (Ord. 99-0039 § 14 (part), 1999.)

11.36.240 Mobile body art establishment.

“Mobile body art establishment” means a vehicle, conveyance or other mobile platform approved for use by the department as a body art establishment. (Ord. 99-0039 § 14 (part), 1999.)

11.36.250 Owner.

“Owner” or “operator” means the person, persons or legal entity having legal ownership of a business operating as a body art establishment. Any reference in this chapter to “owning” means having existing owner status. (Ord. 99-0039 § 14 (part), 1999.)

11.36.260 Permanent cosmetics.

“Permanent cosmetics” means any application of pigment to or under the skin of a person for the purpose of permanently or semi-permanently changing the color or appearance of the skin. This includes, but is not limited to, permanent or semi-permanent eyeliner, eye shadow, or lip color. (Ord. 99-0039 § 14 (part), 1999.)

11.36.270 Permanent hole.

“Permanent hole” means a hole produced by piercing or puncturing any part of the body with instruments intended to leave an opening in body tissue in which a device or apparatus may be inserted. Permanent hole includes any body part newly pierced or punctured which is undergoing a healing process, and any piercing or puncture whether or not removal of the device or apparatus from the perforation would result in fusing of the tissue structures. (Ord. 99-0039 § 14 (part), 1999.)

11.36.280 Potentially infectious material.

“Potentially infectious material” means human body fluids, including but not limited to, semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, and any other body fluid that is visibly contaminated with blood such as saliva or vomitus, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids. (Ord. 99-0039 § 14 (part), 1999.)

11.36.290 Registration.

“Registration” means the process as set forth in Section 11.36.320 whereby persons wishing to be body art technicians file a completed registration form with the department as a prerequisite to conducting body art activities in any jurisdiction wherein this chapter is in force. Registration by the department shall not mean the registered body art technician has demonstrated to the department’s satisfaction that the bearer has a level of competency sufficient to practice in this field. Registration shall remain valid for no more than three years. (Ord. 99-0039 § 14 (part), 1999.)

11.36.300 Tattoo.

“Tattoo” means to insert pigment, ink or dye under the surface of the skin of a person by pricking with a needle or otherwise, to permanently change the color or appearance of the skin or to produce an indelible mark or figure visible through the skin. (Ord. 99-0039 § 14 (part), 1999.)

11.36.310 Temporary body art establishment.

"Temporary body art establishment" means a location that is approved by the department as a body art establishment in conjunction with a temporary body art event. The temporary body art event shall be held for no more than 30 consecutive days in a 90 day period at a location. (Ord. 99-0039 § 14 (part), 1999.)

Article 2 GENERAL REQUIREMENTS

11.36.320 Registration.

- A. Every person conducting body art activity as defined in this chapter, or desiring to conduct such activity, on or after the effective date of the ordinance codified in this chapter,* shall file with the department a completed registration form, accompanied by the applicable fee as set by law.
- B. No person may be registered unless he or she is at least 18 years of age.
- C. Every person registering with the department to conduct body art activities must comply with the provisions for registration established through departmental regulations.
- D. Failure to provide all information required by departmental regulations or submission of false or misleading information shall make the registration invalid.
- E. The registrant shall be deemed registered with the department as a body art technician upon provision of a certificate of registration to the registrant by the department. Until such time as a certificate of registration is issued, the person is not authorized to conduct body art activity.
- F. Any registration issued by the department certifying that a person is registered with the department as a body art technician is nontransferable and is valid only for the person to whom it is issued.
- G. Registration shall be valid for three years from date of issuance unless made invalid earlier due to the registrant's failure to comply with departmental regulations. Upon expiration, any person desiring to continue to conduct body art activity must renew his or her registration and provide all required documentation, as specified in this section. (Ord. 99-0039 § 14 (part), 1999.)

* **Editor's note:** Ordinance 99-0039, which enacted Ch. 11.36, is effective on July 1, 1999.

11.36.330 Permits.

- A. Every person owning a body art establishment shall, within six months of the effective date of the ordinance codified in this chapter,* obtain a public health facility permit pursuant to the provisions of Article 3 of this chapter.
- B. Every person conducting body art activity shall, within six months of the effective date of this chapter,* obtain a public health operator permit pursuant to the provisions of Article 3 of this chapter. (Ord. 99-0039 § 14 (part), 1999.)

* **Editor's note:** Ordinance 99-0039, which enacted Ch. 11.36, is effective on July 1, 1999.

Article 3 PLAN REVIEW--PERMIT--REGISTRATION

11.36.340 Plan review.

- A. No later than 60 days after the effective date of the ordinance codified in this chapter,* an existing owner must submit to the department three sets of complete legible plans of his or her body art establishment, drawn to scale, which shall include all specifications required under this chapter. The department will review the plans and approve or reject them within a reasonable time of submission. Nothing in this section shall require that plans or specifications be prepared by anyone other than the applicant.
- B. A person proposing to build or remodel a body art establishment or modify any vehicle or conveyance to be a mobile body art establishment, shall submit to the department complete legible plans, drawn to scale, which shall include all specifications required under this chapter. The department will review the plans and approve or reject them within a reasonable time after submission. No jurisdiction in which this ordinance is effective shall issue a building or other permit to build a body art establishment or a mobile body art establishment or to remodel an existing body art establishment, mobile body art establishment or temporary body art establishment until it has received verification the department has completed such a plan review and given its approval. Nothing in this section shall require that plans or specifications be prepared by anyone other than the applicant. (Ord. 99-0039 § 14 (part), 1999.)

* **Editor's note:** Ordinance 99-0039, which enacted Ch. 11.36, is effective on July 1, 1999.

11.36.350 Public health facility permit.

- A. Each person owning a body art establishment shall obtain a public health facility permit by meeting the requirements enumerated in departmental regulations.
- B. Upon review and verification that the owner has met the requirements enumerated in departmental regulations, the department shall issue a public health facility permit to the owner.
- C. No person may conduct any body art activity in a body art establishment unless that facility has a valid public health facility permit issued by the department. However, an existing owner must obtain such a valid public health facility permit within six months of the effective date of this chapter.*
- D. The department may at any time suspend or revoke the public health facility permit to operate as a body art establishment for failure to comply with any provision of this chapter.
- E. If a public health facility permit has been suspended or revoked by the department pursuant to this chapter, the permit may be reinstated by the department provided the department is satisfied that the cause for the suspension or revocation no longer exists and the condition of the body art establishment now meets the requirements for issuance of such public health facility permit pursuant to this chapter. The department may require the owner of such a body art establishment to make any changes necessary to comply with this chapter, satisfy any fines imposed pursuant to this chapter and to submit plans and specifications reflecting any required changes, as a condition of reinstating the public health facility permit.
- F. Any public health facility permit issued by the department to the owner of a body art establishment is nontransferable. The public health facility permit shall be valid for the approved facility only, and for the time period indicated, unless suspended or revoked. (Ord. 99-0039 § 14 (part), 1999.)

* **Editor's note:** Ordinance 99-0039, which enacted Ch. 11.36, is effective on July 1, 1999.

11.36.360 Public health operator permit.

- A. In addition to registering as set forth in Section 11.36.320, persons operating as a body art technician or a body art technician independent operator, or intending to do so, shall obtain a public health operator permit by filing a completed application form with the department and paying the required fee, and providing proof of registration as a body art technician with the department.
1. During the year immediately following the effective date of this chapter,* public health operator permits may be issued on a conditional basis. A person issued a conditional permit shall have up to six months from his or her date of application to provide the department with proof of successful completion of a blood borne pathogen training course that has been approved by the department. Failure to provide such proof within the prescribed time shall cause the person's conditional public health operator permit to be canceled forthwith.
2. At all times after one year following the effective date of this chapter,* each applicant must also provide the department with proof of successful completion of a blood borne pathogen training course that has been approved by the department.
- B. Upon successful completion of the application process described in subsection A of this section, the department shall issue a public health operator permit to the applicant.
- C. No person may conduct any body art activity in any jurisdiction adopting this chapter unless that person has a valid public health operator permit issued by the department.
- D. The department may at any time suspend or revoke the public health operator permit for failure to comply with any provision of this chapter.
- E. If a public health operator permit has been suspended or revoked by the department pursuant to this chapter, the permit may be reinstated by the department provided the department is satisfied that the cause for the suspension or revocation no longer exist and that the body art technician has met the requirements for issuance of such public health operator permit pursuant to this chapter. The department may require the body art technician to take any steps necessary to comply with this chapter, and satisfy any fines imposed pursuant to this chapter as a condition of reinstating the public health operator permit.
- F. Any public health operator permit issued by the department to a body art technician is nontransferable. The public health operator permit shall be valid for the approved body art technician only, and for the time period indicated, unless earlier suspended or revoked. (Ord. 99-0039 § 14 (part), 1999.)

* **Editor's note:** Ordinance 99-0039, which enacted Ch. 11.36, is effective on July 1, 1999.

11.36.370 Posting requirements.

- A. The public health facility permit issued to the owner of any facility operating as a body art establishment must be posted and exhibited at all times in an area that is visible to the public and clients of said establishment.
- B. The public health operator permit issued to a body art technician must be posted and exhibited at all times in an area that is visible to the public and clients of any body art establishment in which the body art technician is conducting body art activity.
- C. Every person registered with the department as a body art technician shall at all times prominently post the

certificate of registration adjacent to his or her workstation in an area that is readily visible to clients from that location.

D. Every establishment permitted to conduct body art activity pursuant to this chapter shall have posted at all times a legible sign at least one inch in lettering, that provides the following information so as to be clearly visible to patrons entering the establishment:

Any public health concerns regarding this establishment should be directed to the Los Angeles County Department of Health Services Office:

(the program office address and telephone number to be provided by the county health officer).

E. Every establishment permitted to conduct body art activity pursuant to this chapter shall have posted at all times a legible sign in at least one inch lettering that provides the name of each body art technician conducting body art activities within the establishment in an area that is easily visible to the clients of said establishment.

F. Every establishment permitted to conduct body art activity pursuant to this chapter shall have posted at all times a legible sign in at least one inch lettering in each restroom directing attention to the need for persons using the toilet to thoroughly wash their hands after such use.

G. Every establishment permitted to conduct body art activity pursuant to this chapter shall have posted at all times a legible sign in at least two inch lettering at all workstations and cleaning rooms or areas, indicating that smoking is prohibited. (Ord. 99-0039 § 14 (part), 1999.)

11.36.380 Permit and registration--Reporting requirements.

Every person having a public health permit or registration with the department under the provisions of this chapter shall report to the department any changes in status to the business or activities made reportable by departmental regulations within 15 days of the change. (Ord. 99-0039 § 14 (part), 1999.)

11.36.390 Permit--Suspension and revocation and fines.

A. Any permit issued pursuant to this chapter may be suspended or revoked by the department and fines consistent with the provisions of this chapter may be imposed by the department for a violation of this chapter or any other violation of law or standard creating a risk to public health and safety, including any violation of the Los Angeles County Code, the California Health and Safety Code, the blood borne pathogen standard, or the exposure control plan of the body art establishment at which body art activity is conducted, or any combination of such violations.

B. Whenever the department finds that a body art technician is not in compliance with the requirements of this chapter, or any law or standard affecting public safety, including but not limited to the Los Angeles County Code, the California Health and Safety Code, blood borne pathogen standard, or the exposure control plan of the establishment at which body art activity is conducted, or any combination thereof, a written notice to comply shall be issued to the body art technician. The notice to comply shall include a statement of the deficiencies found, set forth the corrective measures necessary for the body art technician to be in compliance with this chapter, provide a compliance date by which such corrective measures must be completed and inform the body art technician that failure to comply within the prescribed time may result in the imposition of any penalty provided for in this chapter, including suspension and/or revocation of any and all permits or registrations. The notice to comply shall also advise the body art technician of his or her right to an administrative review under the provisions of this chapter.

C. Whenever the department finds that an owner is not in compliance with the requirements of this chapter, or any law or standard affecting public safety, including but not limited to the Los Angeles County Code, the California Health and Safety Code, the blood borne pathogen standard, or the exposure control plan of the establishment at which body art activity is conducted, or any combination thereof, a written notice to comply shall be issued to the owner. The notice to comply shall include a statement of the deficiencies found, set forth the corrective measures necessary for the owner to be in compliance with this chapter, provide a compliance date by which such corrective measures must be completed and inform the owner that failure to comply within the prescribed time may result in the imposition of any penalty provided for in this chapter, including suspension and/or registration of any and all permits or registrations. The notice to comply shall also advise the owner of his or her right to an administrative review under the provisions of this chapter.

D. A written request for an administrative review, as specified in subsections B and C of this section, above, must be made by the noticed person within 15 calendar days of the compliance date set forth in the notice to comply or any extension thereof later granted by the department. Failure to request an administrative review within the prescribed time shall be deemed a waiver of the right to an administrative review. The administrative review shall be held within 15 calendar days of the receipt of a written request for a review. Upon written request of an owner

or body art technician or on its own motion, the department may advance or postpone the scheduled administrative review date, if good cause warrants such action.

E. In the case of an administrative review, the department shall issue a written notice of decision to the subject person within five working days of the administrative review or waiver. In the event of suspension or revocation of any permit or registration, the notice of decision shall specify the acts or omissions found to be violations of this chapter and, in the case of a suspension, shall state the extent of a suspension. The notice of decision shall also state the reasons the body art technician's public health operator permit or an owner's public health facility permit has been suspended or revoked and the terms upon which such permit may be reinstated or reissued, if any.

F. Notwithstanding any other provision of this chapter, if any immediate danger to the public health or safety is found or is reasonably suspected, unless the condition is corrected forthwith, the department may immediately suspend any permit or registration issued pursuant to this chapter, initiate a criminal complaint and/or impose any fine permitted by this chapter, pending a determination of an administrative review as provided herein. Immediate danger to the public health and/or safety shall include any condition, based upon inspection findings or other evidence, that can cause, or is reasonably suspected of causing, infection or disease transmission, or any known or reasonably suspected hazardous condition.

1. Whenever a public health operator permit or public health facility permit issued pursuant to this chapter is immediately suspended or a fine is imposed as the result of an immediate danger to the public health or safety, the department shall issue to the permittee so suspended or fined, a written notice to comply setting forth the acts or omissions with which the permittee is charged, specifying the sections of the Los Angeles County Code, California Health and Safety Code, blood borne pathogen standard, or the exposure control plan of the establishment at which body art activity is conducted, or the combination of alleged violations, and informing the permittee of the right to an administrative review.

2. At any time within 15 calendar days of service of such notice to comply, the permittee affected may request, in writing, an administrative review by the department to show cause why the imposed suspension or fine is unwarranted. The administrative review shall be held within 15 calendar days of the receipt of a request. A failure to request an administrative review within 15 calendar days shall be deemed a waiver of the right to such review.

3. At any time prior to an administrative review or waiver thereof, the recipient of a notice to comply issued pursuant to this subsection F, may correct the deficiencies noted in the notice to comply and request a reinspection.

4. In the case of a request for reinspection as set forth in subsection F3, above, the department shall reinspect as soon as practical and, in no event, later than the end of the third business day following the request for reinspection. In the event the deficiencies noted in the notice to comply are corrected to the satisfaction of the health officer, the department has discretion to reinstate or modify any suspension of a permit and cancel or modify any fine imposed pursuant to this subsection F. If the department determines that the deficiencies noted in the notice to comply have been corrected, but the department elects not to reinstate the suspension or cancel the fine imposed pursuant to this subsection F, the department shall notify the permittee of this decision in writing. The permittee shall have 15 calendar days from receipt of said notification to seek an administrative review of this decision.

5. If upon reinspection, any deficiency noted in a notice to comply is not corrected to the satisfaction of the department, the department's decision regarding the deficiency may be the subject of an administrative review. The time for requesting such administrative review remains 15 days from service of the original notice to comply.

G. The department may, after an administrative review or waiver thereof, modify, suspend, or revoke or continue all such action previously imposed upon a public health operator permit or public health facility permit issued pursuant to this chapter or impose any fine allowed herein for violations of this chapter or any other laws or standards affecting public health and safety, including but not limited to the Los Angeles County Code, the California Health and Safety Code, the blood borne pathogen standard, or the exposure control plan of the establishment at which body art activity is conducted, or any combination thereof, or for interference with a county health officer's performance of duty.

H. A public health operator permit issued or a public health facility permit issued pursuant to this chapter may be reissued or reinstated, if the department determines that the conditions which prompted the suspension or revocation no longer exist and any fine imposed pursuant to this chapter has been satisfied.

I. A body art technician whose public health operator permit is suspended or revoked shall cease all body art activity unless and until the permit is reinstated or reissued.

J. In the event a public health facility permit is suspended or revoked, the owner of the body art establishment shall cease to operate said facility as a body art establishment unless and until the public health facility permit is reinstated or reissued. (Ord. 99-0039 § 14 (part), 1999.)

Article 4 COMPLIANCE AND ENFORCEMENT

11.36.400 Compliance with chapter provisions required.

A. The provisions of this chapter are in full force and effect in the county and in every municipal jurisdiction in the

county adopting this chapter.

B. Except as exempted under this chapter, every person who conducts a body art activity, as defined in this chapter, including any person owning or operating any business or establishment regulated by this chapter, must comply with the provisions of this chapter. Each person receiving services resulting from activities regulated by this chapter must also comply with the provisions of this chapter.

C. Any person who operates a body art establishment without a valid public health facility permit, any person conducting any body art activity without a valid public health operator permit, unless exempted pursuant to this chapter, or any person, who violates any law, ordinance or regulation governing any activity regulated by this chapter, or who, upon demand of the county health officer, refuses or neglects to conform to a lawful order or directive of a county health officer pertaining to conduct regulated by this chapter, is guilty of a misdemeanor, punishable by fine of \$1,000.00, imprisonment in the county jail for a period not to exceed six months, or both. Each such act is punishable as a separate offense, and each subsequent day that an act continues constitutes a separate act punishable as a separate offense.

D. Operating a body art establishment in violation of any provision of this chapter constitutes a misdemeanor, punishable as provided herein.

E. Except as specified in an approved variance issued pursuant to subsection F of this section, it is unlawful for any person to conduct any body art activity in any manner not conforming with the provisions of this chapter.

F. Any person seeking to conduct any activity or operate an establishment regulated by this chapter in a nonconforming manner must apply to the department for a variance. Such application must include a detailed description of the proposed nonconforming activity, including but not limited to describing all involved equipment, instruments, processes, procedures and methods. The application must also include any available documentation that verifies that the nonconforming activity, when conducted as proposed, provides adequate safeguards to the public health and safety. In addition, the person seeking a variance must provide a pre-addressed envelope with postage paid. The application will be reviewed and approved or denied by the department, and the decision will be mailed to the applicant using the provided envelope. No person may conduct any activity or operate an establishment regulated by this chapter in a nonconforming manner without having an approved variance from the department in his or her possession. (Ord. 99-0039 § 14 (part), 1999.)

11.36.410 Communicable disease control.

If the department has reasonable cause to suspect a communicable disease is, or may be transmitted by any person conducting activities regulated by this chapter, or by any use of contaminated equipment, or by other unsanitary or unsafe conditions which may adversely impact the public health and safety, the department may do any or all of the following:

A. Issue an order excluding from the permitted body art establishment any person responsible for transmitting a communicable disease, or reasonably believed to be responsible for transmitting a communicable disease, or reasonably believed to pose a substantial risk of transmitting a communicable disease, until the department determines there is no further risk to the public health and safety;

B. Issue an order to immediately suspend the public health facility permit issued to the owner of the body art establishment until the department determines there is no further risk to the public health and safety;

C. Issue an order to an owner, an employee or a client of a body art establishment, to provide information reasonably deemed necessary to prevent the spread of communicable disease. (Ord. 99-0039 § 14 (part), 1999.)

11.36.420 Health officer--Enforcement.

A. The county health officer may enter and inspect any body art establishment or enter and inspect any location suspected of conducting any activity regulated by this chapter, and, for purposes of enforcing this chapter, the county health officer may issue notices and impose fines therein and take possession of any sample, photograph, record or other evidence, including any documents bearing upon the body art establishment's or body art technician's compliance with the provision of the chapter. Such inspections may be conducted as often as necessary to ensure compliance with the provisions of this chapter. The county health officer shall prepare a written report of the results of the inspection and provide a copy of such report to the owner or body art technician, as appropriate. In the event any person is cited in the report for a violation of this chapter, the cited person will be provided a notice to comply by either personal service or by first class mail to the cited person's last known address or to his or her place of employment.

B. Based upon inspection findings or other evidence, the county health officer may do any of the following:

1. Impound any equipment, device or supply that is found to be unsanitary, lacking any required approval, or otherwise in such condition that it poses a substantial risk to endanger the public health and safety;

2. Attach a tag to any equipment, device or supply that is found to be unsanitary, lacking any required approval, or is otherwise in such condition that it poses a substantial risk to endanger the public health and safety, which designates the tagged item as unauthorized for use. No person shall use the tagged item or move or remove the tag without authorization from the department. The department shall commence an administrative review within 30 days of an action impounding or tagging an item to assess the propriety of such action, or release said

impounded item or remove the tag from said tagged item.

C. Within 90 days of the enactment of this chapter,* the department shall establish departmental regulations, a copy of which shall be made available at no charge, upon request. As determined necessary by the department, the department may, from time to time, amend the departmental regulations. A copy of amendments shall also be made available at no charge, upon request. (Ord. 99-0039 § 14 (part), 1999.)

* Editor's note: Ordinance 99-0039, which enacted Ch. 11.36, was enacted on June 1, 1999.

11.36.430 Owner responsibility.

The owner of a body art establishment is responsible for any violation by any person who does any body art activity with the owner's consent in the owner's body art establishment whether such person is an employee or a body art technician independent operator. Any such body art activity done with the owner's actual or constructive knowledge is presumed to be done with the owner's consent. (Ord. 99-0039 § 14 (part), 1999.)

11.36.440 Manager--Requirements.

A manager must have successfully completed the blood-borne pathogen training required for registrants under this chapter, be familiar with the provisions of this chapter and be capable of communicating the provisions of this chapter to employees and clients of the body art establishment wherein he or she acts as manager. A manager shall be present in the body art establishment during business hours and at all times during which body art activity is conducted therein. The manager shall immediately identify himself or herself to any county health officer entering the body art establishment on official county business. In the owner's absence, the manager shall be authorized to accept on behalf of the owner any notice issued to the owner pursuant to the provisions of this chapter. (Ord. 99-0039 § 14 (part), 1999.)

11.36.450 Facilities held in common or shared.

A violation of any provision of this chapter occurring in an area of a facility held in common or shared by more than one body art establishment, which is related to the condition of the facility or any requirement for obtaining or maintaining a public health facility permit, shall be deemed a violation for which the owner of each such body art establishment is responsible. (Ord. 99-0039 § 14 (part), 1999.)

11.36.460 Noncompliance with county health officer--Injunctive relief.

Any act or failure to act which is a violation of this chapter may be the subject of a civil action to enjoin the person so acting or failing to act to conform his or her conduct to the provisions of this chapter. A civil action to enforce the provisions of this section may be brought by the county counsel, the district attorney or any person directly affected by said failure to comply with the provisions of this chapter. The filing and prosecution of such an action shall, in no way, limit the authority or ability to impose other requirements of this chapter or penalties enumerated hereunder. (Ord. 99-0039 § 14 (part), 1999.)

11.36.470 Exemptions.

A. A physician licensed by the state of California under the Business and Professions Code, Chapter 5 (commencing with Section 2000 of Division 2) who utilizes body art activities as part of patient treatment is exempt from the registration and permitting requirements of this chapter.

B. A person who exclusively engages in the piercing of the leading edge or earlobe of the ear shall be exempt from the permitting and registration requirements of this chapter, provided he or she does the following:

1. Performs the procedure through the use of an approved ear perforating mechanical device to force the single-use stud or single-use needle through the tissue of the ear; and
2. Utilizes a sterile, disposable, single-use stud or single-use solid needle. (Ord. 99-0039 § 14 (part), 1999.)

11.36.480 Severability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter or the application of such provision to other persons or circumstances shall not be affected thereby. (Ord. 99-0039 § 14 (part), 1999.)

Part 2 OPERATIONS**Article 1 EXPOSURE CONTROL PLAN AND REPORTING****11.36.490 Exposure control plan.**

The owner of every body art establishment shall provide a written exposure control plan, approved by the department, which shall be applicable to all those who perform body art activities within said establishment, describing how the requirements of this chapter will be implemented. The exposure control plan shall meet requirements established in departmental regulations. (Ord. 99-0039 § 14 (part), 1999.)

11.36.500 Reporting requirements--Complications.

All infections, complications or diseases resulting from the body art activity which become known to the owner or body art technician shall be reported to the department by the informed person within 24 hours of acquiring such knowledge. Should department offices be closed at such times as to make notification within 24 hours impossible, the informed person shall mail written notification to the department within 24 hours of acquiring such knowledge and follow this by providing the department with oral notification within five working days of acquiring the knowledge. (Ord. 99-0039 § 14 (part), 1999.)

11.36.510 Equipment and instruments.

All equipment and instruments utilized in conducting body art activity shall be used and maintained in accordance with departmental regulations. (Ord. 99-0039 § 14 (part), 1999.)

11.36.520 Record maintenance.

A. The owner of the body art establishment shall maintain records as required by departmental regulations.
B. Upon cessation of business, the owner of the body art establishment shall forward to the department copies of all records maintained pursuant to this chapter or other departmental policies. Said copies must be provided to the department within 30 calendar days of closure. The revocation of a public health facility permit issued to an owner of a body art establishment shall be deemed a cessation of business for purposes of this subsection upon exhaustion or waiver of the rights to appeal such revocation. (Ord. 99-0039 § 14 (part), 1999.)

Article 2 CLIENTS**11.36.530 Application for body art procedure--Consent form.**

A. All persons desiring a body art activity shall complete an application for body art activity and a consent form, which shall be provided by the establishment or body art technician independent operator and which must meet the requirements established in departmental regulations. It is the responsibility of the body art technician or body art technician independent operator to ensure the prospective client completes the form and initials it in such manner as to fully demonstrate that he or she has been informed of the risks and side effects directly and indirectly associated with the body art activities requested and gives his or her informed consent to have the contemplated activity performed.
B. The body art technician shall advise the client orally of all information contained on the application and consent form prior to the client completing and initialing the consent form and prior to commencing any body art activity. The body art technician shall explain all aftercare instructions. The client shall indicate receipt of oral and written aftercare instructions by initialing the consent form in the appropriate box or area. Upon completion of the body art activity, the body art technician shall repeat the after care instructions and precautions to the client, and the client shall initial and date at the appropriate place on the consent form to indicate this has occurred.
C. The establishment shall retain the original of the completed application for body art activity and consent form, and a copy shall be provided to the client. (Ord. 99-0039 § 14 (part), 1999.)

11.36.540 Restricted clients.

Nipple and genital piercing shall not be performed on any person under 18 years of age. Tattoos and permanent cosmetics shall not be applied to any person under 18 years of age, except when authorized by a physician and performed with the consent and in the presence of the person's parent or guardian. Persons under 18 years of age may receive body piercing to body parts other than nipples or genitalia provided the body piercing is performed with the consent and in the presence of the person's parent or guardian. For any procedure restricted under this section to persons age 18 years of age or older or requiring the presence and consent of the person's parent or guardian, both the minor and his or her parent or guardian shall provide a valid picture identification, provide proof of parentage or legal guardianship and complete a consent form which conforms with the requirements established in departmental regulations.

Tattooing, permanent cosmetics, or body piercing shall not be performed on skin surfaces which have sunburn, rash, pimples, infection, open lesions, mole, or manifest any evidence of unhealthful conditions, without a physician's written statement authorizing the body art activity under such condition.

Body art activity shall not be performed on any person who, in the opinion of the body art technician, has impaired judgement due to use of drugs or alcohol or for any other reason. (Ord. 99-0039 § 14 (part), 1999.)

Article 3 PROCEDURE**11.36.550 Technician condition.**

A. No body art technician whose judgment is impaired for any reason shall perform any body art activity while in such condition.

B. No body art technician affected with a rash, infection, boils, infected wounds, open sores, abrasions, keloids, weeping dermatological lesions, or acute respiratory infection shall conduct any body art activity or work in any area of a body art establishment in any capacity in which there is a likelihood that such person could contaminate instruments, equipment, or surfaces or come in contact with another person. (Ord. 99-0039 § 14 (part), 1999.)

11.36.560 Procedures and preparation.

Body art activities shall be conducted in accordance with the sanitation and preparation procedures set forth in departmental regulations. (Ord. 99-0039 § 14 (part), 1999.)

11.36.570 Hepatitis B vaccination status--Declination.

A body art technician shall make available upon request his or her hepatitis B vaccination information as required by departmental regulations. (Ord. 99-0039 § 14 (part), 1999.)

Article 4 RESTRICTIONS**11.36.580 Prohibited procedures and activities.**

It is a violation of this chapter for any person to perform or conduct any activities or procedures upon any person that endanger the health or safety of that person, regardless of the consent of the recipient.

An invasive procedure or activity, whether or not such procedure or activity constitutes the practice of medicine under the applicable law, endangers the recipient's health and safety unless performed by a person possessing medical expertise. Such prohibited procedures and activities include but are not limited to activities or procedures requiring an injection, cutting of skin or subcutaneous tissue or bone, implantation, branding, deep tissue penetration, threading, stapling, suturing, stitching or pocketing of skin or tissue, or any procedure to reduce the size of or close an orifice, or remove or reduce the size of any skin, cartilage, tissue, organ, or appendage or placement of chemicals or substances onto the skin for purposes of scarring or keloid formation or insertion of chemicals or other solutions into or under the skin surface.

Any such procedure or activity shall be conducted only by a licensed medical doctor or by a person specifically authorized by law to conduct the procedure or activity and only when otherwise permitted by law. Such procedure or activity shall only be conducted at a facility approved for the conduct of such procedure or activity by the appropriate authority under the applicable laws. Further, no such procedure or activity shall be conducted by a

body art technician unless he or she is specifically authorized by law to perform such procedure or activity. It is a violation of this chapter for any person to use in the conduct of body art activity or dispense any drug, chemical, agent or device that requires a licensed medical practitioner's authorization or prescription for use, application or to dispense, without such medical practitioner's authorization or prescription. (Ord. 99-0039 § 14 (part), 1999.)

Part 3 MOBILE BODY ART ESTABLISHMENTS

11.36.590 General requirement.

In addition to complying with all of the other requirements of this chapter, mobile body art establishments and body art technicians conducting body art activity from a mobile body art establishment shall also comply with all of the provisions of this Part 3. (Ord. 99-0039 § 14 (part), 1999.)

11.36.600 Vehicle plan check requirements.

A. A person applying for a public health facility permit to use a vehicle as a mobile body art establishment shall submit detailed plans and specifications of the vehicle to the department for approval. The vehicle shall be made available to the department for inspection, at a time and place prescribed by the department, prior to issuance of a public health facility permit. The applicant shall pay all required fees to the department at the time of application.
B. Department approval of a vehicle shall be valid for one year, unless modifications are made to the vehicle after the date of approval, in which case the owner must reapply in accordance with the provisions of this chapter. (Ord. 99-0039 § 14 (part), 1999.)

11.36.610 Restricted use.

The mobile body art establishment shall be used only for the purpose of performing body art activities at a body art temporary event. No habitation or cooking is permitted inside the vehicle. (Ord. 99-0039 § 14 (part), 1999.)

11.36.620 Equipment.

A mobile body art establishment shall be equipped in accordance with and otherwise meet all requirements of departmental regulations. (Ord. 99-0039 § 14 (part), 1999.)

11.36.630 Body art temporary event requirements.

At least 30 days in advance of the event, any person requesting to use a vehicle at a body art temporary event for the purpose of conducting body art activity shall submit detailed plans and specifications of the event, as required by departmental regulations, to the department for approval. (Ord. 99-0039 § 14 (part), 1999.)

11.36.640 Sponsor requirements.

At least 30 days in advance of the event, a body art temporary event sponsor that is providing space at an event for a mobile body art establishment shall submit detailed plans and specifications of the event, as required by departmental regulations, to the department. (Ord. 99-0039 § 14 (part), 1999.)

11.36.650 Permit requirements.

A. A public health facility permit shall only be issued to the owner of a mobile body art establishment that meets department standards and otherwise conforms to the provisions of this chapter, and such permit shall only be issued to authorize body art activities in conjunction with a body art temporary event. The permit period may not exceed 30 consecutive days or the duration of the event, whichever is the shorter period of time. Multiple public health facility permits shall not be issued to an owner to operate a mobile body art establishment for any period of time totaling more than 30 consecutive days in any 90 day period. A separate public health facility permit shall be required for each body art temporary event. The public health facility permit shall not be transferable from one mobile body art establishment to any other body art establishment.

B. An unpermitted body art technician desiring a public health operator permit to conduct body art activities at a temporary body art event shall obtain a permit under the provisions of this chapter at least 30 days in advance of the temporary body art event. No body art activity may be conducted at any mobile body art establishment by any person who has not obtained a public health operator permit pursuant to the provisions of this chapter. Such public health operator permit is valid only for conducting body art activity in mobile body art establishments approved by the department and only for such dates and times that the department has approved such an establishment for a permit.

C. A body art technician holding a valid public health operator permit issued by the department who intends to conduct body art activity at a temporary body art event must notify the department in writing at least 15 days in advance of the temporary body art event that he or she intends to conduct body art activity at such event, provide the name of the owner of the mobile body art establishment in which the body art activity will be conducted and specify the body art activity he or she intends to conduct.

D. The owner of a mobile body art establishment shall be responsible for ensuring compliance with all other applicable regulations and requirements, including, but not limited to, zoning, permit and business license requirements.

E. All establishment and operator permits and other information required by this chapter to be posted shall be posted in clear view of the clients. (Ord. 99-0039 § 14 (part), 1999.)

11.36.660 Operating requirements.

Body art technicians conducting any body art activity in a mobile body art establishment shall do so in conformance with the provisions of this chapter. All such body art activity shall be conducted in a mobile body art establishment that has onboard a public health facility permit issued by the department valid for that vehicle, time and place. No such body art activity may be performed outside of the enclosure of the mobile body art establishment. Mobile body art establishments shall provide full protection from contamination, filth, and debris to all instruments, equipment, devices, surfaces, clients and body art technicians. (Ord. 99-0039 § 14 (part), 1999.)

11.36.670 Record maintenance.

The operator must maintain all records and documents in accordance with the provisions established in departmental regulations. (Ord. 99-0039 § 14 (part), 1999.)

Part 4 TEMPORARY BODY ART ESTABLISHMENTS

11.36.680 General requirement.

In addition to complying with all of the other requirements of this chapter, temporary body art establishments and body art technicians conducting body art activity from a temporary body art establishment shall also comply with all of the provisions of this Part 4. (Ord. 99-0039 § 14 (part), 1999.)

11.36.690 Event requirements.

At least 30 days in advance of the event, any person requesting approval to conduct body art activity in conjunction with a body art temporary event shall submit detailed plans and specifications of the event, as required by departmental regulations, to the department for approval. The person requesting such approval must meet all requirements established in departmental regulations for a body art temporary event. (Ord. 99-0039 § 14 (part), 1999.)

11.36.700 Sponsor requirements.

A body art temporary event sponsor that is providing space at an event for a temporary body art establishment shall submit detailed plans and specifications of the event in accordance with departmental regulations to the department at least 30 days prior to commencement of the event. The sponsor must also meet all other requirements established in departmental regulations for temporary body art events. (Ord. 99-0039 § 14 (part), 1999.)

11.36.710 Permit requirements.

A. A public health facility permit shall only be issued to the owner of a temporary body art establishment that meets department standards and otherwise conforms to the provisions of this chapter. Such permit shall only be issued to authorize body art activities in conjunction with a body art temporary event. The permit period may not exceed 30 consecutive days or the duration of the event, whichever is the shorter period of time. Multiple public health facility permits shall not be issued to an individual to operate a temporary body art establishment for any period of time totaling more than 30 consecutive days in any 90 day period. A separate public health facility permit shall be obtained for each body art temporary event. The public health facility permit shall not be transferable from one temporary body art establishment to any other body art establishment.

B. An unpermitted body art technician desiring a public health operator permit to conduct body art activities in a temporary body art establishment shall obtain a permit under the provisions of this chapter at least 30 days in advance of the temporary body art event. No body art activity may be conducted at any temporary body art establishment by any person who has not obtained a public health operator permit pursuant to the provisions of this chapter. Such public health operator permit is valid only for conducting body art activity in temporary body art establishments approved by the department and only for such dates and times that the department has approved such an establishment for licensure.

C. A body art technician holding a valid public health operator permit issued by the department who intends to conduct body art activity at a temporary body art event must notify the department in writing at least 15 days in advance of the temporary body art event that he or she intends to conduct body art activity at such event, provide the name of the owner of the temporary body art establishment in which the body art activity will be conducted and specify the body art activity he or she intends to conduct.

D. The owner of a temporary body art establishment shall be responsible for ensuring compliance with all other applicable regulations and requirements, including, but not limited to, zoning, permit and business license requirements.

E. All establishment and operator permits and other information required by this chapter to be posted shall be posted in clear view of the patrons. (Ord. 99-0039 § 14 (part), 1999.)

11.36.720 Operating requirements.

Body art technicians conducting any body art activity in a temporary body art establishment shall do so in conformance with the provisions of this chapter. All such body art activity shall be conducted in a temporary body art establishment that has a public health facility permit issued by the department valid for that establishment, time and place. No such body art activity may be performed outside of the temporary body art establishment. Temporary body art establishments shall provide full protection from contamination, filth, and debris to all instruments, equipment, devices, surfaces, clients and body art technicians. Body art activities shall not be conducted in an outdoor environment. (Ord. 99-0039 § 14 (part), 1999.)

11.36.730 Record maintenance.

The operator must maintain all records and documents in accordance with all applicable provisions in this chapter. (Ord. 99-0039 § 14 (part), 1999.)

Part 5 EXPOSURE CONTROL TRAINING

11.36.740 Blood borne pathogen training course--Requirements.

Any course taken by a person to fulfill the requirements set forth in this chapter relating to exposure control or blood borne pathogen training for registration with the department as a body art technician shall be approved by the department and meet the minimum requirements established in departmental regulations. (Ord. 99-0039 § 14 (part), 1999.)

11.36.750 Blood borne pathogen training course--Examination.

Any person desiring to register with the department as a body art technician shall complete a blood borne pathogen training course approved by the department and demonstrate knowledge of the required subjects through submission of documentation of attendance and completion of the course, and provide proof that he or she achieved a passing grade of 70 percent or more on the final examination. (Ord. 99-0039 § 14 (part), 1999.)

11.36.760 Blood borne pathogen training course--Provider.

A. Any person desiring department approval for purposes of this chapter of a training course curriculum for exposure control training or blood borne pathogen training shall make application to the department as follows: the applicant shall provide to the department a copy of a the course outline, a sample lesson plan, a statement of the examination method, a sample examination and any other documentation necessary for the department to evaluate the course to ensure the course complies with all applicable provisions of this chapter. Applicants shall be notified by the department within 30 days of application of the department's decision on the approval or rejection of the course.

B. The course instructor must possess a high level of expertise in all areas covered by the training program and be otherwise qualified to conduct the training. (Ord. 99-0039 § 14 (part), 1999.)

Part 6 CIVIL FINES

11.36.770 Civil fines.

In addition to any other penalty provided for under this chapter, consistent with the process set forth herein for notice and administrative review, the department may impose a fine on persons violating any provision of this chapter or any law, regulation or standard incorporated into this chapter. The department may impose a fine upon such violators in an amount not to exceed \$500.00 per violation, as appropriate. The imposition of such fines shall, in no way, limit the authority or ability to impose other requirements of this chapter or seek other remedies against alleged violators. (Ord. 99-0039 § 14 (part), 1999.)

11.36.780 Amount.

In establishing the amount of the fine for each violation, the department will consider the following:

- A. The gravity and magnitude of the violation;
- B. The violator's previous record of complying or of failing to comply with the provision of this chapter;
- C. The violator's history in taking all feasible steps or in following all procedures necessary or appropriate to correct the violation; and,
- D. Any other considerations the department deems appropriate. (Ord. 99-0039 § 14 (part), 1999.)

11.36.790 Effect on permits.

A. All fines imposed pursuant to this chapter must be satisfied in the manner prescribed by the department before a permit issued under this chapter to the violator may be reinstated or reissued.

B. Failure to satisfy a fine imposed pursuant to this chapter in the manner prescribed by the department may result in suspension or revocation of the public health operator permit or public health facility permit issued to the violator. (Ord. 99-0039 § 14 (part), 1999.)

Part 7 REPEAL PROVISION

11.36.800 Repeal.

The provisions of this chapter shall remain in effect until the enactment of state laws or the promulgation of state regulations that control the conduct of body art activity, as defined herein. Upon the effective date of such enactment or promulgation, to the extent any provision of this chapter conflicts or is preempted by said enactment or promulgation, said conflicting or preempted provision is repealed in its entirety. (Ord. 99-0039 § 14 (part), 1999.)

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