

ORDINANCE 2016-06

BOONE COUNTY BOARD OF COMMISSIONERS

TATTOO, PIERCING, AND BODY MODIFICATION ORDINANCE

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

WHEREAS, Local governments may adopt ordinances to protect the health and welfare of their citizens (Home Rule); and

WHEREAS, tattooing piercing and body modification (hereinafter "body art") operations and procedures are becoming more and more common among residents of the State of Indiana and the residents in Boone County, Indiana, and

WHEREAS, the safe and proper operation of a body art business is in the best interests of the residents of Boone County, Indiana, and

WHEREAS, an improperly operated or improperly sanitized body art business could have serious and detrimental effects upon the citizens of Boone County, Indiana, and

WHEREAS, there exists a very real and distinct possibility of the transmission of serious infectious diseases from the body art procedure to a person if that body art business and artist are not sufficiently skilled and knowledgeable of the dangers associated with said activity, and

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

WHEREAS, the Boone County Health Department can best inspect and provide the necessary training and expertise to oversee the operation of these body art businesses, and

WHEREAS, the Boone County Commissioners believe that body art businesses should be licensed and subjected to reasonable inspections of the Health Department, and

WHEREAS, the Boone County Commissioners desire to adopt an ordinance to regulate the operation of body art businesses in Boone County, Indiana.

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

Article 1: Sanitary Operation of Tattoo Parlors

All places, individuals and businesses that offer to affix any type of permanent tattoo to a person, or install or perform a body or skin piercing or modification shall be regulated by this ordinance and shall maintain the premises in which tattoos are performed and equipment used in the tattoo, piercing or modification process in a sanitary manner.

Article 2: Definitions

In addition to the Definitions in 410 IAC 1-5, the following definitions shall apply in the interpretation and enforcement of this ordinance:

- Par. 201 ARTIST means a person employed by an Establishment to perform body piercing, body modification or to affix a permanent tattoo to an individual. This includes those defined as “body piercer” or “tattoo artist” by 410 IAC 1-5, or any person who performs tattooing, boring, penetration or tunneling through the body of a Client.
- Par. 202 BODY MODIFICATION means any tattoo, permanent cosmetics, body piercing, or other penetrating body art, or the use of needles, scalpels or other medical devices to insert devices or modify the body for the purpose of adornment. This does not include henna tattoos or other surface adornment.
- Par. 203 BRANDING means a potentially invasive procedure in which a permanent mark is burned into or onto the skin using either temperature, mechanical or chemical means.
- Par. 204 CLIENT is a person or patron who receives tattooing, body piercing or body modification services.
- Par. 205: CONFLICT OF INTEREST (derived from 68 IAC 9-1-1(b)(2)) means a situation in which the private financial interest of Local Official, Local Official’s spouse, ex-spouse, siblings, in-laws, children and/or emancipated child, may influence the Local Official’s judgment in the performance of a public duty.
- Par. 206 ESTABLISHMENT means a location where body piercing, body modification and/or tattooing are performed. This includes a Facility as defined by 410 IAC 1-5 and includes Temporary Events and Mobile Establishments.
- Par. 207 HEALTH DEPARTMENT means the Boone County Health Department having jurisdiction in Boone County, Indiana.
- Par. 208 HEALTH OFFICER means the duly appointed Health Officer having jurisdiction in Boone County, Indiana.
- Par. 209: HEARING OFFICER means an individual or panel of individuals acting in the capacity of a Hearing Officer in proceedings. The Hearing Officer is not the Health Officer or any other employee of the Boone County Health Department.
- Par. 210: IMPLANTING means a procedure involving the placement of an object or multiple objects under the skin to mold or shape the skin outwardly for a particular appearance.
- Par. 211: INSPECTION REPORT means the document prepared by the Boone County Health Department that is completed as the result of the inspection and provided to the Operator.
- Par. 212: LOCAL OFFICIAL means any Official of Boone County, Indiana.
- Par. 213 MOBILE ESTABLISHMENT means a tattoo, body piercing, or body modification establishment that is wheeled; mounted on a vehicle; or otherwise readily movable; that changes location too frequently to be a candidate for permanent utility connections, as determined by the Health Officer.
- Par. 214 OPERATOR means a person who controls, operates, conducts, manages, or owns any Establishment or any artist at a Temporary Event.
- Par. 215 ORDER (derived from IC 4-21.5-1-9) means a Boone County Health Department action of particular applicability that determines the legal rights, duties, privileges, immunities, or other legal interests of one (1) or more specific Persons. The term includes a permit.
- Par. 216 EVENT COORDINATOR means a person or persons responsible for the event.

- Par. 217 SCARIFICATION means altering skin texture by cutting the skin and controlling the body's healing process in order to produce wounds, which result in permanently raised wheals or bumps known as keloids.
- Par. 218 SUSPENSION means hanging the body from (or partially from) hooks that are placed by body piercing.
- Par. 219 TEMPORARY EVENT means an Establishment located within a permanent structure that operates for a period of no more than fourteen consecutive days for the purposes of product demonstration, industry trade show, or education.
- Par. 220 TONGUE SPLITTING means tongue bifurcation or a type of body modification in which the tongue is cut centrally from its tip part of the way towards its base, forking the end.

Article 3: General Requirements

No person shall do any of the following:

- Par. 301 Operate a business that offers tattooing, body-piercing, or other body modification services, unless the Boone County Health Department has issued a permit to the business under this Ordinance, and the business is in compliance with 410 IAC 1-5.
- Par. 302 Perform a tattooing, body-piercing, or other body modification procedure in a manner that does not meet the requirements of this ordinance, 410 IAC 1-5, and IC 35-42-2-7.

Article 4: Minimum Standards for Physical Facilities

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

- Par. 401 The premises in which tattooing and/or body piercing occurs, shall be conducted in an enclosed building or establishment. Each artist station shall be reasonably separated from each other and from waiting Clients or observers.
- Par. 402 Tattoo, body piercing, and other body modification establishments shall be equipped with artificial light sources equivalent to at least twenty foot-candles at a distance of thirty inches above the floor throughout the establishment. A minimum of forty 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.
- Par. 403 All walls and floors near equipment used for tattooing, body-piercing or other body modification activities shall be smooth, nonabsorbent and easily cleanable surface and be maintained in a sanitary manner at all times.
- Par. 404 All tables and other equipment shall be constructed with a smooth, nonabsorbent and easily cleanable finish. If used, disposable table paper shall be changed between Clients.
- Par. 405 Exterior doors shall be self-closing and tight fitting. Operable windows shall have tight-fitting screens.
- Par. 406 Restroom facilities shall be available to employees at all times the establishment is open for operation. The restroom shall be equipped with a toilet, toilet paper, hand sink supplied with warm running water, liquid soap, paper towels in dispensers or hand dryers, and a waste receptacle.

- Par. 407 A hand sink supplied with running water at a temperature of 100–120 degrees Fahrenheit, liquid soap, paper towels in dispensers, and a waste receptacle shall be located in close proximity of each Artist's station and shall be readily accessible and available without passing through any door or barrier. One hand sink shall serve no more than six Artists' stations.
- Par. 408 Equipment and supplies used in the course of tattoo and body-piercing services or disinfection and sterilization procedures shall not be stored or utilized within the restroom.

Article 5: Operator and Artist Responsibilities

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

- Par. 501 The use of properly calibrated autoclave sterilization units on all reusable items and monthly spore testing of the autoclave are mandatory. A copy of the results of all spore tests shall be submitted to the Health Department upon receipt of each test report. Autoclave indicator tape or other verifiable indication of sterilization shall be used and maintained with each reusable item until used.
- Par. 502 A copy of all applicable regulations shall be retained on premises.
- Par. 503 The following records must be maintained by all Operators for at least two (2) years:
- a) A government issued ID with a photo and date of birth on each Client,
 - b) If the Client is under age 18, parental consent forms, and
 - c) With respect to tattooing services, written records must also include the professional tattooing ink used for each tattoo performed.
- Par. 504 Verbal and written instructions for the aftercare of the tattoo or other body modification shall be provided to each Client or legal guardian if Client is under eighteen (18). The written public education materials shall:
- a) Advise the Client to consult a physician or dentist as appropriate at the first sign of infection,
 - b) Shall contain the name, address and phone number of the establishment or artist, and
 - c) Shall be signed and dated by the Artist and the Client, with a copy given to the Client.
- Par. 505 The following information for each Artist and Operator shall be kept on file at the Establishment and available for inspection by the Health Department:
- a) Full name, date of birth, gender, and identification photos, and
 - b) Proof that all Artists and Operators are a minimum of eighteen (18) years of age
 - c) Written documentation of one of the following:
 - i. The completion of the Hepatitis B vaccination series,
 - ii. Antibody testing that has revealed immunity to Hepatitis B, or
 - iii. The Hepatitis B vaccine is contraindicated for medical reasons.
 - d) Documentation of bloodborne pathogen training
- Par. 506 Before and after performing tattoos, body piercings, or other body modification procedures, the Artist shall thoroughly wash hands in warm running water with liquid soap, then rinse hands and dry with disposable paper towels. This shall be done as often as necessary to remove contaminants. Single- use, disposable paper products shall be used.

Article 6: Additional Requirements for Mobile Units

In addition to all other requirements in this Ordinance and 410 IAC 1-5, all Mobile Establishments must meet the following:

- Par 601: A Mobile Establishment must receive an initial inspection at a location specified by the Health Department prior to permit issuance to insure compliance with requirements. Additional inspections may be performed at any location where the mobile unit is operating.
- Par. 602: Tattooing and/or body-piercing performed pursuant to this section shall be done only from inside an enclosed unit.
- Par. 603: The Mobile Establishment shall be used only for the purpose of performing body modification procedures. No habitation or cooking is permitted inside the Mobile Establishment.
- Par. 604: An adequate supply of potable water shall be maintained for the Mobile Establishment at all times during operation.
- Par. 605: All liquid wastes shall be stored in an adequate storage tank with a capacity at least fifteen (15) percent greater than the capacity of the on board potable water supply. Liquid wastes shall be disposed of in accordance with all applicable regulations at a site approved by the Health Department.

Article 7: Prohibited Acts

- Par. 701: The following activities are strictly prohibited
- a) Tongue splitting
 - b) Tattoo removal
- Par. 702: The following activities are strictly prohibited to minors (under age 18)
- a) Branding
 - b) Implanting
 - c) Suspension
 - d) Scarification
 - e) Piercing of the genitalia or nipples

Article 8: Exceptions

- Par. 801: Ear lobe piercing and medical procedures performed by a State Licensed Medical Practitioner are exempt from this ordinance.

Article 9: Permits

No person, firm, partnership, joint venture, association, business trust, corporation or any organized group of persons may operate an Establishment unless it has first received a valid permit from the Boone County Health Department.

- Par. 901: The valid permit shall be posted in a conspicuous location in the Establishment.
- Par. 902: A separate permit shall be required for each Establishment, Mobile Unit, and/or Temporary Establishment.

- Par. 903: A permit for an Establishment shall be issued for a term beginning January 1, or the date of commencement of operation, and expiring December 31, of the same year, and shall be applied for by the Operator annually.
- Par. 904: A permit for a Temporary Establishment shall be issued for 14 days or less and for the duration of a single event at a single location.
- Par. 905: Every Person that desires to perform any tattoo or body modification shall obtain an Artist Permit. The Person shall satisfy the minimum requirements of Article 5.

Article 10: Application for Plan Review/Application for Permit

- Par. 1001: The Operator of a proposed Establishment, Mobile Unit, or Temporary Establishment shall submit the following to the Boone County Health Department at least 30 days prior to scheduling the pre-operational inspection and 30 days prior to the proposed first day of operation:
- a) Plan review fee - One Hundred Dollars (\$100) per establishment
 - b) Completed exposure control plan
 - c) Contract with infectious waste removal company
 - d) Copy of bloodborne pathogen training for all employees
 - e) Hepatitis B waivers signed by all employees
 - f) Spore test results within last 30 days (if applicable)
- Par. 1002: The plans and specifications for an Establishment shall be deemed satisfactory and approved by the Boone County Health Department before a permit can be issued.
- Par. 1003: A pre-operational inspection shall be conducted to ensure that the establishment is built, remodeled, or arranged in accordance with the approved plans and specifications and to assure the Establishment is in compliance with 410 IAC 1-5 and this Ordinance.
- Par. 1004: Any application for a Temporary Establishment shall also include the signature of the venue owner acknowledging that the requirements of this ordinance shall be met during the temporary event.

Article 11: Fees

- Par. 1101: The fee for an Establishment, other than a Temporary Establishment, shall be paid for a term beginning January 1, and/or before the commencement of operation and expiring December 31, of the same year and shall be applied for by the operator annually.
- Par. 1102: Fees for Temporary Establishments shall be charged per Operator, and per Artist's Station.
- Par. 1103: The fees paid under this Ordinance are not transferable or refundable. A permit may not be issued to any Establishment where outstanding or unpaid fees, or late fees, are due.
- Par. 1104: A late renewal fee shall be assessed as set by the Boone County Health Department for failure to renew a permit within 14 days after the expiration of the permit to operate an Establishment.
- Par. 1105: A receipt for the payment of such fee shall be provided by the Boone County Health Department.
- Par. 1106: Permit fees for the issuance of a Permit under this Ordinance to an Establishment or Artist shall be set by the Boone County Health Department and approved by the Board of Commissioners, as provided by the Statutes of the State of Indiana. (See IC 16-20-1-27).

Article 12: Inspections

- Par. 1201: The Boone County Health Department may conduct inspections of Establishments located in Boone County, Indiana at least once every 6 months.
- Par. 1202: After the Boone County Health Department presents official credentials and provides notice of the purpose of and the intent to conduct an inspection, the Operator shall allow the Health Officer to determine if the Establishment is in compliance with this ordinance by allowing access to the Establishment, allowing inspection, and providing information and records specified in this ordinance.
- Par. 1203: Access is a condition of the acceptance and retention of an Establishment Permit to operate. If access is denied, an Order issued by the appropriate authority allowing access may be obtained according to law. (See IC 16-20-1-6)
- Par. 1204: The Health Officer shall provide a copy of the completed Inspection Report and the notice to correct violations to the Operator or to the Person-in-charge.
- Par. 1205: Violations noted by the Health Department shall be corrected immediately.
- Par. 1206: Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the Boone County Health Department may agree to or specify a longer time frame after the inspection for the Operator to correct violations.
- Par. 1207: After receiving notification that the Operator has corrected a violation, or at the end of the specified time frame, the Boone County Health Department shall verify correction of the violation, document the information on the Inspection Report, and enter the report into the Boone County Health Department's records.

Article 13: Closure of Tattoo and Body Piercing Facility

- Par. 1301: The Health Officer may immediately close a facility and suspend a permit when any of the following occur:
- a) Untimely reporting of test results.
 - b) Proper handwashing sink not provided at each station.
 - c) Conditions that present an imminent threat to public health or transmission of communicable disease.
 - d) Three (3) or more occurrences of the violations described in this Ordinance, 410 IAC 1-5, and any other applicable local, state, or federal regulation within a 12-month period.
- Par. 1302: The Health Officer may post a sign notifying the public that the facility has been closed. It is a violation of this Ordinance for any person other than the Health Officer to remove the sign.
- Par. 1303: The Health Officer may reinstate the Establishment permit upon satisfactory compliance with this Ordinance, 410 IAC 1-5, and other applicable local, state, or federal regulation.

Article 14: Fines

- Par. 1401: 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/operator may be subject to a fine of not more than One Hundred Dollars (\$100). Each day the tattoo artist and/or operator shall be in violation shall constitute a separate offense.

- Par. 1402: Any person who willfully violates any of the provisions of this Ordinance shall be subject to a fine of not more than One Thousand Dollars (\$1,000) for each violation. Each day of the existence of any violation of this Ordinance shall be considered to be a separate offense.
- Par. 1403: In the event a lawsuit is necessary to collect the cost of fees, penalties, or services for this Ordinance, the individual or business entity found to be liable shall also pay for reasonable attorney fees and cost of litigation to the county.

Article 15: Enforcement

The Boone County Health Department may:

- Par. 1501: Conduct administrative proceeding for suspension and/or revocation of the Establishment Permit in front of the Health Officer. (See the Appeals Section of this Ordinance to ensure that due process is followed.)
- Par. 1502: The Boone County Health Officer may issue an "Order to Abate" based on a condition that may transmit, generate, or promote disease. Failure on the part of the Operator to comply with the Order could result in the enforcement of the Order in the court of jurisdiction by the initiation of an action by the county attorney or county prosecuting attorney. (See IC 16-20-1-25; See also the Appeals Section of this Ordinance to ensure that due process is followed.)
- Par. 1503: If the action concerning public health is an ordinance violation, request the county attorney or county prosecuting attorney to institute a proceeding in the courts for the enforcement of the ordinance violation. (See IC 34-28-5-1)
- Par. 1504: If the action concerning public health is a criminal offense, request the county attorney or county prosecuting attorney to institute a proceeding in the courts for enforcement. (See IC16-20-1-25(c).)

Article 16: Appeals Section

- Par. 1601: Any Person(s) aggrieved by the Orders issued under Enforcement of Article 14 above shall be entitled to a review of the final Order before a Hearing Officer by filing an administrative written request therefore with the Health Officer (*Secretary of the Boone County Board of Health See IC16-20-1-10*). The written request must be mailed or hand delivered to Health Officer, 116 W. Washington St. Lebanon, IN 46052 and must be received within fifteen (15) days after such final Order is issued.
- Par. 1602: Upon the Health Officer receipt of such request, the Hearing Officer shall hear the matter again in an open hearing after at least five (5) days written notice of the time, place and nature thereof. The time shall be measured pursuant to the rules of the court of the jurisdiction. (A shorter period of time may be granted, if requested by either party and agreed upon.)
- Par. 1603: The notice of the hearing shall be served upon the Person requesting the review by hand delivering or mailing by Certified Mail the notice to the address listed on the Permit application as the Person's mailing address or such other address, as the Person shall designate in the letter of request to the Health Officer.
- Par. 1604: The Hearing Officer establishes the Rule of Procedure and advises the parties prior to the start of the proceedings.

- Par. 1605: The Hearing Officer shall make written findings of facts and shall enter its final administrative Order or determination of this matter in writing.
- Par. 1606: The administrative Order completes the Administrative Appeals procedure. An aggrieved party may appeal the Administrative Order by filing an action in Boone Circuit or Superior Courts within thirty (30) days of the Order.

Article 17: Conflict of Interest

- Par. 1701: No local official shall conduct himself or herself in a manner that is or could have the appearance of a Conflict of Interest.

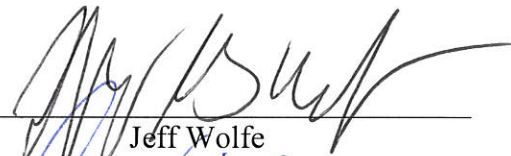
Article 18: Unconstitutionality Clause

- Par. 1801: Should any section, paragraph, sentence, clause, or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remainder of this ordinance shall not be affected thereby.

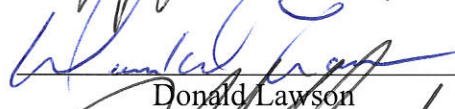
Article 19: Repeal and Effective Date

- Par. 1901: All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed, and this ordinance shall be in full force and effect thirty (30) days after its adoption and publication as provided by law.

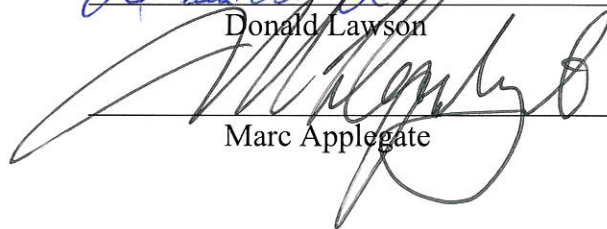
Passed and adopted by the Commissioners of Boone County, State of Indiana, this 21st day of November, 2016.



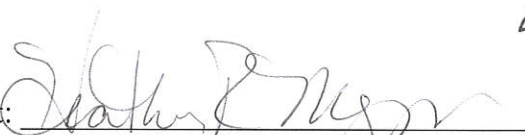
Jeff Wolfe



Donald Lawson



Marc Applegate

Attest: 

Heather Myers, Boone County Auditor