

MEMORANDUM

**ATTORNEY WORK PRODUCT
PRIVILEGED & CONFIDENTIAL**

TO: WHITLEY COUNTY BOARD OF COMMISSIONERS
FROM: JEFFREY L. GAGE
RE: PROPOSED TATTOO PARLOR ORDINANCE
DATE: MARCH 9, 2000

Gentlemen:

Attached is a copy of a Tattoo Parlor Ordinance substantially in the form submitted by Scott Wagner, which is based on the Allen County ordinance. The bulk of my revisions were intended to clarify ambiguities, provide for a consistent use of defined terms, etc. I did not spend time reviewing every regulation and statute referred to in the ordinance on the assumption that Allen County knew what it was doing.

Please note that the definition of "tattoo" in Section 2.18 (c) is broad enough to include body piercing as well as a typical tattoo procedure. Additionally, as you can see, the ordinance creates an exhaustive set of regulations for tattoo parlors.

By copy of this memo to Scott Wagner, I will ask him to review the revised draft and also to note in Section 7.1 (as well as other places) a reference to the "Indiana occupational safety and health administrations blood borne pathogen standard", but the regulation referred to is a federal regulation, rather than an Indiana administrative code provision. If he has the applicable regulations available in this office, perhaps we can clear up this ambiguity.

If any of you have questions, please let me know.

Very truly yours,


Jeffrey L. Gage

Enclosures

cc: Mr. Scott Wagner, Health Department
Whitley County Auditor

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TATTOO PARLOR ORDINANCE

LINDA J GLASSLEY
Whitley County Recorder**COPY**

ORDINANCE NO. 2000-02

00-4-318

WHEREAS, the State of Indiana has amended the laws concerning tattoos and tattoo parlors;
and

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

WHEREAS, the reasonable regulation of the tattooing parlor business is in the best interest of the residents of Whitley County, Indiana; and

WHEREAS, an improperly operated or unclean tattoo business may have serious and detrimental effects upon the citizens of Whitley County, Indiana; and

WHEREAS, there exists a very real and distinct possibility of the transmission of serious infectious diseases from the tattooing of a person if a tattoo 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 businesses, and

WHEREAS, the Whitley County Commissioners believe that tattoo businesses should be licensed and subject to reasonable rules to regulate the sanitary operation of tattoo parlors; and

WHEREAS, the Whitley County Commissioners desire to adopt an ordinance to enforce the State Board of Health regulation of the operation of tattoo parlors 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 Parlors.**

All places, individuals and businesses that offer to affix any type of permanent tattoo to a person shall be regulated by this ordinance and shall maintain the premises in which tattoos are performed and equipment used in the tattoo process in a sanitary manners 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 "Cleaned" means removal of all visible dust, soil, or any other foreign material.

2.4 "Contaminated" means the presence or reasonably anticipated presence of blood or OPIM on an item or surface.

2.5 "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.

2.6 "Department" means the Columbia City - Whitley County Health Department.

2.7 "HBV" means the hepatitis B virus.

2.7 "HCV" means the hepatitis C virus.

2.9 "HIV" means the human immunodeficiency virus.

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

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

- (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.
- (e) Other waste that has been intermingled with infectious waste.

2.12 “Other potentially infectious materials” or “OPIM” means the following:

- (a) Human body fluids as follows:
 - (i) Semen
 - (ii) Vaginal secretions
 - (iii) Cerebrospinal fluid
 - (iv) Synovial fluid
 - (v) Pleural fluid
 - (vi) Peritoneal fluid
 - (vii) Amniotic fluid
 - (viii) Saliva in dental procedures
 - (ix) Any body fluid that is visibly contaminated with blood
 - (x) All body fluids where it is difficult or impossible to differentiate between body fluids
- (b) Any unfixated 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 animals infected with HIV or HBV.

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

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

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

2.16 "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.

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

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

2.19 "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;

(c) 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.

2.20 "Tattoo artist" means any person who provides a tattoo to an individual or who performs any type of piercing of the mucous membranes or the skin through which needles or other objects are inserted for temporary or permanent placement.

2.21 "Tattoo operator" or "operator" means a person who controls, operates, conducts, manages, or owns any tattoo parlor.

2.22 "Tattoo parlor" means any room where tattooing is provided or where the business of tattooing is conducted.

2.23 "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.

An 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 artists, anyone employed by the tattoo parlor, or anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM.

3.2 Ensure that training on the handling of infectious waste is provided to all Tattoo artists, anyone employed by the tattoo parlor, or anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM.

3.3 Ensure that a record of training described in subdivisions 3.1 and 3.2 is maintained, as required under the Indiana occupational safety and health administration's blood borne pathogens standard (as found in 29 CFR 1910.1030) of an individual's participation in the training that is provided. The record shall be made available to the department for inspection upon request.

4. **[Reserved for Future Use.]**

5. **Tattoo Operator Responsibilities.**

5.1 The tattoo operator shall ensure that tattoo artists, anyone employed by the tattoo parlor, or anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood are provided personal protective equipment and expendables needed to implement the precautions required by this rule and the Indiana occupational safety and health administration's blood borne pathogens standard (as found in 29 CFR 1910.1030).

5.2 The tattoo operator shall require tattoo artists, anyone employed by the tattoo parlor, or anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood to provide evidence of compliance with the universal precautions education requirements contained in Section 7 of this rule.

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 precautions and patrons' rights under this rule. These materials shall include information on how to report violations of universal precautions and shall include information regarding the department's duties to investigate.

5.5 The tattoo operator shall insure that no illicit drugs or alcohol are consumed or permitted in the tattoo parlor.

5.6 The tattoo operator shall insure that no tattoo shall be affixed to any person that is intoxicated.

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 and any activity or duty that includes any reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or OPIM;

(b) includes the safe handling of infectious waste; and

(c) provides sanctions, including discipline and dismissal, if warranted, for failure to use universal precautions and/or handle infectious waste safely.

7. Tattoo Artist Minimum Training and Certification Requirements.

7.1 All tattoo artists, anyone employed by the tattoo parlor, and anyone acting on behalf of the tattoo parlor 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 pathogen 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 under the Indiana occupational safety and health administration's blood borne pathogens 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 parlor, and anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM must be trained in the tattoo parlor's policies on the handling of infectious waste.

8. Patron Records.

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

- (a) Patron's name.
- (b) Address.
- (c) Age which must be verified by two items of identification, one of which must be a valid government issued identification.
- (d) Date tattooed.
- (e) Design of the tattoo.
- (f) Location of the tattoo on the patron's body.
- (g) The 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.

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:

- (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 readily accessible in the same room where tattooing is provided. 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 of clothing by blood or OPIM.

(b) Masks in combination with eye protection devices, such as goggles or glasses with solid side shield, or chin length face shield, shall be worn whenever splashes, spray, splatter, or droplets 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 when decontaminating environmental surfaces and equipment.

12. **Tattooing Equipment.**

12.1 Only single use razors shall be used to shave the area to be tattooed.

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 shall be single use only.

13.3 Needles shall be discarded in sharps containers immediately after use.

13.4 Contaminated needles shall not be bent or broken or otherwise manipulated by hand.

14. Reusable Equipment.

14.1 Heating procedures capable of sterilization must be used when heat stable, nondisposable equipment is sterilized.

14.2 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.

(c) Equipment is maintained as recommended by the owners manual and proof is available that the owners manual recommendations are reviewed monthly.

14.3 Reusable contaminated equipment shall not be stored or processed in a manner that requires any person to reach by hand into the containers where these items have been placed.

14.4 Reusable contaminated equipment shall be:

(a) placed in puncture-resistant containers;

(b) labeled with the biohazard symbol;

(c) leakproof on both sides and bottom; 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.

14.5 Contaminated reusable equipment shall be effectively cleaned prior to sterilizations.

14.6 Reusable tubes shall be effectively cleaned and sterilized before reuse.

15. Dyes or Pigments.

15.1 All dyes or pigments in tattooing shall be from professional 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 use 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 single use or individual containers shall be discarded along with the container.

16. Work Environment.

16.1 No tattooing shall be conducted in any room used as living quarters or in any room that opens directly into living or sleeping quarters.

16.2 Live animals shall be excluded from areas where tattooing is being conducted. This exclusion does not apply to the following:

- (a) Patrol dogs accompanying security or police officers.
- (b) Guide dogs accompanying the following:
 - (i) blind persons
 - (ii) partially blind persons
 - (iii) physically disabled persons
 - (iv) guide dog trainers
 - (v) persons with impaired hearing

16.3 Eating, drinking, smoking or applying cosmetics shall not be allowed in work areas where there is likelihood of exposure to blood or OPIM.

16.4 Food and drink shall not be kept in areas where there is a reasonably anticipated risk of exposure to blood or OPIM.

16.5 All equipment and environmental surfaces shall be cleaned and decontaminated after contact with blood or OPIM.

16.6 Environmental surfaces and equipment not requiring sterilization, that have been contaminated by blood, shall be cleaned and decontaminated.

16.7 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.

16.8 Disinfectant solutions shall be:

- (a) a hospital grade, tuberculocidal Environmental Protection Agency (EPA) registered disinfectant; or
- (b) sodium hypochlorite, five-tenths percent (0.5%) concentration, by volume (common household bleach is ten percent (10%) concentration in water); the solution shall be dated and shall not be used if it is more than twenty-four (24) hours old.

17. Infectious Waste Containment.

17.1 Contaminated disposable needles or instruments shall be stored in leak-resistant, puncture-resistant containers, tightly sealed to prevent expulsion, labeled with the biohazard symbol, and effectively treated in accordance with this rule prior to being stored in an unsecured area and sent for final disposal.

17.2 Infectious wastes that are contaminated sharps or objects that could potentially become contaminated sharps shall be placed in containers that meet the following requirements:

- (a) impervious to moisture;
- (b) sufficient strength and thickness to prevent expulsion;
- (c) secured to prevent leakage expulsion;
- (d) labeled with the biohazard symbol; and
- (e) effectively treated in accordance with this rule prior to being placed in an unsecured area and sent for final disposal.

17.3 If infectious waste is stored prior to final disposal, all persons subject to this ordinance shall store infectious waste in a secure area that:

- the general public;
- (a) is locked or otherwise secured to eliminate access by or exposure to
 - (b) affords protection from adverse environmental conditions and vermin;
 - (c) has a prominently displayed biohazard symbol.
- and

17.4 Infectious waste shall be stored in a manner that preserves the integrity of the container, and is not conducive to rapid microbial growth and putrefaction.

17.5 Disinfect reusable containers for infectious waste each time that they are emptied unless the surfaces of the reusable containers have been protected from contamination by disposable liners, bags, or other devices that are removed with the infectious waste.

18. Treatment and Transport of Infectious Waste.

18.1 All tattoo operators shall ensure that infectious waste is either treated on-site in accordance with this ordinance or transported off-site for treatment in accordance with this ordinance.

18.2 A treatment is effective if it reduces the pathogenic qualities of infectious waste for safe handling, is designed for the specific waste involved, and is carried out in a manner consistent with this ordinance. Effective treatment may include:

- (a) incineration in an incinerator designed to accommodate infectious waste;
- (b) steam sterilization;
- (c) chemical disinfection under circumstances where safe handling of the waste is assured;
- (d) thermal inactivation;
- (e) irradiation; or
- (f) discharge in a sanitary sewer or septic system that is properly installed and operating in accordance with state and local laws.

18.3 All persons subject to this ordinance shall:

(a) transport infectious waste in a manner that reasonably protects waste haulers and the public from contracting a dangerous communicable disease; and

(b) effectively treat infectious waste in accordance with this ordinance before it is compacted.

18.4 The tattoo operator shall ensure that infectious waste, effectively treated or not, is transported off-site in compliance with 410 IAC 1-3.

19. **Permits.**

19.1 **Business.** Each tattoo parlor operation shall obtain a permit from Department. The permit shall provide the name and address of the owner of the business and the name and address of each and every Tattoo artist located at each location. The cost for this permit shall be \$250.00 and shall not be transferable. The permit expires on December 31 of each year. Any holder of a permit shall be subject to inspection as set forth herein. The Department shall provide the appropriate forms for obtaining and issuing a permit. Said permit shall be posted at the tattoo parlor in the place where the tattoos are performed and clearly visible to the public.

19.2 **Tattoo Artist.** Every person that desires to perform any tattoo shall obtain a "Tattoo Artist Permit" from the Department. This permit must be obtained before any tattoos are affixed to any person and after the requisite training. The applicant must satisfy the minimum requirements as set forth herein in Section 19. The cost of said permit shall be \$50.00 and shall not be transferable. The permit expires on December 31 of each year. Any holder of a permit shall be subject to inspection as set forth herein. The Department shall provide the appropriate forms for obtaining and issuing a permit. Said permits shall be posted at the tattoo parlor in the place where the tattoos are performed and clearly visible to the public.

19.3 **Owner/Operator.** If a tattoo parlor is a sole proprietorship and the owner also performs tattooing for his or her business, the owner shall only be required to obtain a business permit as described in this section.

19.4 **Pro Ratio of Fees.** If a business or tattoo artist applies for a permit any time prior to June 1 of any year, they shall be responsible for the total annual fee as described in this section. If a business and/or tattoo artist applies for a permit any time after June 1 of any year, they shall be required to pay one-half (½) of the annual fee. All permits shall expire on December 31 of the year in which they were issued.

20. Inspections.

20.1 The Department shall conduct inspections of each and every tattoo parlor located in Whitley County, Indiana. The Department shall conduct a minimum of two (2) inspections per year. Additional inspections may be conducted by the Department as it determines and/or in response to complaints submitted to the Department. The results of the inspections shall be provided to each operator. Violations noted by the Department shall be corrected immediately. The Department shall conduct follow-up inspections to determine compliance with this ordinance.

21. Revocation of Permit.

The Health Officer or his/her designees may suspend or revoke the permit of any tattoo artist or tattoo operator for any period of time for any violation of this ordinance, and/or any state or federal regulations concerning blood borne pathogens or tattooing. The suspension and/or revocation shall be effective upon issuance by the Health Officer or his/her designee. The tattoo operator or tattoo artist may have the permit reinstated upon compliance with this ordinance, and/or state or federal regulations concerning blood borne pathogens or tattooing and to the satisfaction of the Health Officer. Appeals of orders of suspension or revocation shall be conducted pursuant to I.C. 4-21.5-3-1 *et. seq.* by the Department, which shall conduct administrative hearings concerning the suspension or revocation of any permit issued herein as set forth in I.C. 4-21.5-3-1 *et. seq.*

22. Penalties.

22.1 If a tattoo artist or tattoo operator fails to obtain a permit prior to conducting business or at any time after one has been issued, but has expired, or is suspended or revoked, the tattoo artist and/or tattoo operator shall be subject to a fine of not more than \$500.00 for each day the tattoo artist and/or tattoo operator is in violation of this ordinance.

22.2 The Health Officer may bring an 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 reasonable attorneys' fees and costs.

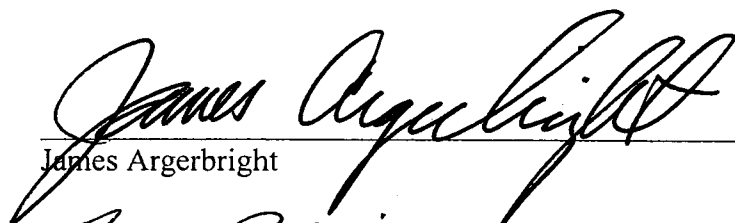
23. Repeal - Severability.

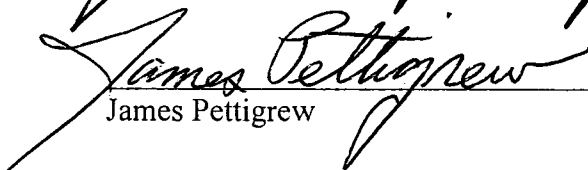
All ordinances or parts of ordinances in conflict herewith are hereby repealed. The invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of this Ordinance.

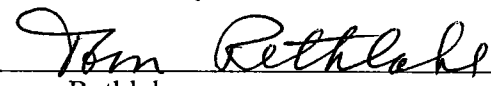
24. **Effective Date.**

Passed by the Board of Commissioners of Whitley County, Indiana, on the 17th day of April, 2000.

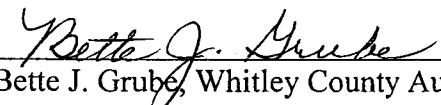
WHITLEY COUNTY BOARD OF COMMISSIONERS


James Argerbright


James Pettigrew


Thomas Rethlake

ATTEST:


Bette J. Grube, Whitley County Auditor