

## AMENDED ORDINANCE 2011-9

### TATTOO, PIERCING, AND BODY MODIFICATION ORDINANCE

#### I. Definitions.

In addition to the Definitions in 410 IAC 1-5, the following definitions apply throughout this Ordinance:

1. *Artist* refers to a person employed by an Establishment to perform body piercing, *body modification* or to affix a permanent tattoo to an individual. This includes those defined as *body piercer* or *tattoo artist* by 410 IAC 1-5, and any person who performs boring, penetration or tunneling through the body of a Client.
2. *Body Modification* means any tattoo, body piercing, or other penetrating body art, or the use of needles, scalpels or other medical devices to insert devices or modify the body for the purposes of adornment. This does not include henna tattoos or other surface adornment.
3. *Branding* means a potentially invasive procedure in which a permanent mark is burned into or onto the skin using either temperature, mechanical or chemical means.
4. *Client* is a person or patron who receives tattooing, body piercing, or body modification services.
5. *Establishment* is a location where body piercing, body modification and/or tattooing are performed. This includes a Facility as defined by 410 IAC 1-5, but does not include temporary and mobile establishments which are prohibited by this Ordinance and defined as follows:
  - a. *Mobile Establishment* means a tattoo, body piercing or body modification establishment that is wheeled, mounted on a vehicle, or otherwise readily moveable; that changes location too frequently to be a candidate for utility connections, as determined by the Health Officer.
  - b. *Temporary Establishment* means an Establishment located within a permanent structure that operates for a period of no more than fourteen (14) consecutive days for the purpose of product demonstration, industry trade show, or education.
6. *Health Department* means the Rush County Health Department having jurisdiction in Rush County, Indiana.
7. *Health Officer* means that duly appointed Health Officer having jurisdiction in Rush County, Indiana.
8. *Implanting* is a surgical procedure involving the placement of an object or multiple objects under the skin to mold or shape the skin outwardly for a particular appearance.

9. *Operator* means any person who controls, operates, conducts, manages, or owns any Establishment or who organizes any temporary event.
10. *Scarification* means altering skin texture by cutting the skin and controlling the body's healing process in order to produce wounds, which result in permanently raised wheals or bumps known as keloids.
11. *Suspension* means hanging the body from (or partially from) hooks that are placed by body piercing.
12. *Tongue Splitting* means tongue bifurcation or a type of body modification in which the tongue is cut centrally from its tip part of the way towards its base, forking the end.

## **II. General Requirements**

No person shall do any of the following:

1. Operate a business that offers tattooing, body piercing, or other body modification services, unless the Health Department has issued a permit to the business under this Ordinance, and the business is in compliance with 410 IAC 1-5.
2. Perform a tattooing, body piercing, or other body modification procedure in a manner that does not meet the requirements of 410 IAC 1-5, Ind.Code 35-42-2-7, and this Ordinance.

## **III. Physical Facilities**

In addition to the requirements of 410 IAC 1-5, all tattoo, body piercing, or body modification Establishments must comply with the following:

1. The premises in which tattooing and/or body piercing are conducted shall be in an enclosed building. Each Artist's station shall be reasonably separated from each other and from waiting Clients or observers.
2. Tattoo, body piercing, and other body modification establishments shall be equipped with artificial light sources equivalent to at least twenty (20)-foot candles at a distance of thirty (30) inches above the floor throughout the Establishment. A minimum of forty (40)-foot candles of light shall be provided at the level where the tattooing is being performed. Spotlighting may be used to achieve the required degree of illumination.
3. All walls and floors near equipment used for tattooing, body piercing or other body modification activities shall be smooth, nonabsorbent, and of an easily cleanable surface, and be maintained in a sanitary manner at all times.



4. All tables and other equipment shall be constructed with a smooth, nonabsorbent, and easily cleanable finish. If used, disposable paper shall be changed between Clients.
5. Exterior doors shall be self-closing and tight-fitting. Operable windows shall have tight-fitting screens.
6. Restroom facilities shall be available to employees at all times the Establishment is open for operation. The restroom shall be equipped with a toilet, toilet paper, hand sink supplied with warm running water, liquid soap, paper towels in dispensers or hand dryers, and a waste receptacle.
7. A hand sink supplied with running water at a temperature of 100-120 degrees Fahrenheit, liquid soap, paper towels in dispensers, and a waste receptacle shall be located in close proximity of each Artist's station and shall be readily accessible and available without passing through any door or barrier.
8. Equipment and supplies used in the course of tattoo and body piercing services or disinfection and sterilization procedures shall not be stored or utilized within the restroom.
9. No room used as living quarters or directly opening into a living quarters or sleeping quarters shall be used for non-prohibited tattooing and/or body piercing.
10. Live animals, except for service animals, must be excluded from areas where tattooing and/or body piercing is being conducted.
11. No eating, drinking, smoking, applying cosmetics, or handling of contact lenses in the room where tattooing and/or body piercing is being conducted is permitted.

#### **IV. Operator and Artist Responsibilities**

In addition to the requirements of 29 CFR 1910.1030, and 410 IAC 1-5, the Establishment Operator shall ensure the following:

1. The use of properly calibrated autoclave sterilization units on all reusable items and monthly spore testing of the autoclave are mandatory. A copy of the results of all spore tests must be submitted to the Health Department upon receipt of each test report.
2. A copy of all applicable regulations must be retained on the premises.
3. The following records must be maintained by all Operators for at least two (2) years:
  - a. a government issued ID with a photo and date of birth of each Client.
  - b. With respect to tattooing services, written records must also include the professional tattooing ink used for each tattoo performed.

- c. Any person under eighteen (18) years of age must have written permission from a parent or guardian, which forms must be maintained. The parent or guardian must be present during the performance of the non-prohibited act. Any person under eighteen (18) years of age is prohibited from receiving the services of implanting, suspension, scarification, and piercing or dyeing of the nipples or genitalia, and stated in **V.B., Prohibited Acts**, of this Ordinance.
4. Verbal and written instructions for the aftercare of the tattoo or other body modification shall be provided to each Client or legal guardian if the Client is under eighteen (18) years of age. The written public education materials shall:
  - a. advise the Client to consult a physician or dentist as appropriate at the first sign of infection;
  - b. shall contain the name, address and phone number of the Establishment; and
  - c. shall be signed and dated by the Artist and the Client, with a copy given to the Client.
5. The following information shall be kept on file on the premises of an Establishment and available for inspection by the Health Department:
  - a. full names, dates of birth, gender, and identification photos of all Operators and Artists; and
  - b. Each Artist and Operator should be able to provide documentation of the following information upon request of the Health Department: that each Artist and Operator has either completed or been offered and declined, in writing, the Hepatitis B vaccination series; that antibody testing has revealed the Artist or Operator is immune to Hepatitis B; or that vaccine is contraindicated for medical reasons.
6. Before and after performing tattoos, body piercings, or other body modification procedures the Artist must thoroughly wash his/her hands in warm running water with liquid soap, then rinse his/her hands and dry with disposable paper towels. This shall be done as often as necessary to remove contaminants. Single-use, disposable paper products are to be used.
7. Ink may be diluted only with sterile water and may not be diluted with distilled or reverse osmosis water.

## **V. Prohibited Acts**

- A. The following acts are strictly prohibited:
  1. Tongue splitting; and



2. Tattoo removal.

B. The following acts are strictly prohibited to minors (persons under age eighteen (18) years) of age:

1. Branding;
2. Implanting;
3. Suspension;
4. Scarification; and
5. Piercing of genitalia or nipples.

C. Temporary and Mobile Units are strictly prohibited.

D. Body Modification, as defined in 1.2, is a medical procedure and may only be performed by a person with a valid Indiana medical license.

## **VI. Exceptions**

Ear lobe piercing and medical procedures performed by a State Medical Licensed Practitioner are exempt from this Ordinance.

## **VII. Permits**

A. General.

1. No person, firm, partnership, joint venture, association, business trust, corporation, or any organized group of persons may operate an Establishment unless it has first received a valid permit from the Health Department.
2. The valid permit shall not be transferrable from one Establishment or Operator to another.
3. Only Establishments who comply with the provisions of 410 IAC 1-5, as well as all applicable provisions of this Ordinance shall be entitled to obtain and keep a permit.
4. A separate permit shall be required for each Establishment.
5. Artists must be at least eighteen (18) years of age, and no permit may be issued to anyone under the age of eighteen (18) years of age.

B. A Permit for an Establishment shall be issued for a term beginning January 1, or the date of the commencement of operation, and ending December 31 of the same year, and shall be applied for by the Operator annually.

### **VIII. Revocation of Permit**

A. The Health Officer may revoke the permit of any Establishment for any violation of this Ordinance, IC 35-42-2-7, 29 CFR 1910.1030, 410 IAC 1-5, or any other applicable federal, state or local regulation.

B. The revocation shall be effective immediately upon issuance by the Health Officer.

C. The Health Officer may reinstate the Establishment permit upon satisfactory compliance with this Ordinance, IC 35-42-2-7, 29 CFR 1910.1030, 410 IAC 1-4, or any other federal, state or local regulation.

D. Appeals of orders of revocation shall be conducted pursuant to IC 4-21.5-3-1 *et seq.*

### **IX. Application for Permit or Renewal of Permit**

A. The Operator of a proposed Establishment shall submit the following to the Health Department at least thirty (30) days prior to scheduling the preoperational inspection by the Health Department, and thirty (30) prior to the first day of operation:

1. Properly prepared plans and specifications for review and approval before the construction or conversion of an existing structure for the use as an Establishment;
2. Proof of contract with an infectious waste removal company;
3. Copy of bloodborne pathogen training for all employees, Artists and Operators; and
4. Copy of written policy to meet IOSHA Bloodborne Pathogen Standard (29 CFR 1910.1030).

B. The Health Department shall deem the plans and specifications for an Establishment satisfactory and approved before a permit can be issued.

C. A preoperational inspection shall be conducted to insure that the Establishment is built, remodeled, or set-up in accordance with the approved plans and specifications and to assure the Establishment is in compliance with this Ordinance and 410 IAC 1-5.

### **X. Additional Requirements for All Body Piercing/Body Modification**

A. All supplies that come into contact with the piercing station should be in "single portion" form, including but not limited to anti-bacterial ointments, iodine swabs, alcohol wipes, and corks. These packages must be wiped down with hospital-level, hard-surface disinfectant and air-dried prior to being stored in very clean, closed containers.

B. All oral piercings shall be preceded by the Client performing a one (1)-minute, vigorous application of an antiseptic mouthwash.

C. All insertable jewelry is to be sterilized and kept in an individual, closed container.

D. All jewelry placed in new piercings must be made of one of the following, and mill certificates from the manufacturer or an independent assay must be available to prove material composition:

1. Solid 14k or higher white or yellow nickel-free gold;
2. Surgical implant stainless steel, CrNiMo 316LVM, ASTM F-138;
3. Niobium;
4. Surgical implant grades of titanium;
5. Solid platinum;
6. Insert plastics.

E. Jewelry must have a mirror finish and be free of nicks, scratches, burrs, and polishing compounds.

## **XI. Fees**

### **A. Permit Fees**

1. The fee for an Establishment shall be paid for a term beginning January 1, and/or before commencement of operation and expiring December 31 of the same year, and shall be applied for and paid by the Operator annually.
2. Permit fees for the issuance of a permit under this Ordinance for an Establishment shall be specified in the Rush County Health Department Fee Ordinance.
3. The fees paid under this Ordinance are not transferrable or refundable. A permit may not be issued to any Establishment where outstanding or unpaid fees, or late fees, are due.

### **B. Late Fees**

1. A late renewal fee shall be assessed as set by the Health Department for failure to renew a permit within fourteen (14) days after the expiration of the permit to operate an Establishment.

## **XII. Inspections**



A. The Health Department may conduct inspections of Establishments located in Rush County, Indiana.

B. The results of the inspections shall be provided to the Operator.

C. Violations noted by the Health Department shall be corrected immediately.

### **XIII. Penalties for Violations of Sanitary Requirements**

A. Civil penalties, which may include injunctive relief, may be imposed under Indiana law on any person, Artist, Operator, or Establishment who violates any provision of this Ordinance.

B. In the event a lawsuit is necessary to collect the fees, penalties, or services imposed under this Ordinance, the Artist, Operator, or Establishment found to be liable shall be responsible for any reasonable attorney's fees and court costs incurred by the Health Department or Rush County, Indiana.

### **XIV. Unconstitutionality Clause**

Should any section, paragraph, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby and shall remain in full force and effect.

### **XV. Repeal and Effective Date**

All Ordinances and parts of Ordinances in conflict with this Ordinance are hereby repealed, and this Amended Ordinance shall be in full force and effect upon its adoption and publication as required by law.



ADOPTED this 9<sup>th</sup> day of September, 2013.

RUSH COUNTY  
BOARD OF COMMISSIONERS

  
\_\_\_\_\_  
BRUCE W. LEVI

  
\_\_\_\_\_  
MARK BACON

  
\_\_\_\_\_  
Ken Masters

ATTEST:

  
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Mary Ann Beard,  
Rush County Auditor