

WABASH COUNTY TATTOO AND BODY-PIERCING
ORDINANCE 2004 #III

WHEREAS, the State of Indiana has amended the laws concerning tattoos, tattoo parlors, and body piercing facilities

WHEREAS, tattoo and body-piercing operations and procedures are becoming more and more common among the residents of Wabash County, Indiana and

WHEREAS, the safe and proper operation of tattoo and body-piercing business could have serious and detrimental effects upon the citizens of Wabash County, Indiana and

WHEREAS, there exists a very real and distinct possibility of the transmission of serious infectious diseases from the tattooing or body-piercing of a person if tattoo and/or body-piercing facilities or artist are not sufficiently skilled and knowledgeable of the dangers associated with these activities and

WHEREAS, the Wabash County Commissioners are empowered to protect the health and safety of the citizens of Wabash County, and

WHEREAS, the Wabash County Health Officer, or assignee, shall be the designated official in charge of enforcing this Ordinance. The Health Officer may assign a representative of the Wabash County Department of Health to perform certain duties and responsibilities of the Health Officer and,

WHEREAS, the Wabash County Department of Health can best inspect and provide the necessary expertise to oversee the operation of tattoo and body-piercing facilities, and

WHEREAS, the Wabash County Commissioners believe that tattoo and body-piercing businesses should be licensed and subjected to reasonable inspections of the Health Department, and

WHEREAS, the Wabash County Commissioners desire to adopt an ordinance to regulate the operation of tattoo and body-piercing businesses in Wabash County, Indiana,

NOW THEREFORE, BE IT RESOLVED THAT THE FOLLOWING ORDINANCE SHALL BE ADOPTED AND MADE A PART OF THE PERMANENT RECORDS OF WABASH COUNTY, INDIANA that:

Section 1. Sanitary Operation of Tattoo Parlors / Body Piercing Facilities.

All places, individuals and businesses that offer to affix any type of permanent tattoo or body piercing to a person shall be regulated by this Ordinance and shall maintain the premises in which tattoos and body piercing are performed and maintain equipment used in the tattoo and body piercing process in a sanitary manner.

Section 2. Definitions. The following definitions in this ordinance apply throughout this ordinance.

- a. "Blood" means human blood
- b. "Blood borne pathogens" means pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include but are not limited to the following:
 - 1. HBV (Hepatitis B Virus)
 - 2. HCV (Hepatitis C Virus)
 - 3. HIV (Human Immunodeficiency Virus)
- c. "Body Piercing" means the perforation of any human body part other than the earlobe for the purpose of inserting jewelry or other decoration or for some other non medical purpose.
- d. "Branding" means the burning of the skin
- e. "Body Modification" means splitting, inserting into, or scaring the skin for non medical purposes.
- f. "Cleaned" means removal of all visible dust, soil, or other foreign material.
- g. "Contaminated" means the presence of reasonable anticipated presence of blood or OPIM (other potentially infectious materials) on an item or surface.
- h. "Decontaminated" means the use of physical or chemical means to remove, inactivate, or destroy blood-borne pathogens on a surface or item which does not require sterilization to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.
- i. "Department" means the Wabash County Department of Health.
- j. "Facility" means a tattoo or body piercing facility, or both, which is any room or space where tattooing or body piercing, or both, is provided or where the business of tattooing or body piercing, or both is conducted and which is not a mobile facility.
- k. "Guest Tattoo artist" means a tattoo artist not affiliated with any one or specific tattoo facility.
- l. "HBV" means the Hepatitis B Virus.
- m. "HCV" means the Hepatitis C Virus.
- n. "HIV" means the Human Immunodeficiency Virus.
- o. "High level disinfectant" means a process that destroys all microorganisms with the exception of high numbers of bacterial spores.
- p. "Infectious waste" means waste that epidemiological evidence indicates is capable of transmitting a dangerous communicable disease. Infectious waste includes, but is not limited to, the following:
 - 1. Contaminated sharps or contaminated objects that could potentially become contaminated sharps;
 - 2. Pathological waste;

3. Blood and blood products in liquid and semi-liquid form;
 4. Other waste that has been intermingled with infectious waste.
- q. "Intermediate level disinfectant" means a process that inactivates:
1. Mycobacterium tuberculosis;
 2. Vegetative bacteria;
 3. Most viruses and
 4. Most fungi;
- but does not necessarily kill bacterial spores.
- r. "Operator" means any person who controls, operates, manages, or owns a facility.
- s. "Other potentially infectious materials" or "OPIM" means the following:
1. All body fluids which are human.
- t. "Parenteral" means piercing the mucous membranes or the skin barrier through such events as needle sticks, human bites, cuts, or abrasions.
- u. "Personal protective equipment" means specialized clothing or equipment worn for protection against contact with blood or OPIM.
- v. "Piercing artist" or Body Piercing Artist" means person who performs boring , penetration or tunneling through the skin or organ of a client, in order to make a space to hold jewelry in place.
- w. "Scarification" (scarring) includes but is not limited to laying the skin wide open, via a needle; saturating the area; and the placing of autoclave sand or other substance in to the area to build up a scar.
- x. "Secure area" means an area designated and maintained to prevent the entry of unauthorized persons.
- y. "Semi-liquid blood, blood products" means blood, blood products that have intermediate fluid properties and are capable of flowing in a manner similar to liquid.
- z. "Sterilize" means the use of a physical or chemical procedure to destroy all microbial life, including highly resistant bacterial endospores.
- aa. "Store" means the containment of infectious waste in secure area in such a manner as not to constitute collection, treatment, transport, or disposal.
- bb. Tattoo means;
1. any indelible design letter, scroll, figure, symbol, or other mark placed with the aid of needles or other instruments; or
 2. any design, letter, scroll, figure, or symbol done by scarring; upon or under the skin.
 3. Scarring or branding.
- cc. "Tattoo Artist" means any person who provides a tattoo to an individual, including a guest tattoo artist.
- dd. "Universal precautions" means an approach to infection control in which all human blood and certain body fluids are treated as if known to be infectious for HIV, HBV, HCV, and other blood-borne pathogens.
- ee. "Health Officer" means the duly appointed Health Officer as set forth in IC16-20-2.

Section 3. General Requirements

No person shall do any of the following:

- a. Operate a facility that offers tattooing or body-piercing services, unless the Wabash County Health Department has approved the facility under Rule 5, 410 IAC 1-5 and this ordinance;
- b. Perform a tattooing or body piercing procedure, in a manner that does not meet the safety and sanitation standards established under Rule 5, 410 IAC 1-5 and this ordinance;
- c. Perform a tattooing or body piercing procedure in a manner that does not meet the standards for appropriate disinfectant and sterilization of invasive equipment or parts of equipment used in performing the procedures established by this ordinance and under Rule 5, 410 IAC 1-5.

Section 4. Age Limitation / Consent

- a. No persons shall perform a tattooing procedure on an individual who is under sixteen (16) years of age, with or without parental consent, and no person shall perform a body-piercing procedure on an individual who is under fourteen (14) years of age, with or without parental consent. Parental consent is required to perform a tattooing procedure on any individual between sixteen (16) and eighteen (18) years of age, and parental consent is required to perform a body piercing procedure on any individual between fourteen (14) and eighteen (18) years of age. Tattooing or body piercing may be performed on individuals eighteen (18) years or older, without parental consent.
- b. A parent, guardian, or custodian of an individual under age eighteen (18), but over (16) years of age, who desires to give consent to a facility to perform on the individual a tattooing procedure, and a parent, guardian, or custodian of an individual under eighteen (18) years of age, but over fourteen (14) years of age, who desires to give consent to a facility to perform on the individual a body piercing procedure shall do the following:
 1. Appear in person at the facility at the time the procedure is performed and remain throughout the procedure;
 2. Sign a document provided by the facility that explains the manner in which the procedure will be performed and the methods for proper care of the affected body area following performance of the procedure, and
 3. Sign a consent form provided by the facility consenting to any tattoo or body piercing procedure.

Section 5. Consent / Identification

- a. Unless requisite consent has been given in accordance with this ordinance, no individual who is under age sixteen (16) years of age shall obtain or attempt to obtain a tattoo. Unless the requisite consent has been given in accordance with the ordinance, no individual who is under the age of fourteen (14) years of age shall obtain or attempt to obtain a body piercing.

- b. No individual who is under (16) years of age shall knowingly show or give false information concerning his/her name, age, or other identification for the purpose of obtaining a tattooing service for himself. No individual who is under the age of fourteen (14) years of age shall knowingly show or give false information concerning his / her name, age or other identification for the purpose of obtaining a body piercing service for himself.
- c. Tattoo/ Body piercing facilities shall require a birth certificate or Government issued picture ID with birth date of any individual receiving tattooing or body piercing for their own records.
- d. Warning: False application, altering, mutilating, or counterfeiting Indiana Birth Certificates is a criminal offense under IC 16-37-1-12; such false application, alteration, mutilation or counterfeiting is a Class A Misdemeanor, carrying a sentence of up to one (1) year imprisonment and a fine of up to \$5,000.
- e. No individual shall impersonate the parent, guardian, or custodian of an individual who is under the age eighteen (18) years for the purpose of obtaining for the individual under the age of eighteen (18) years a tattoo or a body piercing.

Section 6. General Safety and Sanitation Standards

- a. A facility offering tattoo and/ or body piercing services shall comply with the following provisions:
 - 1. No tattooing or body piercing shall be conducted in any room used as living quarters or in any room that opens directly into living or sleeping quarters.
 - 2. Live animals shall be excluded from areas where tattooing or body piercing is being conducted. This exclusion does not apply to the following:
 - A. Patrol dogs accompanying security or police officers.
 - B. Guide dogs accompanying the following:
 - 1. Blind persons.
 - 2. Partially blind persons.
 - 3. Physically disabled persons.
 - 4. Guide dog trainers
 - 5. Persons with impaired hearing.
 - 3. Eating, drinking, smoking, applying cosmetics, or handling contact lenses shall not be allowed in work areas where there is a likelihood of exposure to blood or OPIM.
 - 4. Food and drink shall not be kept in areas where there is a reasonably anticipated risk of exposure to blood or OPIM.
 - 5. All equipment and environmental surfaces shall be cleaned and disinfected after contact with blood or OPIM.
 - 6. Environmental surfaces and equipment not requiring sterilization that has been contaminated by blood shall be cleaned and disinfected.
 - 7. All Work surfaces shall be:
 - A. Nonabsorbent;
 - B. Easily cleanable;
 - C. Smooth; and
 - D. Free of:
 - 1. breaks;

2. open seams;
 3. cracks;
 4. chips;
 5. pits; and
 6. similar imperfections
8. Disinfectant solutions shall be:
- A. A hospital grade, tuberculocidal Environmental Protection Agency (EPA) registered disinfectant; or
 - B. Sodium hypochlorite, five-tenths percent (0.5%) concentration, by volume (common household bleach is ten percent (10%) concentration in water); the solution shall be dated and shall not be used if it is more than twenty-four hours (24) old.

Section 7. Operator Training Responsibilities

- a. An individual or entity that is an Operator shall comply with the following training responsibilities:
 1. Ensure that the training described in the Indiana Occupational Safety and Health Administration's Blood-borne pathogens standard (as found in 29 CFR 1910.1030) is provided to all Tattoo and Body piercing artists, anyone employed by the Tattoo/ Body Piercing facility, or anyone acting on behalf of the Tattoo/ Body piercing facility who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM.
 2. Ensure that training on the handling of infectious waste is provided to all Tattoo and Body piercing artists, anyone employed by the facility, or anyone acting on behalf of the facility who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM.
 3. Ensure that a record of training described in subdivision one (1) is maintained, as required under the Indiana Occupational Safety and Health Administration's Blood-borne Pathogens standard (as found in 29 CFR 1910.1030) of an individual's participation in the training that is provided. The record shall be made available to the Wabash County Health Department for inspection upon request.
 4. Ensure that a record of training described herein is maintained.

Section 8. Operator Responsibilities

- a. The operator, tattoo artists, body piercers, or anyone employed by the facility, or anyone acting on behalf of the facility who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood are provided personal protective equipment and expendables needed to implement the precautions required by this rule and the Indiana Occupational Safety and Health administration's blood borne pathogens standard (as found in 29 CFR 1910.1030).
- b. The operator shall require tattoo artists and body piercers, anyone employed by the facility, or anyone acting on behalf of the facility who has a reasonably anticipated

risk for skin, eye, mucous membrane, or parenteral contact with blood to provide evidence of compliance with the universal precautions education requirements contained in Section 27 of the Indiana Tattoo Legislation (410 IAC 1-5).

- c. The operator shall display a description of compliance with the requirements contained in subsection (d)
- d. The operator shall display written materials prepared or approved by the department explaining universal precautions and patrons' rights under this rule. These materials shall include information on how to report violations of universal precautions and shall include information regarding the departments duties to investigate.

Section 9. Operator Policies

The operator shall develop a written policy in compliance with this rule and the requirements of the Indiana occupational safety and health administration's blood borne pathogen standard (as found in 29 CFR 1910.1030) that:

- a. requires the use of universal precautions when performing tattooing and any activity or duty that includes any reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or OPIM.
- b. includes the safe handling of infectious waste; and
- c. provides sanctions, including discipline and dismissal, if warranted, for failure to use universal precautions and /or handle infectious waste safely.

Section 10. Artist IOSHA Training – Facility Responsibility

- a. It is the responsibility of the Tattoo/Body piercing facility to assure that anyone employed by the establishment, and anyone acting on behalf of the facility who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM shall complete the training program that is required under the requirements of the Indiana Occupational Safety and Health Administration (as found in 29 CFR 1910.1030). The programs under this section shall be as follows:
 1. a blood borne pathogen training session provided by the Tattoo/ Body piercing Operator meeting the requirements under the Indiana Occupational Safety and Health Administration (IOSHA) (as found in 29 CFR 1910.1030).
 2. a blood borne pathogen continuing education program accredited by a health care licensing entity.
- b. Anyone employed by the facility or acting in behalf of the facility who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM must by trained in the facility's policies on the handling of infectious waste.

Section 11. Patron Records

Records of each patron shall be maintained for two (2) years. The record shall include:

- a. patron's name;
- b. address;
- c. age; must be verified by one (1) photo identification and birth certificate;
- d. date tattooing or body piercing was performed;
- e. design of the tattoo;
- f. location of the tattoo or piercing on the patron's body;
- g. the name of the Tattoo/ Body piercing Artist who performed the work;
- h. written parental consent when tattooing or body piercing any minor as required herein; and
- i. jewelry or other decoration(s) used.

Section 12. Illness.

Tattoo artists or body piercers who are experiencing symptoms of acute disease that include, but are not limited to:

- a. diarrhea;
- b. vomiting;
- c. fever;
- d. rash;
- e. productive cough;
- f. jaundice; or
- g. draining (or open) skin infections, boils, impetigo, or scabies; shall refrain from providing tattoos or body piercings.

Section 13. Hand washing

- a. Hand washing facilities shall be readily accessible in the same room where tattooing or body piercing, or both, is provided.
- b. Hands shall be washed with soap and running water immediately before putting on gloves and after removal of gloves or other personal protective equipment.
- c. Only single use towels shall be used.

Section 14. Personal Protective Equipment

Appropriate personal protective equipment shall be worn as follows:

- a. A clean protective clothing layer shall be worn whenever there is a reasonably anticipated risk of contamination of clothing by blood or OPIM.
- b. Masks in combination with eye protection devices, such as goggles or glasses with solid side shield, or chin length face shield, shall be worn whenever splashes,

spray, splatter, or droplets or blood or OPIM may be generated and eye, nose, or mouth contamination can be reasonably anticipated.

- c. Disposable gloves, such as surgical or examination type, shall be worn during the tattooing or body piercing process. Gloves shall be changed and properly disposed of each time there is an interruption in the application of the tattoo or body piercing, when the gloves become torn or punctured, or whenever the ability to function as barrier is compromised. Disposable gloves shall not be reused.

Section 15. Tattooing / Body piercing Equipment

- a. Only single use razors shall be used to shave the area to be tattooed, or body part to be pierced. Single use razors shall be discarded in sharps containers immediately after use.
- b. The stencil for transferring a design to the skin is to be single use only, and shall be properly disposed of after a single use.
- c. If the design is drawn directly onto the skin, it shall be applied with a single use article only.

Section 16. Needles

- a. Needles shall be individually packaged and sterilized prior to use.
- b. Needles shall be single use only.
- c. Needles shall be discarded in sharps containers immediately after use.
- d. Contaminated needles shall not be bent or broken or otherwise manipulated by hand.

Section 17. Reusable Equipment

- a. Autoclave sterilization must be used when heat stable, non-disposable equipment is sterilized.
- b. Equipment that is to be sterilized shall be put in single use packaging.
- c. Records must be maintained to document:
 - 1. duration of sterilization technique and individual package indicators to prove sterility. Individual packaging and individual package indicators are to be dated and retained with records;
 - 2. determination of effective sterility, such as use of a biological indicator, including spores, is performed monthly;
 - 3. equipment is maintained as recommended by the owner's manual and proof is available that the owner's manual recommendations are reviewed monthly.
- d. Reusable contaminated equipment shall not be stored or processed in a manner that requires any person to reach by hand into the containers where these sharp items have been placed.
- e. Reusable contaminated equipment shall be:

1. placed in puncture resistant containers;
 2. labeled with the biohazard symbol;
 3. leak proof on both sides and bottom;
 4. stored in a manner that does not require reaching by hand into the container where the equipment is stored until cleaning prior to sterilization.
- f. Contaminated reusable equipment shall be effectively cleaned prior to sterilization or disinfection.
 - g. Any reusable equipment that comes into direct contact, or is likely to come into direct contact, with an instrument that penetrates the skin other than a piercing gun shall be effectively cleaned and sterilized prior to use.
 - h. All sterilized equipment shall not be removed from wrappers or sterilizer packaging until immediately prior to use.
 - i. Any reusable equipment that comes into contact with mucus membranes shall be effectively cleaned and sterilized prior to use.
 - j. Piercing guns shall be cleaned and undergo, at a minimum, high level disinfection after each use whenever visibly contaminated.
 - k. All reusable equipment that has contact with intact skin shall undergo, at a minimum, intermediate level disinfection.
 - l. All other equipment used during the tattooing or body piercing procedure shall be single use, including corks.
 - m. All body piercers and tattoo artists shall comply with all other equipment manufacturer's recommendations.

Section 18. Dyes or Pigments

- a. All dyes or pigments in tattooing shall be from professional suppliers specifically providing dyes or pigments for the tattooing of human skin.
- b. In preparing dyes or pigments to be used by tattoo artists, only non-toxic sterile materials shall be used. Single use or individual portions of dyes or pigments in clean, sterilized containers shall be used for each patron.
- c. After tattooing, the remaining unused dye or pigment in single use or individual containers shall be discarded along with the container.

Section 19. Infectious waste containment.

- a. Contaminated disposable needles or instruments shall be:
 1. stored in leak-resistant, puncture-resistant containers, tightly sealed to prevent expulsion, labeled with the biohazard symbol, and effectively treated in accordance with this rule prior to being stored in an unsecured area and sent for final disposal.
- b. Infectious waste that are contaminated sharps or objects that could potentially become contaminated sharps shall be placed in containers that meet the following requirements;
 1. Impervious to moisture.

2. Sufficient strength and thickness to prevent expulsion.
 3. Secured to prevent leakage expulsion.
 4. Labeled with the biohazard symbol.
 5. Effectively treated in accordance with this rule prior to being placed in an unsecured area and sent for final disposal.
- c. If infectious waste is stored prior to final disposal, all persons subject to this rule shall store infectious waste in a secure area that:
1. is locked or otherwise secured to eliminate access by or exposure to the general public;
 2. affords protection from adverse environmental conditions and vermin; and
 3. has a prominently displayed biohazards symbol.
- d. Infectious waste shall be stored in a manner that preserves the integrity of the container, and is not conducive to rapid microbial growth and putrefaction.
- e. Disinfect reusable containers for infectious waste each time that they are emptied unless the surfaces of the reusable containers have been protected from contamination by disposable liners, bags or other devices that are removed with the infectious waste.

Section 20. Treatment and transport of infectious waste.

- a. All operators shall ensure that infectious waste is either treated on-site in accordance with this rule or transported off-site for treatment in accordance with this rule.
- b. A treatment is effective if it reduces the pathogenic qualities of infectious waste for safe handling, is designed for the specific waste involved, and is carried out in a manner consistent with this rule. Effective treatment may include:
1. incineration in an incinerator designed to accommodate infectious waste;
 2. steam sterilization;
 3. chemical disinfection under circumstances where safe handling of the waste is assured;
 4. thermal inactivation;
 5. irradiation; or
 6. discharge in a sanitary sewer or septic system that is properly installed and operating in accordance with state and local laws.
- c. All persons subject to this rule shall;
1. transport infectious waste in a manner that reasonably protects waste haulers and public from contracting a dangerous communicable disease; and
 2. effectively treat infectious waste in accordance with this rule before it is compacted.
- d. The operator shall ensure that infectious waste, effectively treated or not, is transported off-site in compliance with 410 IAC 1-3

Section 21. Post Tattoo/ Body Piercing Infection Prevention

- a. Each facility is to provide post tattooing/ body piercing written instructions to its clients in methods to prevent infections, such as the use of bactericidal creams and ointments and soap, and appropriate barrier dressings where indicated. A copy of these instructions shall also be posted in a conspicuous place in the facility, and be clearly visible to the person being tattooed or body pierced.
- b. Each client should be instructed to seek immediate medical attention should there be any evidence of infection.

Section 22. Operator Requirements and Professional Standards

The following shall be kept on file on the premises of a tattoo/ body-piercing facility and available for inspection by the Department.

- a. The names of all Operators/Tattoo Artists/ Body Piercing Artists in the facility and their exact duties including the following information:
 1. full names; date of birth; gender; home address; home/work numbers; identification photos of all operators/ technicians;
 2. establishment name; hours of operation; owner's name and address;
 3. a complete description of all tattooing and body piercing performed;
 4. an inventory of all instruments and jewelry, all sharps, and all inks used for any and all tattooing and body piercing, including names of manufactures and serial or lot numbers, if available or applicable, and
 5. a copy of this ordinance.
- b. Permits shall be prominently displayed in the facility and shall not be defaced or altered in any manner.
- c. It shall be unlawful for any person to perform tattoo or body piercing unless such procedures are performed in a tattoo/ body piercing facility with a current permit.
- d. The operator/ artist must be a minimum of eighteen (18) years of age.
- e. The operator/ Tattoo artist/ Body piercing artist shall maintain a high degree of personal cleanliness, conform to hygienic practices and wear clean clothes when performing tattoo or body piercing procedures.
- f. Any skin or mucosa surface to receive a tattoo or body piercing must be free of rash, infection or any other visible pathological condition.

Section 23. Body Modifications

As defined, the inserting into, or scaring the skin for non medical purposes including but not limited to the following procedures:

- a. tongue splitting;
- b. skin sculpting; and

- c. skin manipulation are not to be performed unless performed by a licensed physician in the State of Indiana.

Section 24. Exemptions

- a. Physicians licensed by the State of Indiana who utilize tattooing or body piercing procedures as part of patient treatment are exempt from the this ordinance.
- b. Ear lobe piercing is exempted from this ordinance.

Section 25. Permit Requirements

- a. Facility Permit
 1. No person, firm, partnership, joint venture, association, business trust, corporation or any organized group of persons may operate a tattoo/body piercing facility unless it has received a Facility Permit from the Department.
 2. Any person operating a tattoo/body piercing facility shall obtain a permit from the Department, annually, with beginning and ending permit time frames and fees to be set by the Department.
 3. The applicant shall pay a reasonable fee as set by the Department for Facility Permit.
 4. A Facility Permit shall not be transferable from one place or person to another.
 5. A current Facility permit shall be posted in a prominent and conspicuous area where it may be readily observed by clients.
- b. Operator Permit
 1. No person shall perform tattooing or body piercing without first obtaining a permit from the Department. The Department shall set a reasonable fee for such permits.
 2. Application for operator permits shall include: Name; Date of Birth; Sex; Residence; Mailing Address; Phone Number; Place(s) of Employment as an operator; Training and or Experience; Proof of attendance at a Blood borne Pathogen Training Program (or equivalent), given or approved by the Department.

Section 26. Permit Fees

- a. *Business.* Each operation shall obtain a permit from the Wabash County Health Department. The permit shall provide the name and address of the owner of the business and the name and address of each and every tattoo/ body piercing artist

located at the location. The cost of this permit shall be **\$750.00** and shall not be transferable. The permit expires on December 31 of each year. Any holder of a permit shall be subject to inspection as set forth herein. The Wabash County Health Department shall provide the appropriate application forms for this permit. This application form shall carry a processing fee of **\$25.00**. Said permit shall be posted at the facility and clearly visible to the public.

- b. *Tattoo artist and body piercer.* Every person that desires to perform any tattoo or body piercing shall obtain a "Tattoo artist permit/ Body piercing permit" from the Department. This permit must be obtained before any tattoos or body piercing is performed on any persons and after the requisite training. The applicant must satisfy the minimum requirements as set forth in this ordinance. The cost of said permit shall be **\$250.00** and shall not be transferable. The permit expires on December 31 of each year. Any holder of a permit shall be subject to inspection as set forth herein. The Wabash County Health Department shall provide the appropriate application forms for this permit. This application form shall carry a processing fee of **\$25.00**. Said permits shall be posted at the facility in the place where they are clearly visible to the public.
- c. *Owner/Operator.* In the event that the facility is a sole proprietorship and the owner shall also perform tattooing or body piercing for their business, the owner shall only be required to obtain a business permit as described herein.

Section 27. Inspections.

The Wabash County Health Department shall conduct inspections of each and every facility located in Wabash County, Indiana. The Wabash County Health Department shall conduct a minimum of three (3) inspections per year. Additional inspections may be conducted by the Wabash County Health Department as it determines and /or in response to complaints submitted. The results of the inspections will be provided to each operator. Violation(s) noted by the Wabash County Health Department shall be corrected immediately. The Department will conduct follow-up inspections to determine compliance with this ordinance.

Section 28. Procedures when violations are noted:

- a. If during the inspections of any facility, the Health Officer or authorized representative discovers the violation of any provision of this ordinance, he/she shall issue a written report/order listing such violations and the remedial action(s) to be taken. A copy of said report shall be delivered to the permittee by hand delivering the report/order to him/her on-site, or mailing the notice by Certified Mail to the address listed by the permittee as his/her mailing address on the permit application.
- b. A copy of the written report/order shall be filed in the records of the Department after appropriate review by supervisory personnel and shall be made available to the public.

Section 29. Permit Suspension/ Revocation:

The Health Officer may order the suspension or revocation of any permit issued for a tattoo parlor/ body piercing establishment and/ or Tattoo artist/ body piercer which shall include the prohibition of any further operation for the following reasons:

- a. Interference with the Health Officer, or authorized representative(s), in the performance of their duties. Interference shall be defined as the process of obstructing, hampering or blocking the authorized representative(s) in the performance of their duties.
- b. As a result of the willful and/or continuous violation of any provision of this ordinance.

Section 30. Other permit revocation, suspension and immediate closure orders.

- a. Whenever the Health Officer, or authorized representative(s) find unsanitary or other conditions, involving the operation of any facility which, in their belief, constitutes an imminent health hazard, he shall without notice or hearing, issue and serve a written order upon the permittee requiring the immediate closure of its operations, shall cite the existence of said unsanitary conditions and shall specify the corrective actions to be taken.
 1. Such orders shall be effective immediately.
 2. Upon written request the Health Officer, or authorized representative, the permittee shall be afforded a hearing as set forth in Section 31.
 3. The Health Officer or authorized representative shall make a re-inspection upon request of the permittee. When the Health Officer or authorized representative determines that the necessary corrective action(s) have been taken, operation of the facility may be resumed.

Section 31. Hearings

- a. Any permittee aggrieved by the final order of the Health Officer shall be entitled to a review of the final order before the Wabash County Board of Health by filing a written request with the Secretary of the Board (Health Officer) within fifteen (15) days after such final order is issued.
- b. Upon the Health Officer's receipt of such request, the Board shall hear the matter de novo in an open hearing after at least ten (10) days written notice of the time, place and nature thereof. (The Health Officer and permittee may agree to a shorter period of time, if requested by either party.) The notice shall be issued by the Secretary of the Board to the permittee filing the request.
- c. The notice of hearing shall be served upon the permittee by leaving or mailing by certified mail, the notice to the address listed on the permit

application as the permittee's mailing address or such other address as the permittee shall designate in writing to the Secretary of the Board.

- d. At such hearing, each party shall have the right to submit evidence, to cross-examine witnesses and to be represented by legal counsel.
- e. The expense of such proceedings shall be charged to the permittee who applied for the review, except that copies of transcripts shall be at the expense of the party requesting them. At the time the transcript is requested, the Board may require the permittee to pay a deposit in an amount determined by the Board to be necessary to secure such expense(s).
- f. The expense of such proceedings shall be charged to the permittee who applied for the review, except that copies of transcripts shall be at the expense of the party requesting them. At the time the transcript is requested, the Board may require the permittee to pay a deposit in an amount determined by the Board to be necessary to secure such expense(s).
- g. The Board shall make written findings of facts and shall enter its final order of determination of the matter in writing.

Section 32. Appeal

Each decision of the board of health under this Ordinance is subject to review by certiorari. Each person aggrieved by a decision of the board of health may file with the Wabash Circuit Court or the Wabash Superior Court a verified petition setting forth that the decision is illegal in whole or in part and specifying the grounds of the illegality. No change of venue from the county may be had.

The person shall file the petition with the court within twenty (20) days after the date of that decision of the board of health.

On filing a petition for a writ of certiorari with the clerk of the court, the petitioner for the writ of certiorari shall give notice of the petition by having a notice served by the sheriff of the county on the other party. No other summons or notice is necessary when filing a petition.

Such notice must state that a petition for a writ of certiorari, asking for a review of the decision of the board of health has been filed in the court.

The court shall direct the board of health, within twenty (20) days after the date the petition is filed, to show cause why a writ of certiorari should not issue. If the board fails to show to the satisfaction of the court that a writ should not issue, then the court may allow a writ of certiorari directed to the board. The writ must prescribe the time in which a return shall be made to it. This time must not be less than ten (10) days from the date of issuance of the writ, and the court may extend the time.

The Board of Health shall, in the return to the writ of certiorari, concisely set forth such facts and data as may be pertinent and present material to show the grounds of the decision on appeal. The secretary of the board shall verify the return. The board may not be required to return the original papers acted on by it. It is sufficient to return certified copies of all or such part of the papers as may be called for by the writ.

If the writ of certiorari calls for a transcript of the hearing before the board, the petitioner shall pay the costs of preparing the transcript.

The court may determine the sufficiency of the statements of illegality contained in the petition, without further pleadings, and may make its determination and render its judgment with reference to the legality of the decision of the board of health, on the facts set out in the return to the writ of certiorari. If the court determines that testimony is necessary for the proper disposition of the matter, it may take evidence to supplement the evidence and facts disclosed by the return to the writ of certiorari, but the review may not be by trial de novo. In passing on the legality of the decision of the board, the court may reverse, affirm, or modify the decision of the board brought up for review.

Section 33. **Enforcement**

It shall be the duty of the Health Officer to enforce the provisions of this Ordinance. Any permit issued in conflict with the provisions of this Ordinance shall be null and void. A violation of an order issued by the Health Officer or Board shall be considered to be a violation of this Ordinance.

Section 34. **Violations**

Whenever the Health Officer determines that any facility, or any other person, is in willful violation of any of the provisions of this Ordinance, the Health Officer shall furnish evidence of said willful violation to the Prosecuting Attorney of Wabash County, Indiana or the attorney for the Board who shall seek all appropriate legal remedies against the person(s) violating said provisions of this Ordinance.

Section 35. **Penalty**

Any person who willfully violates any of the provisions of this Ordinance shall be subject to a fine of not more than **(\$900.00)** for each violation. Each day of the existence of any violation of this Ordinance shall be considered to be a separate offense. Violations will result in the permanent revocation of a permit. This revocation is applied to any person who willfully violates any of the provisions of this Ordinance including but not limited to the owner, operator, tattoo artist and or body piercing artist.

Section 36. **Injunction**

The Health Officer may bring an action for an injunction in the Circuit or Superior Court of Wabash County, Indiana, to restrain any person from violating the provisions of this Ordinance, to cause such violation(s) to be prevented, abated or removed.

Section 37. **Expense**

Any person violating any of the provisions of this Ordinance shall be liable to the Wabash County Department of Health for the expense, loss or damage occasioned by reason of such violation, including reasonable attorney's fees and costs.

Section 38. **Cumulative**

The remedies provided in this section shall be cumulative, and not exclusive, and shall be in addition to any other remedy provided by law.

Section 39. **Severability**

Invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of this Ordinance.

Section 40. **Effective Date**

This Ordinance shall be in full Force and effect from and after 12:01 a.m., on the 1st day of August, 2004.

Approved by the Wabash County Board of Health on the 20th day of April, 2004.

Passed by the Board of Commissioners of the County of Wabash, Indiana,

BOARD OF COMMISSIONERS OF THE
COUNTY OF WABASH, INDIANA

Bob K. Wright

Paul Dawson

Leti D. Duff

ATTEST: *Carol Stefanatos*
Carol Stefanatos, Auditor 5/24/04