

The Rush County Board of Commissioners met in regular session, Monday, November 21, 2011 with Commissioners, Tom Barnes, Marvin Cole, Ken Masters, Deborah Adams, Auditor, and Leigh Morning, County Attorney in attendance.

Commissioner Tom Barnes called the meeting to order, Marvin Cole made the motion to approve the minutes of the November 7, 2011 meeting as presented. Ken Masters seconded the motion. Motion carried.

**EMA**

Chuck Kemker, EMA Director, received approval on a courthouse staff emergency procedures guideline to be provided to each courthouse employee. Ken Masters made the motion to approve the emergency procedures. Marvin Cole seconded the motion. Motion carried.

Kemker reported that Critical Infrastructure assessments will be conducted November 30<sup>th</sup> and December 1<sup>st</sup>. The courthouse and jail will be included as one of the locations. Kemker noted that one issue is the courthouse lack of an emergency generator.

Kemker reported that the owner of the former Duke building contacted him regarding paying rent for the storage of the mobile EOC, generator and truck. The rent to be charged is \$100.00 monthly. Kemper stated that he has not yet received an invoice. Tom Barnes stated that the Advisory board is aware and that an additional appropriation should not be necessary. They will address the matter at that time.

Kemker updated the commissioners regarding getting the Nextel money to the county fire departments. Kemker also updated the commissioners on the Polycom system. It was stated that a connection glitch is being addressed.

**HEALTH**

Julie Newhouse, Attorney for the Rush County Health Board, presented a Tattoo, Piercing and Body Modification Ordinance that the Health Board recommended that the commissioners approve. Ken Masters made the motion to approve Ordinance 2011-9, Marvin Cole seconded the motion. Motion carried.

**ORDINANCE NO. 2011-9**

**RUSH COUNTY**

## **TATTOO, PIERCING, and BODY MODIFICATION ORDINANCE**

### **I. Definitions**

- A. In addition to the Definitions in 410 IAC 1-5, the following definitions apply throughout this Ordinance.
1. "Artist" refers to 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, and any person who performs boring, penetration or tunneling through the body of a Client.
  2. "Body Modification" means any tattoo, 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.
  3. "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.
  4. "Client" is a person or patron who receives tattooing, body piercing or body modification services.
  5. "Establishment" is a location where body piercing, body modification and/or tattooing are performed. This includes a Facility as defined by 410 IAC 1-5 but does not include temporary and mobile establishments which are prohibited by this ordinance and defined as follows:
    - a. "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.
    - b. "Temporary Establishment" 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.
  6. "Health Department" means the Rush County Health Department having jurisdiction in Rush County, Indiana.
  7. "Health Officer" means the duly appointed Health Officer having jurisdiction in Rush County, Indiana.
  8. "Implanting" is a surgical procedure involving the placement of an object or multiple objects under the skin to mold or shape the skin outwardly for a particular appearance.
  9. "Operator" means any person who controls, operates, conducts, manages, or owns any Establishment or who organizes any temporary event.
  10. "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.
  12. "Suspension" means hanging the body from (or partially from) hooks that are placed by body piercing.
  13. "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.

## **II. General Requirements**

B. No person shall do any of the following:

1. Operate a business that offers tattooing, body-piercing, or other body modification services, unless the Rush County Health Department has issued a permit to the business under this Ordinance, and the business is in compliance with 410 IAC 1-5.
2. 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.

## **III. Physical Facilities**

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

1. The premises in which tattooing and/or body piercing shall be conducted in an enclosed building. Each artist station shall be reasonably separated from each other and from waiting Clients or observers.
2. 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.
3. 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.
4. 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.
5. Exterior doors shall be self-closing and tight fitting. Operable windows shall have tight-fitting screens.
6. 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.
7. 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.
8. 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.

## **IV. Operator and Artist Responsibilities**

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

1. 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 must be submitted to the Health Department upon receipt of each test report.
2. A copy of all applicable regulations must be retained on premises.
3. 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.
  - c) With respect to tattooing services, written records must also include the professional tattooing ink used for each tattoo performed.
4. 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, and
  - c) shall be signed and dated by the Artist and the Client, with a copy given to the Client.
5. The following information shall be kept on file on the premises of a body modification establishment and available for inspection by the Health Department:
  - a) Full names, date of birth, gender, and identification photos of all Operators/Artists; and
  - b) Each Artist and Operator should be able to provide documentation of the following information upon request of the Health Department: that each Artist and Operator has either completed or been offered and declined, in writing, the Hepatitis B vaccination series; that antibody testing has revealed that the

employee is immune to Hepatitis B; or that the vaccine is contraindicated for medical reasons.

6. Before and after performing tattoos, body piercings, or other body modification procedures the Artist must 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 are to be used.

## **V. Prohibited Acts**

- A. The following activities are strictly prohibited:
  1. Tongue splitting,
  2. Tattoo removal, and
- B. The following activities are strictly prohibited to minors (under age 18):
  1. branding,
  2. implanting,
  3. suspension,
  4. scarification and
  5. piercing of the genitalia or nipples.
- C. Temporary and Mobile Establishments.
  1. No Mobile Units.
  2. No Temporary Units.

## **VI. Exceptions**

- A. Ear lobe piercing and medical procedures performed by a State Licensed Medical Practitioner are exempt from this Ordinance.

## **VII. Permits**

- A. General:
  1. 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 Rush County Health Department.
  2. The valid permit shall not be transferable from one Establishment or Operator to another.
  3. Only Establishments who comply with the provisions of 410 IAC 1-5, as well as all applicable provisions of this Ordinance shall be entitled to obtain and keep a permit.
  4. A separate permit shall be required for each Establishment.
  5. An Establishment Permit shall not be transferable from one Establishment or Operator to another.
- B. Permit Period:
  1. 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.

## **VIII. Revocation of Permit**

- A. The Health Officer may revoke the permit of any Establishment for any violation of this Ordinance, IC 35-42-2-7, 29 CFR 1910.1030, 410 IAC 1-5, other applicable local, state or federal regulation.
- B. The revocation shall be effective immediately upon issuance by the Health Officer.
- C. The Health Officer may reinstate the Establishment permit upon satisfactory compliance with this Ordinance, IC 35-42-2-7, 29 CFR 1910.1030, 410 IAC 1-5, other applicable local, state or federal regulation.
- D. Appeals of orders of revocation shall be conducted pursuant to IC 4-21.5-3-1 et seq.

## **IX. Application for Plan Review/ Application for Permit**

- A. The Operator of a proposed Establishment, shall submit the following to the Health Department at least 30 days prior to scheduling the pre-operational inspection by the Health Department, and 30 days prior to the proposed first day of operation:
  1. Properly prepared plans and specifications for review and approval before the construction or conversion of an existing structure for the use as an Establishment;
  2. Proof of contract with infectious waste removal company;
  3. Copy of bloodborne pathogen training for all employees;

4. Copy of written policy to meet IOSHA Bloodborne Pathogen Standard (29 CFR 1910.1030).
- B. The plans and specifications for an Establishment shall be deemed satisfactory and approved by the Health Department before a permit can be issued.
- C. A pre-operational inspection shall be conducted to ensure that the establishment is built, remodeled, or set up in accordance with the approved plans and specifications and to assure the Establishment is in compliance with this Ordinance, and 410 IAC 1-5.

#### **X. Additional Requirements for all Body Piercing/Body Modification**

- A. All supplies that come into contact with the piercing station should be in "single portion" form, including, but not limited to, anti-bacterial ointments, iodine swabs, alcohol wipes, and corks, These packages must be wiped down with a hospital level, hard surface disinfectant and air dried, prior to being stored in very clean, closed containers.
- B. All oral piercing shall be preceded by the Client performing a one-minute, vigorous application of an antiseptic mouthwash.
- C. All insertable jewelry is to be sterilized and kept in an individual sterile, closed container.
- D. All jewelry placed in new piercings must be made of one of the following, and mill certificates from the manufacturer or an independent assay must be available to prove material composition:
  1. Solid 14k or higher white or yellow nickel-free gold;
  2. Surgical implant stainless steel, CrNiMo 316LVM, ASTM F-138;
  3. Niobium;
  4. Surgical implant grades of titanium;
  5. Solid platinum;
  6. Inert plastics;
- E. Jewelry must have a mirror finish and be free of nicks, scratches, burrs and polishing compounds.

#### **XI. Fees**

- A. Permit Fees:
  1. The fee for an Establishment, shall be paid for a term beginning January 1, and/or before commencement of operation and expiring December 31, of the same year and shall be applied for by the Operator annually.
  2. Permit fees for the issuance of a permit under this Ordinance to an Establishment shall be specified in the Rush County Health Department Fee Ordinance.
  3. 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.
- B. Late Fees:
  1. A late renewal fee shall be assessed as set by the Health Department for failure to renew a permit within 14 days after the expiration of the permit to operate an Establishment.

#### **XII. Inspections**

- A. The Health Department may conduct inspections of Establishments located in Rush County, Indiana.
- B. The results of the inspections shall be provided to the Operator.
- C. Violations noted by the Health Department shall be corrected immediately.

#### **XIII. Penalties for Violation of Sanitary Requirements**

- A. Civil penalties, which may include injunctive relief, may be imposed under Indiana law on any Person who violates any provision of this Ordinance.
- B. 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.

#### **XIV. Unconstitutionality Clause**

A. Should any section, paragraph, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of said Ordinance shall not be affected thereby.

**XV. Repeal and Effective Date**

All Ordinances and parts of Ordinances in conflict with this Ordinance are hereby repealed, and this Ordinance shall be in full force and effect upon its adoption and publication as provided by law.

Passed and adopted by the Board of Commissioners of Rush County, State of Indiana, on this 21<sup>st</sup> day of November, 2011.

**BOARD OF COMMISSIONERS:**

**ATTEST:**

/s/Tom Barnes  
Thomas Barnes, President

/s/Deborah C. Adams  
Deborah Adams  
Rush County Auditor

/s/Ken Masters  
Ken Master, Member

/s/Marvin Cole  
Marvin Cole, Member

Julie Newhouse also presented an ordinance recommending the amending of the fee schedule that is set by the Rush County Board of Health. Marvin Cole made the motion to approve Ordinance 2011-10, Ken Masters seconded the motion. Motion carried. Deborah Adams noted that she will advertise both ordinances in the Rushville Republican Saturday, November 26, 2011.

**AMENDED ORDINANCE OF THE COMMISSIONERS OF RUSH COUNTY**

**2011-10**

**AN AMENDED ORDINANCE OF THE RUSH COUNTY COMMISSIONERS, RUSH COUNTY, INDIANA, APPROVING AN AMENDED FEE SCHEDULE SET BY THE RUSH COUNTY BOARD OF HEALTH**

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**WHEREAS**, the Commissioners of Rush County, Indiana have determined that it is necessary to change the Fee Schedule of certain fees of the Rush County Board of Health. That the Rush County Board of Health submitted the Change of Fee Schedule to the Commissioners after the Rush County Board of Health voted on such change at their November 15, 2011 meeting.

That additionally, the Rush County Board of Health voted to adopt a Tattoo Piercing and Body Modification Ordinance at their November 15, 2011 meeting which included a fee schedule for Tattoo

Piercing and Body Modification in which fees for the Establishment are \$300.00 per establishment which does not include the owner's artist permit and \$75.00 per artist which includes the owner's artist permit. Late fees for renewal fees are \$300.00 per establishment and \$75.00 per artist.

**WHEREAS**, the Commissioners of Rush County, Indiana find that such change in the Amended Fee Schedule is reasonable.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSIONERS OF RUSH COUNTY, INDIANA:** The Commissioners of Rush County, Indiana, have determined as follows:

That the Commissioners approve the Amended Fee Schedule attached as Attachment A to this Amended Ordinance.

SEVERABILITY OF PROVISIONS: If any provision of this Ordinance or the application thereof to any person or circumstances shall be determined to be invalid, the remainder of the Ordinance and the application of its provisions to other persons not similarly situated or to the other circumstances shall not be affected thereby.

REPEAL OF PREVIOUS ORDINANCES: Any and all ordinances in conflict herewith shall be repealed.

**NOW, THEREFORE, BE IT FURTHER ORDAINED BY THE RUSH COUNTY COMMISSIONERS, RUSH COUNTY, INDIANA**, this Amended Ordinance will be in full force and effect from and after its passage and signature by said Commissioners, proper publication as provided by law, and upon any further requirements under Indiana law.

**THIS ORDINANCE PASSED AND ADOPTED BY THE COMMISSIONERS OF RUSH COUNTY, INDIANA**, this 21<sup>st</sup> day of November, 2011.

**COMMISSIONERS OF RUSH COUNTY, INDIANA:**

/s/Tom Barnes  
Thomas Barnes, President

/s/Marvin Cole  
Marvin Cole, Member

/s/Ken Masters  
Ken Masters, Member

Attested by Deborah Adams, Secretary of the Board and Rush County Auditor this 21<sup>st</sup> day of November, 2011.

/s/Deborah C. Adams

Deborah Adams  
 Secretary of the Rush County Commissioners and Rush  
 County Auditor

**RUSH COUNTY HEALTH  
 DEPARTMENT FEE SCHEDULE**

<b>FOOD SERVICES</b>				Updated Fee		
Full time Food Establishment				\$160		
Temporary Food Permit				\$35 per	After 3 days \$100.00 per event	
Full Food Permit 90 days before renewed (last quarter of year)				\$40		
<b>ENVIRONMENTAL SERVICES</b>						
New Permits				\$250		
Repairs				\$100		
Renewals				\$30		
Hook-ups				\$100		
Tattoo, Piercing, and Body Modification Establishment (does not include owner)				\$300		
Per Artist				\$75		
Late Fee per Establishment				\$300		
Late Fee per Artist				\$75		
<b>NURSING SERVICES</b>						
Blood Pressure Testing				\$10		
Blood Glucose Testing				\$10		
Office Injections				\$20		
Allergy Shot Injections				\$20		
Mantoux Testing				\$20		
<b>VITAL RECORDS</b>						
Birth Certificates				\$30		
Birth Certificates Amendments				\$30		
Death Certificates (Initial)				\$15		
Death Certificates (Duplicate)				\$15		
state coroner's office receives \$1.75 on every death cert, for Cont. Educ.						
Genealogy Research (if staff has to conduct research)				\$10		

## ATTACHMENT A

Health Officer Dr. Davis Ellis informed the commissioners of the health board's recommendation of Commissioner Tom Barnes to a three (3) year extension to the health board and to Greg Pratt to a two (2) year extension to the health board. Ken Masters made the motion to accept the Health Board's recommendation. Marvin Cole seconded the motion. Motion carried.

### **SHERIFF**

Jeff Sherwood, Rush County Sheriff, reported thirty one (31) inmates are currently being held at the jail.

Commissioner Barnes asked that Sherwood be present at the Homeland Security Assessment on November 30 and December 1.

### **HIGHWAY**

Jerry Sitton, County Highway Superintendent, reported that Sunesis will be done with the state road 3 project this week. They have offered the county the fence around the lot at 7<sup>th</sup> Street and Perkins Street. The county would be responsible for removing the fence. The county does have a use for it. It was also noted that the fence is a gift to the county. Marvin Cole made the motion to accept the fence as a gift to the county. Ken Masters seconded. Motion carried.

Sitton stated his department has three (3) 1995 pick- up trucks with over 120,000 miles. He would like permission to advertise for bids to replace the pick- ups. He has not decided if he will advertise for the vehicles by year end. It is in his budget to replace these vehicles. Ken Masters made a motion to allow the highway to advertise to replace the three (3) trucks. Marvin Cole seconded. Motion carried.

### **I.T.**

Randy Herbert, I.T. manager, was unable to attend the meeting but did provide a written department status to the commissioners.

Modus Mail Software has been upgraded to the newest version available. The county now has more advanced spam control as well as additional virus and malware control.

Symantec Endpoint is our county virus protection. The license has been paid for and will be upgraded as soon as the license key is received from Symantec.

Herbert will be conducting an equipment survey the first of December by request of the county council. He will present the council with a three year plan as to replacing the oldest equipment first.

Kimball and Associates are continuing the investigation on the 911 trunk lines that come to the sheriff department from Glenwood, Mays and Arlington. It appears that these lines are being billed to the county twice per month. Frontier has been contacted and it looks like we will be getting a credit on the overage paid in for those lines. This should save the county around \$1,000 to \$1,200 per month for future billing and in addition be credited \$12,000 to \$14,400 for the last twelve (12) months of the overpayments.

### **AUDITOR**

- Payroll for county employees for the period of November 12 to November 25 was approved on a motion by Ken Masters and seconded by Marvin Cole.
- Bi-weekly claims for period ending November 15 were approved on a motion by Marvin Cole and seconded by Ken Masters.
- Deborah Adams, Auditor, reminded the commissioners it is time to request bids for the rent of the county farm. Ken Masters made a motion to open the bids at 9:30 at the commissioner meeting on December 19, 2011. Marvin Cole seconded. Motion carried. Adams will advertise for the bids.
- EMS run reports were reviewed for Carthage and Anderson Twp Volunteer Fire Dept.
- The Rush County Treasurer's report was reviewed for October 2011. It was also noted that tax collection deadline has passed. The treasurer is working on certifying the collections to the auditor and distributions should be made to taxing units before Christmas.
- Adams reminded the commissioners they will be making appointments at their December 5 meeting.
- A letter was received from the Rush County drainage board regarding a public hearing to take place on December 5 at 10:30 a.m. regarding the Albert M Robinson Tile.

### **E.I.D.D.**

Commissioner Barnes shared the letter that will be sent to Deborah Orr, EPA Region 5 supporting the Brownfield Assessment Grant. Ken Masters made the motion to sign the letter. Marvin Cole seconded. Motion carried.

### **COURTHOUSE ROOF**

Commissioner Barnes updated the others on the condition of the leaks in the courthouse roof. Leaks have been identified at the antenna on the peak area and two (2) damaged valleys. It is hoped they will be fixed by the end of the year.

### **EMS HOSPITAL PROTOCOLS**

Several good meetings have been held with Raleigh, Carthage and Anderson Twp Fire EMS. It is anticipated that the protocols will be completed to everyone's satisfaction by the end of the year.

Ken Masters thanked Tom Barnes for his work on this issue.

Motion to adjourn was received from Ken Masters. Marvin Cole seconded the motion.  
Motion carried.

/s/Tom Barnes

Tom Barnes, Chairman

/s/Marvin Cole

Marvin Cole

/s/Ken Masters

Ken Masters

ATTEST:

/s/Deborah C. Adams

Deborah C. Adams, Auditor