

**ORIGINAL**

ORDINANCE 2017 - 031

**ORIGINAL**

***Tattoo and Body Piercing***

*Repeals Delaware County Ordinance 98-007-A and Ordinance 98-007-A1*

Delaware County Health Department

125 N. Mulberry Street  
Muncie, Indiana 47305  
(765) 747-7721  
Hours: 8:30 am - 3:30 pm

WHEREAS, the reasonable regulation of the tattoo and body piercing facilities is in the best interest of the residents of Delaware County, Indiana, and

WHEREAS, an improperly operated or unclean tattoo or body piercing business may have serious and detrimental effects upon the citizens of Delaware 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 a tattoo artist or body piercer is not sufficiently skilled and knowledgeable of the dangers associated with said activity, and

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

WHEREAS, the Delaware County Department of Health can best inspect and oversee the operation of tattoo or body piercing businesses, and

WHEREAS, the Delaware County Commissioners believe that tattoo and body piercing business should be permitted and subjected to reasonable inspections by the Department of Health, and

WHEREAS, the Indiana State Department of Health has, pursuant to Indiana Code 16-19-3-4.1 and Indiana Code (IC) 16-19-3-4.2, adopted reasonable rules to regulate the sanitary operation of tattoo and body piercing facilities, and

WHEREAS, the Delaware County Commissioners desire to adopt an ordinance to supplement and enforce the State Department of Health regulations governing operation of tattoo and body piercing facilities in Delaware County, Indiana.

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

DELAWARE COUNTY  
DEPARTMENT OF HEALTH

TATTOO AND BODY PIERCING ORDINANCE

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CHAPTER 1

SANITARY OPERATION OF TATTOO FACILITIES

- 3-8-1-1 All requirements set forth in 410 IAC 1-5, IC 16-19-3-4.1, IC 16-19-3-4.2, and IC 35-42-2-7 and any amendments made to said provisions hereafter are hereby incorporated by reference. All places, individuals and businesses that offer to affix any type of permanent tattoo or body piercing to a person shall be regulated by the above-named codes/statutes as well as the requirements specified in this ordinance. All such placed, individuals and businesses shall maintain the premises in which tattoos and body pierces are performed and equipment used in the tattoo or body piercing process in a sanitary manner as specified in the above-named codes/statutes and herein.

CHAPTER 2

DEFINITIONS

All definitions set forth in 410 IAC 1-5, IC 16-19-3-4.1, IC 16-19-3-4.2 and IC 35-42-2-7 and as amended hereafter are hereby incorporated by reference (and are not being repeated in this ordinance). Tattoo and Body Piercing as defined in 410 IAC 1-5 for the purposes of this ordinance does not include practices that are considered medical or dental procedures by a state medical or dental board. Nor does this definition include piercing of the lobe of the ear with pre-sterilized single-use stud-and-clasp ear-piercing systems. Unless the context specifically indicates otherwise, the meaning of the additional terms used in this ordinance shall be as follows:

- 3-8-2-1 **Branding** means a form of extreme body modifications and scarification using a super-heated metal object, chemical, or electricity to burn an image into the human body.
- 3-8-2-2 **Contaminated Sharp** means any object that can cut or penetrate the skin, including but not limited to needles, razors, scalpels, and other similar objects used to penetrate the skin, that has been used for any such purpose.

- 3-8-2-3 **Cutting** means a method of extreme body modification and scarification which creates scars on the skin by using a sharp object, such as a scalpel or knife, to cut into the skin. Cutting is differentiated from a method called "Skin Peeling" in that no tissue is removed to create the scar during the cutting method.
- 3-8-2-4 **Dermal Punching** means a method of creating pierces in the body, which removes a segment of tissue, as opposed to traditional piercing, which makes a half moon shaped slice in the tissue. It is generally used when large gauge jewelry insertion is desired at the time of the procedure.
- 3-8-2-5 **Department** means the Delaware County Health Department.
- 3-8-2-6 **Extreme Body Modification** means any method, other than tattoo, permanent makeup, or body piercing methods, used to alter the appearance, sensation, or function of the human body for decorative or cultural purposes. Some examples include, but are not limited to, scarification (cutting, skin peeling), implantation, suspension piercing, nullification (voluntary amputation), and tongue splitting. Techniques of extreme body modification are considered medical or surgical procedures and are prohibited acts in permitted facilities.
- 3-8-2-7 **Facility** has the meaning set forth in 410 IAC 1-3-7.5 and for the purposes of this ordinance shall also include Temporary Tattoo and Body Piercing Facilities.
- 3-8-2-8 **Health Officer** means the duly appointed Delaware County Health Officer as set forth in IAC 16-20-2-16. The Delaware County Health Officer or his/her authorized designee shall enforce this ordinance. The Health Officer may designate a representative in the Health Department to perform those duties and responsibilities of the Health Officer.
- 3-8-2-9 **Implantation** means a form of extreme body modification where items such as shaped metal or other foreign bodies are placed under the skin to produce the outline and texture of the desired image on the surface of the skin or a protrusion from the surface of the body.
- 3-8-2-10 **Nullification** is the voluntary removal of body parts. Most commonly this means castration (and sometimes penectomy), amputation of fingers or toes, or, in extreme cases, removal of full limbs.
- 3-8-2-11 **Re-Opening After Closure Fee** means a fee assessed to an operator following the establishment closure, as part of the re-opening process, upon correction of all violations noted.

- 3-8-2-12 **Scarification** means a form of extreme body modification that uses methods or techniques to produce scars on the human body for decorative purposes. Examples of Scarification methods include Branding, Cutting, and Skin Peeling.
- 3-8-2-13 **Skin Peeling** means a technique of extreme body modification and scarification which consists of cutting on the human body the outline of a design and removing the center, thereby creating a scar where the skin was removed.
- 3-8-2-14 **Suspension Piercing** means the act of hanging the human body from or partially from hooks pierced through the flesh in various places around the body.
- 3-8-2-15 **Tattoo and Body Piercing Special Event** means an organized function including, but not limited to, functions for such purposes as conventions, education, demonstration and exhibition in which two or more vendors are conducting tattoo and body piercing activities.
- 3-8-2-16 **Tongue Bifurcation** means a non-surgical process in which the tongue is split with the use of lasers or nylon material.
- 3-8-2-17 **Tongue Splitting** means a surgical procedure in which the tongue is cut centrally from its tip part of the way towards its base, forking the end.
- 3-8-2-18 **Temporary Tattoo and Body Piercing Facility** means a Facility that operates at one site or location for a period of time not in excess of fourteen (14) consecutive days, only in association with a Tattoo and Body Piercing Special Event.
- 3-8-2-19 **Unregulated (unapproved and prohibited) Invasive Body Modification** means the act of performing cutting, implantation, scarification, skin peeling, tongue splitting, suspension piercing or any other extreme body modification not otherwise specifically approved in these regulations, or use of any drug or cosmetic other than topical over-the-counter anesthetic and/or performing any recognized medical procedure not specifically approved in these regulations by any person other than a licensed medical professional.
- 3-8-2-20 **Violation Repeat Inspection Fee** means a fee issued by the department for persistence of a violation beyond the specified deadline for correction. Fee is applicable for each subsequent inspection finding the violation in persistence.

## CHAPTER 3

### OPERATOR RESPONSIBILITIES

- 3-8-3-1 The tattoo and/or body piercing Facility operator has the responsibility to notify the Delaware County Department of Health of any change of ownership or employment of licensed tattoo artists at the permitted Facility within five (5) business days of its occurrence. Failure to notify the Delaware County Department of Health within five (5) business days may result in monetary penalties under this Ordinance. Facility Operator has the responsibility to ensure that all tattoo artists and body piercers operating from their establishment are doing so under a current permit issued by the Department. Failure to comply with this section may result in suspension and/or revocation of any and all associated permits.
- 3-8-3-2 Operator shall display written materials prepared or approved by the Department explaining Universal Precautions and patron's rights under this rule. These materials shall include information regarding the department's duties to investigate.
- 3-8-3-3 Operator shall ensure no illicit drugs or alcohol are consumed or permitted in the establishment. Operator shall ensure that no tattoo or piercing is affixed to any person that is intoxicated or under the influence of drugs or alcohol.

## CHAPTER 4

### TATTOO ARTIST AND BODY PIERCER RESPONSIBILITIES INCLUDING MINIMUM TRAINING AND CERTIFICATION REQUIREMENTS

- 3-8-4-1 The following information shall be kept on file on the premises of a tattoo and body piercing facility and available for inspection by the Delaware County Department of Health upon request:
- a) Full name, date of birth, gender, and identification photos of all Operators/Artists;
  - b) Proof that all artists and operators are a minimum of eighteen (18) years of age,
  - c) Each artist and operator shall provide documentation of the following information upon request of the Health Department:
    - 1) That each artist and operator has either completed or been offered and declined, in writing, the Hepatitis B vaccination series; and
    - 2) That antibody testing has revealed that the employee is immune to Hepatitis B or that the vaccine is contraindicated for medical reasons; and

- 3) If the artist and operator have not completed the Hepatitis B Vaccination series, they shall provide documentation showing at least the first of the series of Hepatitis B vaccination has been received, and must show proof of completion of the series within 6 months of issue of first permit; and
- 4) Written documentation from a licensed physician certifying that the applicant has been examined within the 30-day period preceding the date of application for a permit and that he or she is free from any communicable disease;

## 3-8-4-2

All artists and operators must:

- a) Possess a valid artist permit issued by the Delaware County Health Department and shall be posted at the facility in the place where the tattoos or body piercing are performed and shall be clearly visible to the public.
- b) Successful completion of annual health department approved blood borne pathogens training.
- c) Prepare the skin area before a procedure by removing all hair, cleaning with germicidal soap, rinsing water, and disinfecting with antiseptic solution.
- d) Require all oral piercings to be preceded by the patron performing a minimum of thirty (30) second vigorous application of an antiseptic mouthwash.
- e) Protect the tattooed area after a procedure by applying antibacterial ointment, and a single-use, absorbent bandage with an impermeable cover that must be worn until the patron leaves the facility.
- f) Provide each patron or legal guardian (if patron is less than eighteen (18) years of age), verbal and written guidelines for the after-care of the tattoo or body piercing. The written public education materials shall:
  - 1) Provide guidelines to the patron regarding methods for proper cleansing, side effects, activity restrictions, infection prevention, such as the use of bactericidal creams and ointments, soap, and appropriate barrier dressings where indicated.
  - 2) Advise the patron to consult a physician or dentist as appropriate at any indication of infection e.g. fever, pus-like drainage, or pain at the site.
  - 3) Contain the name, address and phone number of the facility.
  - 4) Be provided to the patron. The patron's record as set forth in Chapter 5 below shall be signed and dated by

the artist and the patron indicating that the guidelines were reviewed and a written copy provided to the patron.

- g) Tattoo and pierce only in a department permitted facility, after having registered employment in such location with the department.

## CHAPTER 5

### PATRON RECORDS

3-8-5-1 Records of each patron shall be maintained for two (2) years following the date of the procedure and available for review upon request. The record shall include the following:

- a) Patron's name along with a photocopy of their valid State photo ID.
- b) Patron's address.
- c) Patron's age.
- d) Date that the tattoo or body piercing occurred.
- e) Design of the tattoo or body piercing.
- f) Location of the tattoo or body piercing on the patron's body.
- g) The name of the tattoo artist or body piercer who performed the work.
- h) Jewelry or other decoration used; including jewelry material type.
- l) Signature of the artist and patron indicating that after-care guidelines have been reviewed and a written copy received by the patron.
- j) Both parents or minor's legal guardian must consent when performing tattoo and body piercing activities on any minor as required by law. Both parents or minor's legal guardian must be present and provide consent in writing.

## CHAPTER 6

### HAND WASHING

3-8-6-1 HAND WASHING Facilities shall be readily accessible in the same room where tattooing or body piercing is provided. A hand sink supplied with running water at a temperature of a minimum of 100 degrees Fahrenheit, liquid antibacterial soap, paper towels, and a waste receptacle shall be located in close proximity (within 25 feet) of each artist's station and shall be readily accessible and available without passing through any door or barrier.



## CHAPTER 7

### TATTOOING EQUIPMENT

- 3-8-7-1 Petroleum jellies, soaps, and other products used in the application of stencils shall be dispensed and applied on the area to receive a tattoo or body piercing with sterile gauze or other sterile applicator to prevent contamination of the original container and its contents. The applicator or gauze shall be applied to the skin only once and then discarded.
- 3-8-7-2 All supplies used in the activity of tattooing or body piercing that come into contact with the tattooing or piercing station must be disposed.
- 3-8-7-3 All supplies used in the activity of tattooing or body piercing must come from an industry specific source that requires proof of tattoo permit and is approved by the Department.
- 3-8-7-4 All disposable tattoo supplies shall be maintained in manufacturer's individual, sterile, closed container or packaging bearing a date of sterilization and/or manufacturer's expiration date.

## CHAPTER 8

### NEEDLES, INSTRUMENTS, CONTAMINATED SHARPS

- 3-8-8-1 Needles, including needle bars and needle cartridges, instruments, and contaminated sharps shall be discarded in sharps containers immediately after use. These items shall not be reused, manipulated, or repackaged.

## CHAPTER 9

### REUSABLE EQUIPMENT

- 3-8-9-1 If an autoclave is being utilized to sterilize any reusable items, it must be properly calibrated and monthly spore testing of the autoclave is mandatory. Failure to pass a spore test must be corrected immediately. An indicator must be used to indicate that the item has been properly sterilized. A copy of the results of all spore tests must be submitted to the Delaware County Health Department on or before (or postmarked by) the 15<sup>th</sup> day of each month. Failure to submit the test documentation on or before the 15<sup>th</sup> of each month may result in a monetary fine being assessed to the operator under this Ordinance. If the 15<sup>th</sup> day of the month falls on a weekend or government recognized holiday, the operator will be allowed until the following business day to submit the test results without paying the required fine.

- 3-8-9-2 All reusable tubes, tips, grips, and other reusable equipment are to be sterilized and kept in an individual, sterile, closed container or package bearing a date of sterilization and/or manufacturer's expiration date.

## CHAPTER 10

### PIERCING/TATTOO NEEDLES AND JEWELRY

- 3-8-10-1 All insertable jewelry, piercing needles and tattoo needles are to be sterilized and kept in an individual, sterile, closed container or package bearing a date of sterilization and/or manufacturer's expiration date.
- 3-8-10-2 All jewelry placed in new piercings must be made of one of the following:
- (A) Solid 14k (or higher) white or yellow nickel-free gold.
  - (B) Surgical implant stainless steel, CrNiMo 316LVM, ASTM F-138
  - (C) Niobium
  - (D) Surgical implant grades of titanium
  - (E) Solid platinum
  - (F) Inert plastics
  - (G) Mill certificates from the manufacturer or an independent assay must be available to prove material compositions.
- 3-8-10-3 Jewelry must have a mirror finish and be free of nicks, scratches, burns and polishing compounds.

## CHAPTER 11

### WORK ENVIRONMENT

- 3-8-11-1 Tattoo and body piercing Facilities shall be equipped with artificial light sources equivalent to at least twenty (20) foot-candles of light at a distance of thirty (30) inches above the floor throughout the establishment. A minimum of seventy (70) foot-candles of light shall be provided at the level where the tattooing is being performed. Spotlighting may be used to achieve this required degree of illumination.
- 3-8-11-2 Tattoo and body piercing areas shall be separated from waiting patrons or observers by a non-absorbent panel, a door, or by a minimum of ten (10) foot distance apart. If, however, the patron is a minor, then the parent/legal guardian must be present during the procedure. If the facility allows it, the patron may sign a written consent allowing an observer to watch the procedure without space restrictions.

- 3-8-11-3 All walls and floors near equipment used for tattooing and body piercing activities shall be smooth, nonabsorbent and easily cleanable surfaces and be maintained in a sanitary manner at all times.
- 3-8-11-4 During a procedure, a Facility shall place single-use disposable barriers on equipment that cannot be sterilized. Barriers shall be discarded immediately after use. If used, disposable table or chair paper or cover shall be changed between patrons.
- 3-8-11-5 Lavatory facilities shall be available to employees at all times the Facility is open for operation and they must be located within the same physical structure/building. The lavatories shall be equipped with a toilet, toilet paper, hand sink supplied with warm running water, liquid soap, paper towels, and a waste receptacle.
- 3-8-11-6 An additional hand sink, other than the one located in the lavatory, shall be located in close proximity (within 25 feet) of each artist's station and shall be readily accessible and available without passing through any door or barrier. These hand sinks shall be supplied with running water at a minimum temperature of 100 degrees Fahrenheit, liquid antibacterial soap, paper towels, and a waste receptacle.
- 3-8-11-7 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 lavatory.
- 3-8-11-8 No live animals shall be allowed in the areas where tattooing and piercing is being conducted other than the following:
- (1) Patrol dogs accompanying security or police officers;
  - (2) Guide dogs accompanying the following:
    - (A) Blind persons.
    - (B) Partially blind persons.
    - (C) Physically disabled persons.
    - (D) Guide dog trainers.
    - (E) Persons with impaired hearing.
  - (3) Any other animals meeting all provisions necessary to be designated as a Service Animal by the ADA.

## CHAPTER 12

### TREATMENT AND TRANSPORT OF INFECTIOUS WASTE

- 3-8-12-1 Prior to approval of any permit, the operator must submit proof of a current contract with an infectious waste removal company or agreement with other Department approved agencies where treated infectious waste and sharp containers will be disposed. The operator must document how the infectious waste and sharp containers was treated and/or disposed. An operator must maintain these records for a period of two (2) years following each pick up of such infectious waste or disposal and allow inspection of such records by the Delaware County Health Department upon request.
- 3-8-12-12 The infectious waste must be disposed of at least annually. A copy of the transporting infectious waste off-site form in accordance to 410 IAC 1-3-28 must be on file at the Facility and available for review by Delaware County Health Department upon request.

## CHAPTER 13

### TEMPORARY TATTOO AND BODY PIERCING FACILITY REQUIREMENTS

- 3-8-13-1 In addition to the requirements stated in this ordinance, a Temporary Tattoo and Body Piercing booth/Facility must meet the additional requirements of this section, register the Temporary booth/Facility with the department via permit application, and pay a One-Hundred (\$100.00) dollar permit fee no later than fourteen (14) days in advance of the Temporary operation. This registration and permit will be valid for up to fourteen (14) consecutive days beginning on the date of application and issuance.
- 3-8-13-2 The Tattoo and Body Piercing Facility must be protected at all times from contamination including but not limited to weather elements, dust, dirt, rain, etc., as well as possible contamination from members of the public. If not operating in an enclosed building, an overhead covering must be provided to protect the unit/area.
- 3-8-13-3 Each Temporary Tattoo and Body Piercing booth/Facility must have access to HAND WASHING facilities within twenty-five (25) feet and no physical barriers. The portable HAND WASHING station must include, at a minimum, warm water of at least one hundred (100) degrees Fahrenheit, equipped with a spout or means to place hands under as water runs over them, soap, disposable paper towels, waste container to collect waste

water, and waste basket for paper towel disposal. The lavatory is not able to be used for this purpose.

- 3-8-13-4 The flooring must be smooth and non-absorbent. The walls should be non-absorbent if it is reasonable to expect possible contamination.
- 3-8-13-5 Only single use equipment is able to be used. No reusable equipment is allowed to be used at these sites whether or not they have been sterilized in a licensed tattoo and body piercing Facility.

## CHAPTER 14

### PROHIBITED ACTS

- 3-8-14-1 The following activities are strictly prohibited:
- a) Cutting
  - b) Implantation
  - c) Nullification
  - d) Scarification
  - e) Skin Peeling
  - f) Suspension Piercing
  - g) Tongue Bifurcation
  - h) Tongue Splitting

Any violation of the above referred to activities will result in the permanent suspension of the person performing said activities permit.

## CHAPTER 15

### PERMITS

- 3-8-15-1 **ESTABLISHMENT.** Each tattoo/body piercing Facility/operation shall obtain a permit from the Delaware County Health Department. The permit shall provide the name and address of the owner of the business. Each individual artist's permit will reference their name and the address of each location they are permitted to tattoo from. The cost for this permit shall be Three Hundred (\$300.00) dollars and shall not be transferable. The facility permit shall serve as an operating permit for the business owner or One (1) artist serving as his or her designee. The permit expires on December 31 of each year. Should a facility fail to obtain the permit prior to the opening of a Tattoo and/or Body Piercing Facility or should any permittee fail to renew his/her permit on or before the expiration date of December 31, then said annual permit fee shall be subject to an additional One Hundred (\$100.00) dollar late fee. Any holder of a permit shall be subject to inspection as set forth herein. The Delaware County Health

Department shall provide the appropriate application forms for this permit. Said permit shall be posted at the Facility in the area where the tattoo or body piercing services are performed and shall be clearly visible to the public.

- 3-8-15-2 **Tattoo Artist or Body Piercer.** Every person that desires to perform any tattoo or body piercing activities shall obtain a "Tattoo Artist Permit", "Body Piercer Permit" or a "Tattoo Artist-Body Piercer Permit" from the Delaware County Health Department. No person shall tattoo or body pierce another person, use or assume the title of tattooist or body piercer, designate or represent themselves to be a tattooist or body piercer unless he or she has first obtained a permit from the Delaware County Health Department. The applicant must satisfy the minimum requirements as set forth in Chapter 4 of this ordinance. The cost of said permit shall be Seventy-five (\$75.00) dollars and shall not be transferable. The permit expires on December 31 of each year. Should a tattoo artist or body piercer fail to obtain the permit prior to performing any tattoo or body piercing or should any permittee fail to renew his/her permit on or before the expiration date of December 31, then said annual fee shall be subject to an additional Fifty (\$50.00) dollar late fee for the tattoo artist or body piercer. Any holder of a permit shall be subject to inspection as set forth herein. The Delaware County Health Department shall provide the appropriate application forms for this permit. Said permits shall be posted at the Facility in the place where the tattoos or body piercing are performed and shall be clearly visible to the public. Permits will document the name of the approved artist and the specific location they are approved to operate.
- 3-8-15-3 **Owner/Operator.** In the event that a Tattoo and Body Piercing 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 in this section.
- 3-8-15-4 **Guest/Temporary tattoo artist or body piercer.** Every person that desires to perform any tattoo or body piercing services within Delaware County on a temporary basis shall obtain a "Guest Tattoo Artist Permit", "Guest Body Piercer Permit" or a "Guest Tattoo Artist-Body Piercer Permit" from the Delaware County Health Department. This permit must be obtained before any tattoos are affixed or body piercing is done to any person and after the required training. The applicant must satisfy the minimum requirements as set forth herein in Chapter 4 of this ordinance. The cost of said permit shall be Thirty-Five Dollars (\$35.00) and shall not be transferable. The permit shall expire fourteen (14) days after the date of issuance. Any holder of a permit shall be subject to inspection as set forth herein. The Delaware County Health Department shall provide the appropriate application forms for this permit. Said permits shall be posted

at the Facility in the area where the tattoo or body piercing services are performed and shall be clearly visible to the public.

- 3-8-15-5 **Pro-Rating of Fees.** In the event that a fixed Facility, artist, or piercer shall apply for an annual permit any time prior to July 1 of any year, they shall be responsible for the total annual fee as described in this chapter. In the event that a fixed Facility, artist, or piercer shall apply for an annual permit July 1 or after of any year, they shall be required to pay only one half ( $\frac{1}{2}$ ) of the annual fee as set forth in this ordinance. All permits, however, shall expire on December 31 of the year in which they were issued.
- 3-8-15-6 **Exceptions.** The provisions of this Ordinance shall not apply to an act of a health care professional (as defined in Indiana Code 16-27-2-1) licensed under Indiana Code, Chapter 25, when the act is performed in the course of the health care professional's practice.

## CHAPTER 16

### INSPECTIONS

- 3-8-16-1 The Delaware County Health Department shall conduct inspections of each facility located in Delaware County, Indiana. The Delaware County Health Department shall conduct a minimum of two (2) inspections per year for fixed Facilities. Temporary Tattoo and Body Piercing Facilities shall be inspected at least once during period of operation. Additional inspections may be conducted by the Delaware County Health Department as it determines necessary and/or in response to complaints submitted. The results of the inspections shall be provided to each operator in written form. Violations noted by the Delaware County Health Department shall be corrected immediately or within the time frame set forth on the inspection report. The Department shall conduct follow-up inspections to determine compliance with this ordinance as deemed necessary.

## CHAPTER 17

### PROCEDURES WHEN VIOLATIONS ARE NOTED

- 3-8-17-1 If, during the inspection of any Facility, the Health Officer discovers the violation of any provision of this Ordinance, he/she shall issue a written report listing such violations and the remedial action(s) to be taken, along with a specified time frame within which to complete such actions. A copy of said report shall be delivered to the permittee (or their authorized representative) by hand delivering the report to him/her on-site, or mailing

the notice by Certified Mail to the address listed by the permittee as his/her/its mailing address on the permit application.

- 3-8-17-2 A copy of the written order shall be filed in the records of the Department after appropriate review by supervisory personnel and then shall be made available to the public as required.
- 3-8-17-3 Violations documented by the department will be assigned a reasonable timeframe for correction. If documented violations persist beyond the specified deadline, a violation repeat inspection fee will be assessed for each subsequent inspection that finds the violation persisting.

## CHAPTER 18

### PERMIT SUSPENSION/REVOCAION

The Health Officer may order the suspension or revocation of any permit issued for a Facility, which order shall include the prohibition of any further operation for the following reasons:

- 3-8-18-1 Interference with the Health Officer, or his/her authorized representatives, in the performance of his/her duties. Interference shall be defined as the process of obstructing, hampering or blocking the Health Officer in the performance of his/her duties.
- 3-8-18-2 As a result of the willful and/or continuous violation of any provision of this Ordinance.

## CHAPTER 19

### OTHER PERMIT REVOCATION, SUSPENSION AND IMMEDIATE CLOSURE ORDERS

- 3-8-19-1 Except as set forth in this Ordinance, no suspension or revocation shall be ordered by the Health Officer except after a hearing held by the Health Officer or his/her designee.
- A. Notwithstanding the provisions of this Ordinance, whenever the Health Officer, or his/her authorized representatives find unsanitary or other conditions, involving the operation of any Facility which, in his/her reasonable belief, constitute an imminent health hazard, he/she 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 order shall be effective immediately.
2. Upon written request to the Health Officer, the permittee shall be afforded a hearing within two (2) business days as set forth in 3-8-19-1.
3. The Health Officer or his/her designee shall conduct a re-inspection upon the request of the permittee at a time agreed upon with the department. When the Health Officer determines that the necessary corrective action(s) have been taken, applicable re-opening fees will be assessed and operation of the Facility may be resumed.

## CHAPTER 20

### HEARING

- 3-8-20-1 All hearings required under this section, except those set forth in this Ordinance, shall be held only upon at least ten (10) days written notice to the permittee of time, place and nature thereof. 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 Health Officer.
- 3-8-20-2 At any hearing required under this Ordinance, the Hearing Officer shall be the Health Officer or the Health Officer's designee. Every person who is a party to such proceedings shall have the right to submit evidence, to cross-examine witnesses and to be represented by legal counsel. All such hearings shall be conducted in an informal manner, but irrelevant, immaterial or unduly repetitive evidence may be excluded.
- 3-8-20-3 Upon the conclusion of such hearing, the Hearing Officer shall enter a final order, subject to the right of appeal.
- 3-8-20-4 **Judicial review of orders.** Pursuant to Indiana Code 16-41-20-9 only, A person aggrieved by an order of a local board of health or county Health Officer issued under this ordinance may, not more than ten (10) days after the making of the order, file with the circuit court a petition seeking a review of the order. The court shall hear the appeal. The court's decision is final.

**CHAPTER 21****APPEAL**

- 3-8-21-1 Any permittee aggrieved by any final order of the Health Officer shall be entitled to seek judicial review under 3-8-20-4.

**CHAPTER 22****ENFORCEMENT**

- 3-8-22-1 It shall be the duty of the Health Officer or his/her designee 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.

**CHAPTER 23****VIOLATIONS**

- 3-8-23-1 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 seek all appropriate legal remedies against the person(s) violating said provisions of this Ordinance.
- 3-8-23-2 If a tattoo artist or operator shall fail to obtain a permit prior to the conduct of their business or at any time after one has been issued, but has expired, the tattoo artist and/or operator may be subject to a fine of not more than two thousand five hundred dollars (\$2,500.00). Each day the tattoo artist and/or operator is found to be in violation of this ordinance shall constitute a separate offense.
- 3-8-23-3 The Health Officer may bring an action in the Delaware County Circuit 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 reasonable attorney fees.

**CHAPTER 24****PENALTY**

- 3-8-24-1 Any person who willfully violates any of the provisions of this Ordinance shall be subject to a fine of not more than Two Thousand Five Hundred

Dollars (\$2,500.00) for each violation. Each day of the existence of any violation of this Ordinance shall be considered to be a separate offense.

## **CHAPTER 25**

### **INJUNCTION**

- 3-8-25-1 The Health Officer may bring an action for an injunction in the Circuit Court of Delaware County, Indiana, to restrain any person from violating the provisions of this Ordinance, to cause such violation(s) to be prevented, abated or removed.

## **CHAPTER 26**

### **EXPENSE**

- 3-8-26-1 Any person violating any of the provisions of this Ordinance shall be liable to the Delaware County Health Department for the expense, loss or damage occasioned by reason of such violation, including reasonable attorney's fees and costs.

## **CHAPTER 27**

### **CUMULATIVE**

- 3-8-27-1 The remedies provided in this section shall be cumulative, and not exclusive, and shall be in addition to any other remedy provided by law.

## **CHAPTER 28**

### **SEVERABILITY**


- 3-8-28-1 Invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of this Ordinance.


CHAPTER 29


EFFECTIVE DATE

3-8-29-1 This ordinance shall be in effect on the date of passage.

Passed this 4 day of December, 2017.

  
\_\_\_\_\_  
, Delaware County Commissioner

  
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, Delaware County Commissioner

  
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, Delaware County Commissioner

ATTEST:  
  
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Steven G. Craycraft, Delaware County Auditor