

ORDINANCE # 2017-06

Whitley County Tattoo/Body Piercing Establishment Ordinance

Whereas, the State of Indiana has amended the laws concerning tattoos/body piercing and tattoo/body piercing establishments and,

Whereas, tattoo operations and procedures are becoming more and more common among the residents of the State of Indiana and the residents of Whitley County, Indiana; and

Whereas, the reasonable regulation of the tattooing/body piercing establishment business is in the best interest of the residents of Whitley County, Indiana; and

Whereas, an improperly operated or unclean tattoo/body piercing business may have serious and detrimental effects upon the citizens of Whitley county, Indiana; an

Whereas, there exists a very real and distinct possibility of the transmission of serious infectious disease from the tattooing/body piercing of a person if a tattoo/body piercing artist is not sufficiently skilled and knowledgeable of the dangers associated with said activity; and

Whereas, the Whitley County Commissioners are empowered to protect the health and safety of the citizens of Whitley County; and

Whereas, the Whitley County Health Department can best inspect and oversee the operation of tattoo/body piercing businesses, and

Whereas, the Whitley County Commissioners believe that tattoo/body piercing businesses should be licensed and subject to reasonable rules to regulate the sanitary operation of tattoo/body piercing businesses; and

Whereas, the Whitley County Commissioners desire to adopt an ordinance to enforce the State Board of Health Regulation of the operation of tattoo/body piercing establishments in Whitley County, Indiana.

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

1. Sanitary Operation of Tattoo/Body Piercing Establishments

All places, individuals and businesses that offer to affix any type of permanent tattoo or temporary/permanent body piercing to a person shall be regulated by this Ordinance and shall be subject to all content within. All persons, individuals, and businesses must be licensed by the Whitley County Health Department prior to tattooing or body piercing. All persons or business performing tattoo/body piercing within the legal bounds of Whitley County must be licensed through the Whitley County Health Department. All licensed tattoo/body piercing establishments shall maintain on the premises, in which tattoos/body piercings are performed, equipment maintained in a sanitary manner in accordance with this Ordinance.

2. Definitions

The following terms used in this Ordinance shall have the following meanings that will apply throughout this Ordinance.



2.1 "Blood" means human blood.

2.2 "Blood borne pathogens" means pathogenic microorganisms that are present in human blood and can cause disease in humans, including, but not limited to, the following:

A) HBV, B) HCV, C) HIV

2.3 "Body Piercing" means any piercing of the mucous membranes or the skin through which needles or other items are inserted for temporary or permanent placement upon a person.

2.4 "Cleaned" means the removal of all visible dust, soil, or any other foreign material.

2.5 "Contaminated" means the presence or reasonably anticipated presence of blood or other potentially infectious materials (OPIM) on an item or surface.

2.6 "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.

2.7 "Department" means the Whitley County Health Department

2.8 "HBV" means the hepatitis B virus.

2.9 "HCV" means the hepatitis C virus.

2.10 "HIV" means the human immunodeficiency virus.

2.11 "Health Department" means the Whitley County Health Department, and referred to hereafter as Department.

2.12 "Health Officer" means the duly appointed Health Officer as set forth in I.C. 16-20-2-16. The County Health Officer or his/her designee shall be designated as the official in charge of enforcing this Ordinance. The Health Officer may designate a representative in the department to perform those duties and responsibilities of the Health Officer.

2.13 "Infectious Waste" means waste that epidemiologic evidence indicates is capable of transmitting a dangerous communicable disease. Infectious waste includes, but is not limited to:

a. Contaminated sharps, or contaminated objects that could potentially become contaminated sharps.

b. Infectious biological cultures, infectious associated biologicals, and infectious agent stock.

c. Pathological waste.

d. Blood and blood products in liquid and semi-liquid form.

e. Carcasses, body parts, blood, and body fluids in liquid and semi-liquid form, and bedding of laboratory animals.

f. Other waste that has been intermingled with infectious waste.

- 2.14 “Other potentially infectious materials” or “OPIM” means the following:
- a. Human body fluid as follows:
 1. Semen, 2. Vaginal secretions, 3. Cerebrospinal fluid, 4. Synovial fluid, 5. Pleural fluid, 6. Peritoneal fluid, 7. Amniotic fluid, 8. Saliva in dental procedures, 9. Any bodily fluid that is visibly contaminated with blood, 10. All body fluids where it is difficult or impossible to differentiate between body fluids.
 - b. Any unfixed tissue or organ, other than intact skin, from a human, living or dead.
 - c. HIV – containing cell or tissue cultures, and HIV-containing or HBV-containing culture medium or other solutions; and blood, organs, or other tissues from experimental animal infected with HIV or HBV.
- 2.15 “Parenteral” means piercing the mucous membranes or the skin barrier by needle sticks, human bites, cuts or abrasions.
- 2.16 “Personal protective equipment” means specialized clothing or equipment worn for protection against contain with blood or OPIM.
- 2.17 “Secure Area” means an area that is designated and maintained to prevent the entry of unauthorized persons.
- 2.18 “Semi-liquid blood, blood products” means blood or blood products that have intermediate fluid properties and are capable of flowing in a manner similar to liquid.
- 2.19 “Sterilize” means the use of physical or chemical procedures to destroy all microbial life, including highly resistant bacterial endospores.
- 2.20 “Store” means the containment of infectious waste in such a manner as not to constitute collection, treatment, transport, or disposal.
- 2.21 “Tattoo” means:
- a. any indelible design, letter, scroll, figure, symbol, or other mark placed with the aid of needles or other instruments: or
 - b. any design, letter, scroll, figure, or symbol done by scarring upon or under the skin.
- 2.22 “Tattoo Artist” means any person who provides a tattoo or body piercing who works for a tattoo operator or also may be a tattoo operator.
- 2.23 “Tattoo Operator” means any person who controls, operates, conducts, manages, or owns a tattoo establishment.
- 2.24 “Tattoo Establishment” means any room where tattooing or body piercing is provided or where the business of tattooing/body piercing is conducted.
- 2.25 “Universal Precautions” means an approach to infection control in which all human blood and certain human body fluids are treated as if known to be infected with blood borne pathogens.

3. Tattoo Operator's Training Responsibilities

Any licensed individual or entity that is a tattoo operator shall comply with the following training responsibilities:

3.1 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 Artist's, anyone employed by a Tattoo Establishment, or anyone acting on behalf of a Tattoo Establishment, who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM. The Tattoo Operator must keep a copy of all blood borne pathogen training for each Artist or employee at the Tattoo Establishment and produce them upon request.

3.2 Ensure that training on the handling of infectious waste is provided to all Tattoo Artists, anyone employed by the Tattoo Establishment, or anyone acting on behalf of the Tattoo Establishment who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM. The Operator must maintain at the Establishment a copy of infectious waste training for each Artist or employee and produce them upon request.

4. Tattoo Establishment Requirements

4.1 A Tattoo Establishment cannot be part of or attached to a dwelling, residence, hotel/motel, food service/ food market locations, or apartment complex as defined in the Indiana Building Code.

4.2 A Tattoo Establishment must be housed within a structure that is well maintained, with adequate ventilation, and with proper heating and cooling equipment.

4.3 A Tattoo Establishment must be housed within a separate designated structure, apart from a residence.

4.4 If Tattoo Establishment is not supplied with sanitary sewer and public water services, then the establishment have hot and cold running water that is tested monthly for coliform bacteria from a certified lab and nitrates once a year from a certified lab. A permitted and inspected septic system must be installed strictly for the use of the Tattoo Establishment. A Tattoo Establishment cannot use or connect to a septic system from another structure.

4.5 A Tattoo Establishment must be in compliance with the regulations of all other governmental entities, including but not limited to zoning, building, planning, fire, and law enforcement. A Tattoo Establishment must maintain a current business license from the State of Indiana and produce it upon inspection of the facility by Health Department personnel.

5. Tattoo Operator Responsibilities

5.1 The Tattoo Operator shall ensure that all Tattoo Artists, anyone employed by the Tattoo Establishment, or anyone acting on behalf of the Tattoo Establishment who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM, are provided with personal protective equipment and disposables 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).

5.2 The Tattoo Operator shall require Tattoo Artist, anyone employed by the Tattoo Establishment, or anyone acting on behalf of the Tattoo Establishment who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM to provide evidence with compliance with universal precautions education requirements contained in Section 7 of this rule and keep a signed copy of that education at the Tattoo Establishment and must present it upon request.

5.3 The Tattoo Operator shall display a description of compliance with the requirements contained in subsection 5.4.

5.4 The Tattoo Operator shall display written materials prepared or approved by the Department explaining universal requirements and patron's rights under this rule. These materials shall include information on how to report violations of universal precautions and shall include information regarding the Department's duties to investigate.

5.5 The Tattoo Operator shall ensure that no illicit drugs, alcohol, smoking, or vaping are consumed or permitted in the Tattoo Establishment.

5.6 The Tattoo Operator shall ensure that no tattoo/body piercing shall be affixed/performed to any person that is intoxicated, suffering from delusions, or is suspected of being on mind-altering illegal or legal drugs.

6. Tattoo Operator Policies

6.1 The Tattoo Operator shall develop a written policy in compliance with this Ordinance 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/body piercing or 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.

7. Tattoo Artist Minimum Training and Certification Requirements

7.1 All Tattoo Artists, anyone employed by the Tattoo Establishment, or anyone acting on behalf of the Tattoo Establishment 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's blood borne pathogens standard (as found in 29 CFR 1910.1030). The programs under this section shall be as follows:

a. Blood Borne pathogen training session provided by the tattoo operator meeting the requirements of the Indiana Occupational Safety and Health Administration's blood borne pathogen standard (as found in 29 CFR 1910.1030).

b. Any blood borne pathogen continuing education program accredited by a health care licensing entity.

c. All Tattoo Artists, anyone employed by the Tattoo Establishment and anyone acting on behalf of the Tattoo Establishment who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM must be trained in the Tattoo Establishment's policies on the handling of infectious waste.

8. Patron Records

8.1 The Establishment must maintain records of each patron for a minimum two (2) years from the date of service. The record shall include the following:

- a. Patron's full name
- b. Current and legal address.
- c. Current Age of patron.

A patron's identify must be verified by two forms of identification (ID), one being a form of ID with a current photograph and one being a government issued ID. (they may be the same, but only constitutes one form). Types of identification that are suitable: Driver License, Passport, Military ID, Current School Year ID, Birth Certificate, Marriage License (credit or debit cards are not suitable forms of ID).

d. The date the Tattoo or piercing is started and the date of subsequent tattooing of same tattoo. New applications must be made for separate and distinct tattoos.

- e. The design of the tattoo.
- f. The location of the tattoo.
- g. The full and legal name of the tattoo artist who performed the work.

h. Parental consent must be in writing when performed on any minor as required by law. (anyone younger than eighteen years of age) Parent or guardian must comply with section 8C and provide the same type and amount of identification.

9. Illness

9.1 Tattoo artists who are experiencing symptoms of acute disease that include, but are not limited to the following list, shall refrain from providing tattoos/body piercings:

a. Diarrhea, b. Vomiting, c. Fever, d. Rash, e. Productive Cough, f. Jaundice, g. Draining (or open) skin infections, boils, impetigo, or scabies

10. Handwashing

Handwashing facilities shall be within twenty (20) feet of the tattooing/body piercing bench, seat, location and in the same room as the bench, seat, location. Hands shall be washed with soap and running water immediately before putting on gloves and after removal of gloves or other personal protective equipment. Only single use towels shall be used.

11. Personal Protective Equipment

11.1 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 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 of blood or OPIM may be generated and eye, nose, or mouth contamination can be reasonably anticipated.
- c. Disposable gloves shall be worn during the tattooing process. Gloves shall be changed and properly disposed of each time there is an interruption in the application of the tattoo, when the gloves become torn or punctured, or whenever the ability to function as a barrier is compromised. Disposable gloves shall not be reused.
- d. Gloves shall be worn decontaminating environmental surfaces and equipment.

12. Tattooing/Body Piercing Equipment

- 12.1 Only single use razors shall be used to shave the area to be tattooed/pierced.
- 12.2 All stencils shall be properly disposed of after a single use.
- 12.3 If the design is drawn directly onto the skin, it shall be applied with a single use article only.

13. Needles

- 13.1 Needles shall be individually packaged and sterilized prior to use.
- 13.2 Needles and needle bars shall be single use only.
- 13.3 Needles and needle bars shall be discarded in a sharps containers immediately after each use.
- 13.4 Contaminated needles shall not be broken, bent, or otherwise manipulated by hand.

14. Reusable Equipment

- 14.1 A monthly tested heat and steam autoclave, capable of sterilization, must be used when non-disposable equipment must be sterilized.
- 14.2 A record of sterilization must be maintained to document the following:
 - a. Duration of sterilization time.
 - b. Identification of equipment being sterilized.
 - c. Time and date of sterilization
 - d. Determination of effective sterility, such as use of a biological indicator, performed monthly.
 - e. Equipment is maintained as recommended by the owner's manual and proof is available that the owner's manual recommendations are reviewed monthly.

- 14.3 Reusable contaminated equipment shall be:
- a. Placed in a commercially made “sharps” container, for broken equipment that may puncture skin/ or.
 - b. Labeled with a biohazard symbol.
 - c. Leak-proof on both sides and bottom.
 - d. Stored in a manner that does not require reaching by hand into the container where the equipment is stored until cleaning prior to sterilization.
- 14.4 Contaminated reusable equipment shall be effectively cleaned prior to sterilization.
- 14.5 Reusable tubes shall be effectively cleaned and sterilized before re-use.

15. Dyes or Pigment, Jewelry

- 15.1 All dyes or pigments in tattooing shall be from commercial suppliers specifically providing dyes or pigments for the tattooing of human skin.
- 15.2 In preparing dyes or pigments to be used by tattoo artists, only non-toxic sterile materials shall be used. Single or individual portions of dyes or pigments in clean, **sterilized** containers shall be used for each patron.
- 15.3 After tattooing, the remaining unused dye or pigment in the single use or individual containers shall be discarded along with the container. Dyes/pigments cannot be shared among individuals.
- 15.4 All jewelry placed in a piercing by an artist, or any establishment employee, must be first sterilized.

16. Work Environment

- 16.1 No tattooing/body piercing shall be conducted in any room used as a living quarters or in any room that directly opens directly into living or sleeping quarters.
- 16.2 Live animals shall be excluded from a tattoo/body piercing facility. Exceptions are for guide canines for deaf, blind patrons, and for service canines only.
- 16.3 Eating, drinking, or the applying of cosmetics shall be allowed only in a separate room within the facility that is separated by a full wall and closeable door.
- 16.4 Smoking or vaping shall not be allowed within the tattoo/body piercing facility.
- 16.5 All equipment and environmental surfaces shall be cleaned and decontaminated after contact by blood or OPIM, shall be cleaned and decontaminated with bactericide and virucide commercial products. (Even if the equipment or environmental surfaces do not require sterilization.)
- 16.6 All work surfaces shall be:
- a. nonabsorbent, b. easily cleanable, c. smooth, and, d. free of breaks, open seams, cracks, chips, pits or similar imperfections.

17. Infectious Waste Containment and Transport

17.1 Contaminated disposable needles, instruments, and infectious wastes shall be stored in leak-resistant, puncture-resistant, tightly sealed to prevent expulsion, labeled with a bio-hazard symbol commercially made "sharps" container. These containers must be labeled, effectively sterilized, and logged on sterilization sheet prior to storage before being sent for final disposal. If sterilization cannot be achieved, said container(s) must be removed from the facility by a licensed company within forty-eight (48) hours of closure.

17.2 The facility must keep a signed copy of the contract with the waste disposal company for infectious waste disposal at the facility and available upon request.

17.3 "Sharps" containers sterilized and stored prior to disposal must be stored in area not available to patrons, off the floor by six inches and in a container of plastic or metal that is leak-proof and water proof with a sealable lid and labeled with a bio-hazard label.

17.4 Storage containers identified in 17.3 must be cleaned with bactericide and virucide each time they are emptied.

17.5 Infectious waste shall only be removed from the facility by Indiana Department of Environmental Management Licensed company employees. (Rule 410 IAC 1-3)

17.6 Infectious waste shall not be disposed of by means of the sanitary sewer or authorized septic system.

18. Licenses

18.1 Facility. Each tattoo/body piercing facility operation shall obtain a license from the Department. A license must be purchased prior to the operation of the facility. The license shall provide the name and home address of the owner. The name and address of the facility. The name of each artist employed by the facility. The cost of the license shall be five hundred U.S. dollars (\$500.00) annually and expiring on December 31st of every year. Any holder of the license shall be subject to inspection during normal business hours. The Department shall provide appropriate forms for obtaining a license. Said license shall be posted in a conspicuous place inside the facility.

18.2 Tattoo Artist. Every person that desires to perform tattooing/body piercing shall obtain a license from the Department. This license must be obtained prior to the performance of tattooing/body piercing. The applicant must satisfy the minimum requirements as set forth herein Section 18. The cost of said license shall be one hundred U.S. dollars (\$100.00) annually and each license will expire on December 31st of each year. Any holder of a license will be subject to inspection by the Department during normal business hours. The Department shall provide appropriate forms for obtaining a license. Each individual license shall be posted in a conspicuous location inside the facility.

18.3 Owner/Operator. If a tattoo/body piercing facility owner is a sole proprietorship and the owner also performs tattooing for his/her business, the owner shall be only required to obtain a facility license. This provision shall not be transferred to any other artist.

18.4 Pro-Rated Fees. If an owner/artist applies for a license at any time after July 1st of each year, the fees for that license shall be one-half the annual cost. Any pro-rated license purchased shall expire December 31st of the year it was purchased.

19. Inspections

19.1 The Department shall conduct inspections of each and every tattoo/body piercing facility located in Whitley County, Indiana. The Department shall conduct a minimum of four (4) inspections every year. Preferably inspections of said facilities shall occur once per quarter of each calendar year, but this is not a requirement. Additional inspections may be conducted by the Department as it determines and/or in response to complaints submitted in writing, to the Department. The results of the inspections shall be provided to the operator/owner. Violations noted by the Department shall be corrected immediately. The Department shall conduct follow-up inspections to determine compliance with this Ordinance.

20. Revocation/Suspension of License

20.1 The Health Officer or his/her designee may suspend or revoke the license of any facility or artist for any period of time for any violation of this Ordinance or law enforcement action. The suspension and/or revocation shall be effective upon issuance by the Health Officer or his/her designee. The facility/artist may have their license reinstated upon compliance with this Ordinance, and/or State or Federal regulations. Appeals of Orders, or Orders of suspension/revocation shall be conducted pursuant to IC 4-21.5-3-1 et seq. by the Department. The Department shall conduct administrative hearings concerning appeals to Orders pursuant to IC 4-21.5-3-1 et seq.

21. Penalties/Fines

21.1 If any person fails to obtain a facility or artist license prior to, or after expiration, suspension, or revocation and conducts business or affixes a tattoo, or performs a body piercing may be subject to a fine up to a maximum of \$500.00 per violation per day from the time of the violation. Any violation to this Ordinance, by any person, may be subject to a fine of up to \$500.00 per violation per day.

21.2 The Health Officer may bring action in the Circuit or Superior Court to enforce this Ordinance. The Health Officer shall be entitled to recover all costs and expenses associated with any action for enforcement of this Ordinance, including attorney's fees and costs.

21.3 The use of the Whitley County Ordinance Violation Bureau, Ordinance # 2005 -11, may substituted for the issuance of fines/penalties.

22. Repeal – Severability

All ordinances or parts of ordinances in conflict herewith are hereby repealed. The invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of this Ordinance.

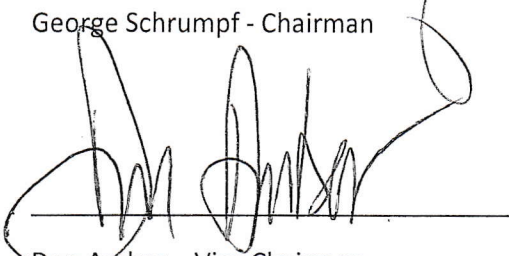
23. Effective Date

Passed by the Whitley County Board of Commissioners, Indiana, on the 17 day of July, 2017.

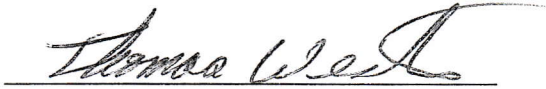
Whitley County Board of Commissioners




George Schrupf - Chairman



Don Amber – Vice Chairman



Tom Western – Member

Attest: 
Jana Schinbeckler – Whitley County Auditor