

CHAPTER 114 TATTOOS AND BODY PIERCING

§ 114.01. Short title.

The ordinance codified in this chapter shall be known and amended as the "St. Joseph County Tattoo and Body Piercing Ordinance".

(Ord. 96-02, 9-10-2002)

§ 114.02. Purpose.

The purpose of this chapter is to regulate any person who performs tattoos or body piercing services in St. Joseph County and any facility wherein the services are performed, thereby protecting the public health, safety and welfare of persons and property in St. Joseph County.

(Ord. 96-02, 9-10-2002)

§ 114.03. Incorporation and adoption.

Indiana State Department of Health Rule 410 I.A.C. 1-5 and the Indiana Occupational Safety and Health Administration Bloodborne Pathogens Standard 29 C.F.R. 1910.1030 are hereby incorporated and adopted by reference. A copy of these rules are on file in the office of the St. Joseph County Health Department.

(Ord. 96-02, 9-10-2002)

§ 114.04. Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Applicant means any person applying for a permit under this chapter, whether for a new, temporary or renewal permit.

Apprentice means a person learning the trade of tattooing or body piercing.

Blood means human blood.

Bloodborne pathogens means pathogenic microorganisms that are present in human blood and can cause disease in humans. These include but are not limited to:

- (1) Hepatitis B virus (HBV);
- (2) Hepatitis C virus (HCV); and
- (3) Human immunodeficiency virus (HIV).

Board of health means the St. Joseph County Board of health.

Body piercer means any person who performs body piercing on an individual.

Body piercing means the perforation of any human body part for the purpose of inserting jewelry or other decoration or for some other nonmedical purpose.

Business operator means any person in control of, or having responsibility for, the operation of a facility subject to this chapter.

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

Client means any individual receiving services regulated by this chapter.

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

Decontaminated means the use of physical or chemical means to remove, inactivate or destroy bloodborne 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.

Facility means 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.

HBV means the hepatitis B virus.

HCV means the hepatitis C virus.

Health department means the St. Joseph County Health Department.

Health officer means the St. Joseph County Health Officer or his or her duly authorized representative.

High-level disinfection means a process that destroys all microorganisms with the exception of high numbers of bacterial spores.

HIV means the human immunodeficiency virus.

Imminent health hazard means any circumstance or situation which, in the opinion of the health officer, presents a serious health risk to the public.

Infectious waste means the 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) Infectious biological cultures, infectious associated biologicals and infectious agent stock;
- (3) Pathological waste;
- (4) Blood and blood products in liquid and semi-liquid form;
- (5) Carcasses, body parts, blood and body fluids in liquid and semi-liquid form, and bedding of laboratory animals; and
- (6) Other waste that has been intermingled with infectious waste.

Inspection means a complete review of all portions of the tattoo and body piercing establishment and any other portion of the establishment deemed necessary by the health department.

Intermediate level disinfection 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.

Mobile facility means any facility capable of being moved intact from location to location to perform tattooing or body piercing.

Other potentially infectious material or OPIM means the following:

- (1) Human body fluids are as follows:
 - (a) Semen;
 - (b) Vaginal secretions;
 - (c) Cerebrospinal fluid;
 - (d) Synovial fluid;
 - (e) Pleural fluid;
 - (f) Pericardial fluid;
 - (g) Peritoneal fluid;
 - (h) Amniotic fluid;
 - (i) Saliva in dental procedures;
 - (j) Any body fluid that is visibly contaminated with blood; and
 - (k) All body fluids where it is difficult or impossible to differentiate between body fluids.
- (2) Any fixed tissue or organ, other than intact skin, from a human, living or dead; and
- (3) HIV-containing cell or tissue cultures and HIV- or HBV-containing culture medium or other solutions and blood, organs or other tissues from experimental animals infected with HIV or HBV.

Parenteral means piercing the mucous membranes or the skin barrier through such events as needle sticks, human bites, cuts or abrasions.

Personal protective equipment or PPE means specialized clothing or equipment worn for protection against contact with blood or OPIM.

Practitioner means any person who performs body piercing or tattooing on the human body.

Secure area means an area that is designated and maintained to prevent the entry of unauthorized persons.

Semi-liquid blood, blood products means blood and blood products that have intermediate fluid properties and are capable of flowing in a manner similar to liquid.

Sharps means any object that can penetrate the skin.

Sterilize means the use of a physical or chemical procedure to destroy all microbial life, including highly resistant bacterial endospores.

Store means the containment of infectious waste in such a manner as not to constitute collection, treatment, transport or disposal.

Tattoo means:

- (1) Any indelible design, letter, scroll, figure, symbol or other mark placed with the aid of needles or other instruments upon or under the skin; and/or
- (2) Any design, letter, scroll, figure or symbol done by scarring upon or under the skin.

Tattoo artist means any person who provides a tattoo to an individual.

Temporary practitioner means any person who obtains a permit that will expire 31 days after the date of issue.

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 infectious for HIV, HBV, HCV and other bloodborne pathogens.

(Ord. 96-02, 9-10-2002)

§ 114.05. Permit requirements.

Any person who wishes to perform any of the services regulated by this chapter must provide proof that he or she is competent to perform these services without causing harm or disease to his or her clients.

(Ord. 96-02, 9-10-2002)

§ 114.06. Application for tattoo/body piercing facility, mobile facility.

The application shall include:

- (1) The legal name of the facility;
- (2) The present address and telephone number of the facility;
- (3) Proof that all Indiana Occupational Safety and Health Administration guidelines are met;
- (4) The applicant's business or employment history for three years immediately preceding the date of application, including but not limited to whether the person previously operating under a permit or license in another city/state has had the license suspended or revoked; and
- (5) Provide documentation that location of the business is properly zoned by the proper governmental agency in which the business is located.

(Ord. 96-02, 9-10-2002)

§ 114.07. Application for practitioners, temporary practitioners and apprentices.

The application shall include:

- (1) The legal name of the applicant;
- (2) The current address of the applicant;
- (3) A copy of the applicant's driver's license;
- (4) Provide proof that the applicant is at least 21 years of age by a certified birth certificate;
- (5) Must provide a copy of a high school diploma or GED;
- (6) Provide documentation of all training relevant to the type of work regulated by this chapter;
- (7) Provide documentation of all professional certification, associations or memberships relevant to any service regulated by this chapter;
- (8) Provide a listing of all work experience including dates, addresses, telephone numbers and supervisor's names; and
- (9) A statement from a licensed medical physician dated within 30 days preceding the date of application stating that the applicant is free of any communicable disease.

(Ord. 96-02, 9-10-2002)

§ 114.08. Inspections.

- (A) It shall be the duty of the health department to inspect tattoo and body piercing facilities annually at a minimum to determine compliance with this chapter.
 - (B) Inspections are to be made at reasonable times with due regard to the nature of the business to be inspected.
- (Ord. 96-02, 9-10-2002)

§ 114.09. Permit requirements for facilities and practitioners.

- (A) *Permit.* It shall be unlawful for any person to operate a tattoo/body piercing facility in St. Joseph County, Indiana without a valid permit from the health officer. The permit shall be posted in a conspicuous place on the premises of the permitted facility. Only persons who have met the applicable provisions of this chapter shall be entitled to receive and retain such a permit. The permit for a facility/practitioner shall be valid for a term of one year, to be renewed annually on or prior to the last day of February.
- (B) *Permit fees.* All facility/practitioners shall pay a permit and inspection fee as prescribed by the county board of commissioners, which shall be paid to the county health department at the time of application for permit is filed. All permit fees shall be payable on or before the last day of February and shall be subject to the addition of a late penalty.
- (C) *Mobile facilities.* The permit holder must notify the county health department 72 hours in advance of the event.
- (D) *Temporary practitioner permit.* The permit shall expire 31 days after date issued.
- (E) *Apprentice permit.*
 - (1) This person must be at least 18 years of age and must prove this by a certified birth certificate.
 - (2) The permittee must practice under the authority of a county health department permit holder who serves as the apprentice's mentor and has a valid county health department body piercing or tattoo permit.
 - (3) The mentor's name shall be included on the application with the mentor's signature and a copy of his or her permit.
 - (4) The apprentice shall only practice in the presence of his or her mentor.

(Ord. 96-02, 9-10-2002; Ord. 100-10, 10-12-2010)

Cross reference(s)—Penalty, see § 114.99

§ 114.10. Work environment requirements for facilities and practitioners.

- (A) *Hand-washing.*
 - (1) Hand-washing facilities shall be readily accessible where tattooing or body piercing, or both, is provided.
 - (2) Hands shall be washed with soap and running water immediately before putting on gloves and after removal of gloves or other personal protective equipment.
 - (3) Only single-use towels shall be used.
- (B) *Work environment.*

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- (1) No tattooing or body piercing shall be conducted in any room used as living quarters or in any room that opens into living quarters.
 - (2) Live animals shall be excluded from areas where tattooing or body piercing is being conducted. The exclusion does not apply to the following:
 - (a) Patrol dogs accompanying security or police dogs; or
 - (b) Guide dogs accompanying the following:
 1. Blind persons;
 2. Partially blind persons;
 3. Physically disabled persons;
 4. Guide dog trainers; and
 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 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 nonabsorbent, easy to clean, smooth and free of breaks, open seams, cracks, chips and pits and similar imperfections.
 - (8) Disinfectant solution shall be a hospital grade, one-half percent concentration by volume (a common household bleach is ten percent concentration in water); the solution shall be dated and not be used if it is more than 24 hours old.
- (C) *Reusable equipment.*
- (1) Heating procedures capable of sterilization must be used when heat-stable, nondisposable equipment is sterilized.
 - (2) Equipment that is to be sterilized shall be put in single-use packaging.
 - (3) Records must be maintained to document the following:
 - (a) Duration of sterilization technique;
 - (b) Determination of effective sterility, such as use of a biological indicator, is performed monthly; and
 - (c) Equipment is maintained as recommended by the owner's manual, and proof is available that the owner's manual recommendations are reviewed monthly.
 - (4) Reusable contaminated equipment shall not be stored or processed in a manner that requires any person to reach by hand into the container where these sharp items have been placed.
 - (5) Reusable contaminated equipment shall be:
 - (a) Placed in puncture-resistant containers;

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- (b) Labeled with the biohazard symbol;
 - (c) Leak-proof on both sides and bottoms; and
 - (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 or disinfection.
- (6) Reusable contaminated equipment shall be effectively cleaned prior to sterilization or disinfection.
 - (7) Any reusable contaminated 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.
 - (8) All sterilized equipment shall not be removed from wrappers or sterilized packaging until immediately prior to use.
 - (9) Any reusable equipment that comes into contact with mucous membranes shall be effectively cleaned and sterilized prior to use.
 - (10) Piercing guns shall be cleaned and undergo, at a minimum, high level disinfection after each use and whenever visibly contaminated.
 - (11) All reusable equipment that has contact with intact skin shall undergo, at a minimum, intermediate level disinfection.
 - (12) All other equipment used during the tattooing or body piercing procedure shall be single- use, including corks.
 - (13) All body piercers and tattoo artists shall comply with all other equipment manufacturer's recommendations.
- (D) *Patron records.* Records of each person shall be maintained by the operator for two years. The record shall include the following but not be limited to: patron's name, address, age, date tattooed or body pierced, design of tattoo, location of the tattoo or body piercing on the patron's body, the name of the tattoo artist or body piercer who performed the work, and jewelry or other decoration used.
- (E) *Guidelines for on-site laundry.*
- (1) Routine handling of soiled linen:
 - (a) Soiled linen should be handled as little as possible and with minimum agitation to prevent gross microbial contamination of the air and of persons handling the linen.
 - (b) All soiled linen should be bagged or put into carts at the location where it was used; it should not be sorted or pre-rinsed in patient care areas.
 - (c) Linen soiled with blood or body fluids should be deposited and transported in bags to prevent leakage.
 - (2) If hot water is used, linen should be washed with a detergent in water at least 71°C (160°F) for 25 minutes.
 - (3) If low temperature (less than 70°C) laundry cycles are used, chemicals suitable for low-temperature washing at proper use concentration should be used.
 - (4) Clean linen should be transported and stored by methods that will ensure its cleanliness.
 - (5) All linen that is to be dried, must be done so at a high temperature setting.

(Ord. 96-02, 9-10-2002)

§ 114.11. Operational requirements for facilities and practitioners.

- (A) *Personal protective equipment.* Appropriate personal protective equipment shall be worn as follows:
- (1) A clean protective clothing layer shall be worn whenever there is a reasonably anticipated risk of contamination of clothing by blood or OPIM.
 - (2) 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.
 - (3) 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 a barrier is compromised. Disposable gloves shall not be reused.
 - (4) Gloves shall be worn when decontaminating environmental surfaces and equipment.
- (B) *Tattooing equipment.*
- (1) Only single-use razors shall be used to shave the area to be tattooed.
 - (2) All stencils shall be properly disposed of after a single use.
 - (3) If the design is drawn directly onto the skin, it shall be applied with single-use articles only.
- (C) *Needles.*
- (1) Needles shall be individually packaged and sterilized prior to use.
 - (2) Needles shall be single-use only.
 - (3) Needles shall be discarded in sharps containers immediately after use.
 - (4) Contaminated needles shall not be bent or broken or otherwise manipulated by hand.
- (D) *Dyes or pigments or other objects placed under the skin.*
- (1) All dyes or pigments used in tattooing shall be from professional suppliers specifically providing dyes or pigments for the tattooing of human skin.
 - (2) In preparing dyes or pigments to be used by tattoo artists, only nontoxic, sterile materials shall be used. Single-use or individual portions of dyes or pigment in clean, single-use containers shall be used for each patron.
 - (3) After tattooing, the remaining unused dye or pigment in single-use or individual containers shall be discarded along with the container.
 - (4) Any object placed under the skin shall be sterile.

(Ord. 96-02, 9-10-2002)

§ 114.12. Enforcement.

- (A) *Authority to adopt rules and regulations.* The county board of health may adopt, amend or rescind any rules and regulations and standards as deemed necessary for proper enforcement and to carry out the purposes and intent of this chapter. This shall be accomplished using public comment periods, public meetings, public hearings in accordance with state law and the county board of health.

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- (B) *Right of entry upon premises.* The health officer or an authorized representative, bearing proper credentials and identification, may enter upon and inspect private property, at proper times after due notice, for such purposes as inspections, observation, sampling, testing and records examination necessary to carry out the provisions of this chapter. In the event a person who has common ownership over a building or structure does not permit an inspection, the inspection may be rescheduled and shall be noticed by United States certified mail. Failure of the person to thereafter permit an inspection will be sufficient grounds and probable cause for a court of competent jurisdiction to issue an administrative warrant for the purpose of inspecting, observing, sampling, testing or records examination necessary to carry out the provisions of this chapter. Any person violating any provisions of this chapter shall become liable to the health department for any expense, loss or damage occasioned it by reason of the violation.
- (C) *Issuance of notice of alleged violation.* Whenever the health department determines that there are reasonable grounds to believe that there has been a violation of any provision of this chapter; the health department shall give notice in writing of the alleged violation to the person or persons responsible thereof, and to any known agent of the person. The notice shall:
- (1) Include a statement of reasons why it is being issued;
 - (2) Allow a reasonable time for the performance of any act it requires;
 - (3) Be served upon the owner or his or her agent, or the operator, as the case may require; provided that the notice shall be deemed to be properly served upon the owner or agent, or upon the operator, if a copy thereof is served upon him or her personally, or if a copy thereof is sent by certified mail to his or her last known address, or if a copy thereof is posted in a conspicuous place in the dwelling affected by the notice, or if he or she is served with the notice by any other method authorized or required under the laws of this state; and
 - (4) Describe the penalty which is imposed for noncompliance.
- (D) *Request for hearing.* Any person affected by the notice issued by the health department may request and shall be granted a hearing on the matter before the health department, provided that the person shall file with the office of the health officer by mail postmarked or hand delivered, within 15 days after service of the notice, a written petition requesting the hearing and setting forth a brief statement of the grounds thereof. Upon receipt of the petition, the health officer shall arrange a time and place for the hearing and shall give the petitioner written notice thereof. The hearing shall be held as soon as practicable after the receipt of a request thereof. At the hearing the petitioner shall be given an opportunity to be heard and to show cause why the notice should not be complied with.
- (E) *Issuance of order; revocation of permit.* After the hearing, the health department shall sustain, modify or withdraw the notice, depending upon the findings as to whether the provisions of this chapter have been complied with. If the health officer shall sustain or modify the notice in writing, it shall be deemed to be an order. Any notice properly served shall automatically become an order, if a written petition for a hearing is not filed in the office of the health department within the 15 days after the notice is served. After a hearing in the case of any notice suspending any permit required by this chapter, when the health officer has sustained the notice, the permit shall be deemed to have been revoked. Any permit that has been suspended by a notice shall be deemed to be automatically revoked if a petition for hearing is not filed in the office of the health officer within 15 days after the notice is served.
- (F) *Issuance of emergency orders and permits.* Whenever the health officer finds that an emergency exists which requires immediate action to protect the public health, the health officer may, without notice or hearing, issue an order reciting the existence of an emergency and requiring that such action be taken as the health officer deems necessary to meet the emergency. Notwithstanding any other provisions of this chapter, the order shall be effective immediately. Any person receiving such an order may seek a hearing under subsections (D) and (E) while carrying out the order and shall have the right to recover any of his or her response costs to the extent that the order or any portion thereof is found to have been arbitrary or

capricious or otherwise not in accordance with law. After consideration, depending upon the finding as to whether the provisions of this chapter have been complied with, the health officer shall continue the order in effect, modify it or revoke it.

(Ord. 96-02, 9-10-2002)

§ 114.13. Variances.

The health officer shall consider a petition for variances, exemptions and exceptions from provisions of this chapter and shall render a decision in writing no later than 60 days after the petition is submitted. An adverse decision by the health officer is a final order.

(Ord. 96-02, 9-10-2002)

§ 114.14. Disclaimer of liability.

This chapter shall not create liability on the part of the health department or any officer, employee or agent thereof for any damage that may result from reliance on this chapter or any administrative decision lawfully made thereunder. All inspections shall be at the discretion of the health officer, and nothing in this chapter shall be construed as requiring the health officer to conduct any inspection, nor shall any inspection imply a duty to conduct any other inspection. Nothing in this chapter shall be construed to hold the health officer responsible for any damage to persons or property by any failure to make an inspection or re-inspection.

(Ord. 96-02, 9-10-2002)

§ 114.15. Fee schedule; approval required.

The county health officer shall inform the board of county commissioners of his or her desire to increase or decrease the fee schedule(s) and the board of county commissioners must approve a new fee schedule(s). The fee schedule for fees to be collected and deposited in accordance with this chapter is set forth in the appendix: schedule of fines and fees.

(Ord. 96-02, 9-10-2002)

§ 114.99. Penalty.

Any person who shall violate any provision of this chapter shall upon conviction be punished for the first offense by a penalty as set forth in the appendix: schedule of fines and fees; for the second offense by a penalty as set forth in the appendix: schedule of fines and fees; and for the third offense and each subsequent offense by a penalty as set forth in the appendix: schedule of fines and fees. Each day after the expiration of the time limit for abating the violation shall constitute a distinct and separate offense. A person violating any provision of this chapter shall become liable to the health department for any expense, loss or damage occasioned it by reason of the violation.

(Ord. 96-02, 9-10-2002)