

## ARTICLE XVIII. TATTOO AND BODY PIERCING ESTABLISHMENTS

### Sec. 9-850. Authority and purpose

(a) This chapter is promulgated under the authority of Wis. Stats. §463.16 for the purpose of regulating tattooists, tattoo establishments, body piercers and body piercing establishments in order to protect public health and safety.

(b) *State sanitation regulations adopted.* All tattoo and body piercing establishments, practitioners, and licenses under this division shall be subject to and comply with the provisions of Wis. Admin. Code, Secs. SPS §221, which are hereby adopted by reference and incorporated as part of this division.  
(Ord 90-16, §1, 11-8-16)

### Sec. 9-851. Definitions.

*Agent* means a local health department serving a population greater than five thousand (5,000) which is designated by the Wisconsin Department of Safety and Professional Services under a written agreement authorized by Wis. Stat. §252.245(1), to issue licenses to and make investigations or inspections of tattooists, tattoo establishments, body piercers and body piercing establishments.  
(Ord 91-16, §1, 11-8-16)

*Antiseptic* means a chemical that kills or inhibits the growth of organisms on skin or living tissue.

*Approved* means acceptable to the department based on its determination of conformance to this chapter and good public health practices.

*Autoclave* means an apparatus that is registered and listed with the Federal Food and Drug Administration for sterilizing articles by using superheated steam under pressure.

*Body pierce*, as a verb, means to perforate any human body part or tissue, except an ear, and to place a foreign object in the perforation to prevent the perforation from closing.

*Body piercer* means a person who performs body piercing on another person at that person's request.

*Body piercing* means perforating any human body part of tissue, except an ear, and placing a foreign object in the perforation to prevent the perforation from closing.

*Body piercing establishment* means the permanent premises where a body piercer performs body piercing and is in business for more than seven (7) consecutive days in a license year.

~~*Branding* means the burning of skin with a hot tool, cauterizing laser or dry ice so that a mark is imbedded in the deep tissue.~~

*Cleaning* means the removal of foreign material from objects, normally accomplished with detergent, water and mechanical action.

*Department* means the Wisconsin Department of ~~Health and Family~~Safety and Professional Services.

*Disinfectant* means a chemical that is capable of destroying disease-causing organisms on inanimate objects, with the exception of bacterial spores.

*Health Officer* means and includes the Health Officer or authorized agent of the Health Officer.

*Hot water* means water at a temperature of 110°F, or higher.

~~*Implantation* means the insertion of an object under the skin, so that it remains under the skin, in whole or in part.~~

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~~after the procedure. This definition shall not apply to the post used in body piercing to keep the perforation from closing.~~

**Local health department** means an agency of local government that takes any of the forms specified in Wis. Stats. §250.01(4), specifically the City of Appleton Health Department.

**Operator** means the owner or person responsible to the owner for the operation of a tattoo or body-piercing establishment.

**Patron** means a person receiving a tattoo or body piercing.

**Practitioner** means a tattooist or body piercer.

**Premises** means a building, structure, area or location where tattooing or body piercing is performed.

~~**Scarification** means the cutting of the skin so that when it heals, scar tissue remains.~~

**Sharps waste** means waste that consists of medical equipment or clinical laboratory articles that may cause punctures or cuts, such as hypodermic needles, syringes with attached needles and lancets, whether contaminated, unused or disinfected.

**Single use** means a product or item that is disposed of after one use, such as a razor, a needle, a cotton swab, a tissue or paper product, a paper of soft plastic cup, or gauze or other sanitary covering.

**Sterilization** means the killing of all organisms and spores through use of an autoclave operated at a minimum of 250°F (121°C) at a pressure of at least fifteen (15) pounds per square inch for not less than thirty (30) minutes or through use of an autoclave approved by the department that is operated at different temperature and pressure levels but is equally effective in killing all organisms and spores.

**Tattoo**, as a verb, means to insert pigment under the surface of the skin of a person, by pricking with a needle or otherwise, so as to produce an indelible mark or figure through the skin.

**Tattoo establishment** means the permanent premises where a tattooist applies a tattoo to another person and is in business for more than seven (7) consecutive days in a license year.

**Tattooist** means a person who tattoos another person at that person's request.

**Tempered water** means water ranging in temperature from 85°F to less than 110°F.

**Temporary establishment** means a single building, structure, area or location where a tattooist or body piercer performs tattooing or body piercing for a maximum of seven (7) days per license year.

#### **Sec. 9-852. Scope.**

(a) **Applicability.** This chapter applies to all tattooists, body piercers, tattoo establishments and body piercing establishments.

(b) **Approved comparable compliance.** When it appears to the Department that strict adherence to a provision of this chapter is impractical for a particular tattooist, tattoo establishment, body piercer or body piercing establishment, the Department may approve a modification in that requirement for that person or establishment if the Department is provided with satisfactory proof that the grant of a variance will not jeopardize the public's health, safety or welfare.

#### **Sec. 9-853. Right of entry.**

The Health Officer may enter any establishment required to be licensed in this article at all reasonable times to inspect the premises, view the practice (with patron's permission), secure samples or specimens, examine and copy

documents, obtain photographs or take any other action deemed necessary to properly enforce the provisions of applicable laws regulating such business or activity.

**Sec. 9-854. Responsibility of the operator.**

(a) Every act or omission by an employee or practitioner constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, the operator shall be liable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(b) Any act or omission of any employee constituting a violation of the provisions of this ordinance shall be deemed an act or omission of the operator for purposes of determining whether the license shall be suspended, revoked, or not renewed.

**Sec. 9-855. Correction of violations, citations.**

Whenever the Health Officer finds that any establishment, tattooist or body piercer required to obtain a license in this article is not operating or equipped in any manner required by ordinances or laws regulating such establishment or activity, the Health Officer may notify, in writing, the person operating the premises, or performing the activity, specifying the requirements of such ordinance or law, and requiring that such business or practitioner comply with the provisions of such ordinance or law, and specify the time limits within which compliance shall take place. If the time limit or any extension thereof set forth in the notification is not met, the license may be suspended or revoked by the Health Officer. The Health Officer may also issue citations for any such violations pursuant to the provisions of Appleton Municipal Code Sec. 1-17(c).

**Secs. 9-856 — 9-859. Reserved.**

## DIVISION 2. LICENSES

### Sec. 9-860. Generally.

(a) Any person, partnership, or corporation desiring to secure a tattoo establishment, body-piercing establishment, combination tattoo/body piercing establishment, tattooist and/or body piercer license shall make application to the local health department.

(b) The application shall be on a form provided by the local health department and shall include, at a minimum, the following information:

- (1) The name(s) (including aliases), addresses, dates of birth and driver's license number, of the applicant, any partner or limited partner in a partnership application, any shareholder holding more than ten percent (10%) of the stock of a corporate applicant and each corporate officer and director.
- (2) Written proof that each person required to be identified under this section is at least eighteen (18) years of age.
- (3) The address of the establishment to be licensed.
- (4) Whether the applicant or any person required to be identified is currently operating or has previously operated, in this or any other municipality or state, under a tattoo or body piercing establishment license, whether the applicant or person required to be named in this section has ever had such a license or permit suspended or revoked, or has been convicted of a violation of state or local laws governing the practice of tattoo or body piercing, the reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension, revocation or conviction.

(c) Failure or refusal of the applicant to completely and truthfully provide responses to the application questions, to give any information relevant to the investigation of the application, or refusal to appear at any reasonable time and place for examination regarding said application shall constitute an admission by the applicant that the applicant is ineligible for such license and shall be grounds for denial thereof.

(d) Application for a license required in this article shall be made to the local health department upon a form furnished by the local health department and shall contain such information that the local health department may prescribe and require and shall be accompanied by payment of the application fee.

(e) Within thirty (30) days after receiving a completed application for a license, the local health department or its agent shall either approve the application and issue a license or deny the application. If an application for a license is denied, the local health department shall give the applicant reasons, in writing, for the denial and provide information about how the applicant may appeal that decision.

(f) A license will not be granted under this article to an operator of a new establishment or to a new operator of an existing establishment without a preinspection. A preinspection fee will be assessed for each establishment according to the schedule on file with the local health department.

(g) The operator of a tattoo or body-piercing establishment shall promptly notify the local health department of his or her intention to cease operations and shall supply the local health department with the name and mailing address of any new operator. A license is not transferable. A new operator will submit an application for a new license. No license shall be issued to or used by any person acting as agent for or in the employ of another.

### Sec. 9-861. Application for establishment license.

#### (a) *Requirements.*

- (1) No person may operate a tattoo establishment or body piercing establishment or a combined tattoo and body piercing establishment unless he or she has obtained a license for the establishment from the local

health department by application made upon a form furnished by the local health department. All applications submitted to the local health department shall be accompanied by a fee under (eb).

- (2) No person shall engage in the practice of tattooing and/or body piercing except in a permanent licensed tattoo and/or body-piercing establishment.
- (3) Reciprocity within the State of Wisconsin will be recognized upon receipt of proof that the local requirements as set forth in this chapter are met by the applicant.

~~—(b) Prohibitions.~~

- ~~(1) No person shall intentionally engage in the practice of implanting, branding or scarification in the City of Appleton, except as set forth herein.~~
- ~~(2) The prohibitions set forth in (b) shall not apply to licensed physicians, or procedures or orders delegated by a licensed physician.~~

**(eb) Expiration and renewal of license.**

- (1) Except where otherwise provided, every Health Department license shall terminate or expire on June 30<sup>th</sup> of each year and may be renewed annually thereafter.
- (2) The application for renewal shall be filed with the Health Department on or before June 30<sup>th</sup>, together with payment of the required fee. The fee for said license shall be on file with the local health department.
- (3) In addition, the applicant must pay any state administrative fees, the amount of which is on file with the local health department. If the annual renewal fee has not been paid on or before June 30<sup>th</sup>, an additional late payment fee shall be required; the amount of which is also on file with the local health department. Establishments operating on July 15<sup>th</sup> without a proper license shall be ordered closed by the Health Officer. Practitioners operating on July 15<sup>th</sup> without a proper license shall be ordered to cease operations by the Health Officer. Failure to comply will result in the issuance of a uniform citation with current bond as set forth in §1-18, Appleton Municipal Code. Each violation and each day a violation continues or occurs shall constitute a separate offense.

**Sec. 9-862. Application for practitioner license.**

~~—(a) Requirements.~~

~~(1) No person may tattoo or body pierce another person, use or assume the title of tattooist or body piercer or designate or represent himself or herself as a body piercer unless the person has obtained a license from the Department of Safety and Professional Services and also completing an application made upon a form furnished by the local health department. An application submitted to the local health department shall conform with the requirements set forth in Sec. 9-880.~~

~~(2) No person shall engage in the practice of tattooing and/or body piercing except in a permanent licensed tattoo and/or body piercing establishment.~~

~~—(b) Reciprocity within the State of Wisconsin will be recognized upon receipt of proof that the local requirements as set forth in this article are met by the applicant. (Ord. 92-16, §1, 11-8-16)~~

**Sec. 9-863. Suspension or revocation of license.**

The Health Officer may suspend or revoke any license issued pursuant to this article for violations of ordinances or laws regulating activity and for other good cause.

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| **Sec. 9-86~~3~~4. Emergency powers of health officer.**

Whenever the Health Officer has reasonable or probable cause to believe that the premises or method of operation thereof creates a danger to public health, the Health Officer may issue a temporary order prohibiting continued operation of the premises or any part thereof which creates the immediate danger to health. The Health Officer may suspend any license without notice whenever the licensed premises, tattooist, and/or body piercer constitute an immediate health hazard.

| **Sec. 9-86~~5~~4. Appeals.**

Any person aggrieved by the denial of a license or by suspension or revocation of a license required under this article by the Health Officer or by any temporary suspension or any other order may appeal any such order to the Board of Health within thirty (30) days of denial, suspension or revocation of a license or issuance of the order. The Board of Health shall provide the appellant a hearing or opportunity for hearing on the matter and may either suspend or continue any such order pending determination of appeal. The Board may affirm, modify or set aside the order of the Health Officer after a hearing on the matter. The Board of Health shall make and keep a record of all proceedings related to any such appeal and the record and actions of the Board of Health shall be subject to review by certiorari by a court of record

| **Secs. 9-86~~6~~5 – 9-86~~6~~9. Reserved.**  
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**DIVISION 43. HEALTH AND SANITARY REQUIREMENTS**

**Sec. 9-8870. Requirements.**

~~—Prior to approval, all practitioners shall provide proof that they are negative for Hepatitis B and C, as demonstrated by documentation of negative results for HbsAG and anti-HCV tests, as confirmed by a practicing physician. The expenses of the testing and examination shall be paid by the practitioner. (Ord 63-09, §1, 5-26-09; Ord 93-16, §1, 11-8-16)~~

**Sec. 9-881. Restrictions.**

~~—No tattooist or body piercer with an exposed rash, skin lesion or boil may engage in the practice of tattooing or body piercing.~~

**Sec. 9-882. Hygienic procedure requirements.**

~~—(a) Tattooists and body piercers shall maintain a high degree of personal cleanliness and shall conform to good hygiene practices during procedures.~~

~~—(b) Tattooists and body piercers shall thoroughly wash their hands and the exposed portions of their arms with dispensed soap and tempered water before and after each tattoo or body piercing procedure and more often as necessary to keep them clean.~~

~~—(c) Tattooists and body piercers shall dry their hands and arms with individual single service towels.~~

~~—(d) If interrupted during a procedure, a tattooist or body piercer shall rewash his or her hands and put on new gloves if the interruption required the use of hands.~~

~~—(e) Tattooists shall use single use plastic covers to cover spray bottles or other reusable accessories to minimize the possibility of transmitting body fluids or disease during application of tattoos to successive patrons.~~

~~—(f) Disposable type razors shall be single use only and disposed of in accordance with NR 526. Electric razors are prohibited.~~

~~—(g) Body piercing and tattoo needles shall be disposable, sterile and for single patron use only. Body piercing jewelry shall be cleaned, individually packaged and sterilized prior to use.~~

**Sec. 9-883. Clothing.**

~~—(a) All tattooists and body piercers shall wear clean, washable outer clothing.~~

~~—(b) When preparing the skin and during a procedure, a tattooist or body piercer shall wear non-absorbent gloves which shall be disposed of after completing the procedure. (Ord 64-09, §1, 5-26-09)~~

**Sec. 9-884. Physical examinations of practitioners.**

(a) The Health Officer shall have the power to require any practitioner to submit to a practicing physician for a physical examination whenever the practitioner is suspected of having any infectious or contagious disease that may be transmitted by the practice of tattooing or body piercing. The expenses of the physical examination shall be paid by the practitioner.

(b) Any practitioner notified to appear for a physical examination as may be required by the preceding subsection shall immediately cease working as a practitioner of tattoo or body piercing and shall not be allowed to work thereafter as a practitioner of tattoo or body piercing until he or she shall have first received a certificate in writing from a practicing physician that he or she is not inflicted with any infectious or contagious condition or disease that may be

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transmitted by the practice of tattoo or body piercing.

**Sec. 9-885. Equipment.**

~~—(a) All surfaces, counters and general use equipment in the tattoo or body piercing area shall be cleaned and disinfected before a patron is seated.~~

~~—(b) All inks and pigments shall be obtained from sources generally recognized as safe. Information indicating the sources of all inks and pigments shall be available to the local health department or agent upon request. Sterile single-use or sterile individual containers of pigment or ink shall be used for each patron. No pigment or ink in which needles were dipped may be used on another person. Pigment and ink cups shall be for single patron use. All bulk materials used for the procedure shall be dispensed with single use utensils. The remainder of dispensed portions shall be disposed of after application.~~

~~—(c) Needles, bars and tubes shall be construed in a manner that permits easy cleaning and sterilizing.~~

~~—(d) No tattooist shall use and no tattoo establishment shall permit the use of solder which contains lead to be used to fasten needles.~~

~~—(e) Acetate tattoo stencils shall be single use.~~

~~—(f) No body piercer may use a piercing gun or similar device for body piercing a patron unless such piercing gun is disposable, sterile, and for single patron use only or is sterilized between each use as set forth in Wis. Admin. Code Sec. SPS 221.03(20); (Ord 94-16, §1, 11-8-16)~~

**Secs. 9-87861 – 9-8879. Reserved.**

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**DIVISION 5. PHYSICAL FACILITIES AND ENVIRONMENT**

**Sec. 9-890. Condition of premises.**

~~\_\_\_\_\_ (a) The premises and all facilities used in connection with the premises shall be maintained in a clean, sanitary and vermin-free condition.~~

~~(1) Floors in the area where tattoo or body-piercing procedures are performed shall be constructed of smooth, durable and non-porous material and shall be maintained in a clean condition and in good repair. Carpeting is prohibited.~~

~~(2) Walls and ceilings in the area where tattoo and body-piercing procedures are performed shall be light colored, smooth and easily cleanable.~~

**Sec. 9-891. Physical facilities.**

~~\_\_\_\_\_ (a) Lighting. Tattoo and body-piercing application areas shall maintain a minimum illumination of fifty (50) foot candles.~~

~~\_\_\_\_\_ (b) Living areas. Tattoo and body-piercing areas shall be completely separated from any living quarters by floor-to-ceiling partitioning and solid doors which are kept closed during business hours. A direct outside entrance to the tattoo or body-piercing establishment shall be provided.~~

~~\_\_\_\_\_ (c) Toilet rooms.~~

~~(1) All tattoo and body-piercing establishments shall have a public toilet and hand-washing facility which is separated from any living area.~~

~~(2) Toilet room fixtures shall be kept clean and in good repair. Any easily cleanable covered waste receptacle shall be provided in the toilet room.~~

~~\_\_\_\_\_ (d) Hand washing facilities.~~

~~(1) At least one hand-washing facility shall be conveniently located in the tattoo or body-piercing area, in addition to what is provided in the toilet room.~~

~~(2) Anti-bacterial soap in a dispenser and single-service towels for drying hands shall be provided at all hand washing facilities.~~

~~(3) Hot and cold potable water under pressure shall be available at all hand-washing facilities except that tempered water rather than hot water may be provided.~~

~~\_\_\_\_\_ (e) Refuse.~~

~~(1) Easily cleanable waste containers with non-absorbent, durable plastic liners shall be used for disposal of all tissues, towels, gauze pads and other similar items used on a patron.~~

~~(2) Infectious waste, including sharps waste, shall be stored and disposed of in an approved manner consistent with Wis. Admin. Code Subch. II of NR 526.~~

**Sec. 9-892. Equipment storage.**

~~Instruments, dyes, pigments, stencils and other tattoo and body-piercing equipment shall be stored in closed cabinets exclusively used for that purpose.~~

~~**Sec. 9-893. Privacy.**~~

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~~A panel or other barrier of sufficient height and width to effectively separate a patron on whom a procedure is being performed from any unwanted observers or waiting patrons shall be in place or readily available at the patron's request. If the facility size does not allow space for this, the establishment shall be locked during the procedure to prevent unwanted observers or patrons entrance to the premises.~~

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~~Sec. 9-894. Restrictions.~~

~~(a) *Smoking and eating prohibited in area of procedure.* No smoking or consumption of food or drink is permitted in the area where a tattoo or body piercing procedure is performed, except that patrons may consume a non-alcoholic beverage during the procedure.~~

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~~(b) *Animals prohibited in establishment.* No animals, except for those that provide services to persons with disabilities, are permitted in a tattoo or body-piercing establishment.~~

~~Secs. 9-895—9-899. Reserved.~~

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~~—DIVISION 6. CLEANING AND STERILIZATION~~

~~Sec. 9-900. Cleaning.~~

~~\_\_\_\_\_ (a) After each use, tattooing and body piercing equipment shall be cleaned to remove blood and tissue residue before sterilization.~~

~~\_\_\_\_\_ (b) Tubes and body piercing equipment shall be placed in a covered stainless steel container of cleaning and disinfectant solution until they can be cleaned and sterilized.~~

~~\_\_\_\_\_ (c) All containers holding contaminated needles, tubes, reusable body piercing equipment and container lids shall be cleaned and disinfected at least daily.~~

~~\_\_\_\_\_ (d) The tattoo machine shall be cleaned and disinfected before each use.~~

~~\_\_\_\_\_ (e) Gloved personnel shall clean needle tubes prior to sterilization by doing all the following:~~

~~(1) Manually pre-cleaning the items with care taken to ensure removal of residue; thoroughly rinsing the items with warm water and then draining the water; cleaning the items by soaking them in a protein dissolving detergent-enzyme cleaner used according to manufacturer's instructions; and cleaning the items further in an ultrasonic cleaning unit which operates at forty (40) to sixty (60) hertz and is used according to the manufacturer's instructions.~~

~~(2) Rinsing and drying the items.~~

~~\_\_\_\_\_ (f) Prior to autoclaving, all needles and tubes shall be packaged either individually or in quantities appropriate for individual procedures. Packages shall be identifiable and dated.~~

~~—Sec. 9-901. Sterilization.~~

~~\_\_\_\_\_ (a) Prior to issuance of a tattoo or body piercing establishment license, each operator shall submit written procedures to the local health department setting forth each step to be taken by a tattooist, body piercer, or other employee in sterilizing equipment that is not single use.~~

~~\_\_\_\_\_ (b) Prior to issuance of a tattoo or body piercing establishment license, the operator shall demonstrate the sterilization of equipment following the approved sterilization procedure set forth in subsection (a). A spore test shall be conducted by the applicant and the license shall only be issued upon a negative spore result.~~

~~\_\_\_\_\_ (c) Equipment requiring sterilization shall be pressure-sterilized at the establishment in an autoclave and in accordance with manufacturer's instruction.~~

~~\_\_\_\_\_ (d) Each batch of sterilized equipment shall be monitored for sterilization by use of heat sensitive indicators capable of indicating approximate time and temperature achieved.~~

~~\_\_\_\_\_ (e) Autoclaves shall be spore tested at least monthly. Spore kill test effectiveness shall be conducted by an independent laboratory.~~

~~\_\_\_\_\_ (f) Sterilized equipment shall be wrapped or covered and stored in a manner which will ensure that it will remain sterile until used.~~

~~\_\_\_\_\_ (g) Each tattoo or body piercing establishment shall maintain sterilization records, including spore tests for at least one (1) year from the date of the last entry, which shall include the following information:~~

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~~(1) Date of sterilization~~

~~(2) Name of person operating the equipment~~

~~(3) Result of heat-sensitive indicator~~

~~(h) Sterilized equipment shall be re-sterilized if the package is opened, damaged or becomes wet.~~

~~(i) All methods of sterilization other than autoclaving are prohibited.~~

~~Secs. 9.902-9.905. Reserved.~~

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**DIVISION 7. PREPARATION AND CARE OF SITE**

**Sec. 9-906. Generally.**

~~Prior to issuance of a tattoo or body piercing establishment license, each operator shall submit written procedures to the local health department setting forth each step to be taken by a tattooist or body piercer in cleaning, preparing, and applying antiseptic to the skin of the patron.~~

**Sec. 9-907. Preparation by practitioner.**

~~Before beginning a procedure, the tattooist or body piercer shall clean the skin area for the tattooing or piercing and then prepare it with an antiseptic. The solution shall be applied with cotton, gauze or single-use toweling.~~

**Sec. 9-908. Care instructions for patron.**

~~After completing a procedure, the tattooist or body piercer shall provide the patron with oral and written instructions on the care of the tattoo or pierce. Prior to issuance of the tattoo or body piercing establishment license, a copy of the written care instructions shall be submitted to the local health department for approval.~~

**Secs. 9-909 – 9-920. Reserved.**

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