



**COMMITTEE OF THE WHOLE MEETING
MONDAY, AUGUST 7, 2017
NORTH AURORA VILLAGE HALL - 25 E. STATE ST.
(Immediately following the Village Board Meeting)**

AGENDA

CALL TO ORDER

ROLL CALL

AUDIENCE COMMENTS

TRUSTEE COMMENTS

DISCUSSION

1. Discussion on Application Requirements for Tattoo License

EXECUTIVE SESSION

ADJOURN

Initials

Handwritten initials in black ink, appearing to be "SJ", written over a horizontal line.

**VILLAGE OF NORTH AURORA
BOARD REPORT**

TO: VILLAGE PRESIDENT & BOARD OF TRUSTEES
CC: STEVE BOSCO, VILLAGE ADMINISTRATOR
FROM: MIKE TOTH, COMMUNITY & ECONOMIC DEVELOPMENT DIRECTOR
SUBJECT: TATTOO ESTABLISHMENT CODE AMENDMENTS
AGENDA: 8/7/2017 COMMITTEE OF THE WHOLE MEETING

DISCUSSION

Per Section 5.36 of the North Aurora Municipal Code, Tattoo and body piercing establishments and operators are required to obtain an annual license to operate in the Village. Tattoo and body piercing establishments are also required to register with the State of Illinois through the Tattoo and Body Piercing Establishment Registration Act. The Illinois Department of Public Health's Body Art Code specifies the standard for the conduct of body art procedures, sets standards for the process by which the Department and its delegate agencies inspect and register body art establishments.

There are two tattoo establishments conducting business in the Village of North Aurora. After working with those businesses through the Village's license application process, some of the Village's license provisions came into question by Village staff, namely:

Chapter 5.36 - TATTOO AND BODY PIERCING ESTABLISHMENTS

5.36.030 - Application and fee.

B. Tattoo or body piercing operator:

- 3. All applicants shall also undergo a physical examination for contagious and communicable diseases which shall include a recognized blood test for syphilis, a culture for gonorrhea, and a test or tests which will demonstrate freedom from tuberculosis, hepatitis, and acquired immune deficiency syndrome which are to be made and interpreted by a physician acceptable to the corporate authorities and such other laboratory tests performed in a laboratory approved by the corporate authorities as may be necessitated by the above examination. The physician shall furnish to the corporate authorities a certificate based upon the applicant's physical examination and issued within thirty (30) days of such examination, signed by said physician who must be duly licensed by the state of Illinois. The certificate shall state that the person examined is free from all contagious and communicable diseases and is not infected with nor a carrier for any of the germs or viruses of such diseases. Such person shall undergo the physical examination referred to above and submit to the corporate authorities the certificate required herein prior to commencement of his/her employment and at least once every twelve (12) months thereafter to be eligible for a license renewal.***

5.36.120 - Requirement for authorized physician for body piercing.

Every licensee of a tattooing and/or body piercing establishment must have on call during business hours a physician or osteopath authorized to practice medicine or osteopathic medicine in the state of Illinois as set forth in Illinois Medical Practice Act of 1987 (225 ILCS 60/1 et seq.) or any amendment

thereof. The licensee must annually provide a statement to the village listing the name, address, telephone number and specialty of each physician and osteopath licensee has on call. The list shall be accompanied by a statement addressed to the village from the physician or osteopath confirming the same.

Staff believes that the provisions included in Section 5.36.030 are intrusive and questioned whether they violated any provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). According to a memorandum drafted by the Village Attorney's office, the Village is not subject to HIPAA in this instance and the Freedom of Information Act considers medical records to be private. Conversely, there does not seem to be precedence for the Village to require such information either.

Staff also believes the provisions included in Section 5.36.120 (requiring an on call physician) to be excessive. Similar to Section 36.030, there does not seem to be precedence for the Village to require such information.

In order to properly administer the licensing of tattoo establishments and operators, certain portions of the license provision need clarification. Section 5.36.020 below requires operators to renew their operator's license on an annual basis, but does not include a renewal fee.

5.36.020 - License required.

It is unlawful for any person to maintain and operate a tattoo or body piercing establishment in the Village of North Aurora, without first having obtained a license as hereinafter provided which shall be renewed on an annual basis.

It is unlawful for any individual to practice the art of tattooing or body piercing on the person of another in the Village of North Aurora without first obtaining a license which shall be renewed on a yearly basis.

5.36.040 - Duration of license

Any license as provided for herein shall be for a term of one year.

As seen on the attached amendments, staff is proposing to eliminate the need for operators to renew their license annually. Operators would only then be required to apply for an initial license. As part of the operator license renewal, operators were required to submit the results of the physical examination for contagious and communicable diseases. Staff is already proposing to remove those requirements; therefore, the annual operator license may no longer be necessary. Staff will amend the establishment application to include an area where all operators are listed, just to ensure that all operators obtained an initial license.

Attachments:

1. Memorandum drafted by the Village Attorney's Office, dated May 27, 2017.
2. Draft amendments.



MEMORANDUM

TO: KGD

FROM: EJB

DATE: 6/27/2017

RE: VONA - TATOO ORDINANCE

You asked me to determine whether the Village's Ordinance requiring a certificate from a physician containing specific medical information regarding sexually transmitted diseases raises any legal concerns. In particular, you asked whether it violates the The Health Insurance Portability and Accountability Act of 1996 (HIPAA). The subject Ordinance is located at 5.36.030 (B) (3).

BACKGROUND

State Regulation of tattoo artists and body piercers

After taking a consensus of nearby local communities, there are two approaches to regulating tattoo and body piercing businesses. Most municipalities use a combination of the two: 1) requiring a physician to be present or on call (e.g., Naperville, Aurora, West Chicago, VONA); and 2) Regulations mirroring Illinois law (Tattoo and Body Piercing Establishment Registration Act with accompanying regulations). North Aurora is the only municipality I could find that requires a physician statement before licensure.

Tattoo parlors are currently regulated under 410 ILCS 54, the Tattoo and Body Piercing Establishment Registration Act, which became law in 2009. The prior law that was in effect at the time the Village's Ordinance took effect was subject to a sunset provision and is no longer valid. Together with its published regulations, the Tattoo and Body Piercing Establishment Registration Act provides a comprehensive state level licensing program with significant regulations governing inspections, standards of operation, buildings, sanitation/sterilization, prohibitions, disclosures, enforcement, punishment, adjudication, and its own public nuisance provision. Its purpose is similar to that of the Village's ordinance in that it recognizes the risk of blood borne illnesses like Hepatitis and HIV require regulation to preserve the health, safety, and welfare of the people of Illinois. It does not contain a physician statement requirement.

HIPAA

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) strictly limits the circumstances in which an individual's personal health information and other information may be used or disclosed. The privacy rules do not limit the ability of individuals to disclose their own medical records. Instead, the rules only govern "covered entities" and their "business associates." A covered





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entity is defined as a healthcare clearing house, an insurance plan, and includes most healthcare providers. 45 C.F.R. § 160.103. Business associates generally include all third parties that obtain protected health information while providing services to a covered entity. 45 C.F.R. § 160.103.

There are several exceptions. Of particular relevance to the Village's Ordinance are: 1) The safe harbor of de-identified information (no identifying information) exception; 2) Authorization Exception (consent); 3) The law enforcement exception; 4) Use and disclosures for health oversight activities exception. 45 CFR 164.512.

The health oversight activities exception states that "[a] covered entity may disclose protected health information to a health oversight agency for oversight activities authorized by law, including audits; civil, administrative, or criminal investigations; inspections; licensure or disciplinary actions; civil, administrative, or criminal proceedings or actions; or other activities necessary for appropriate oversight of:

- (i) The health care system; (ii) Government benefit programs for which health information is relevant to beneficiary eligibility; (iii) Entities subject to government regulatory programs for which health information is necessary for determining compliance with program standards; or (iv) Entities subject to civil rights laws for which health information is necessary for determining compliance.

Health oversight agency includes a political subdivision of a State, including the employees or agents, that are authorized by law to oversee a government program in which health information is necessary to determine eligibility or compliance.

The authorization exception (i.e. consent) requires specific, written authorization from the individual. A valid authorization to release protected health information must contain the following elements: (1) a specific and meaningful description of the information to be disclosed; (2) the name or specific identification of the person authorized to make the disclosure; (3) the name or specific identification of the persons to whom the disclosure may be made; (4) a description of the purpose of the requested use or disclosure of the information; (5) an expiration date; and (6) the signature of the consenting individual and date (if signed by a representative, a description of the representative's authority to act). 45 C.F.R. 164.508(c)(1)(i)-(vi). In addition, the release authorization must contain statements adequate to notify the individual of (1) the individual's right to revoke the authorization; (2) the exceptions to the right to revoke the authorization; (3) a description of how the individual may revoke the authorization; and (4) a statement that the information may be redisclosed and is no longer protected. 45 C.F.R. 164.508(c)(2).

The law enforcement exception is also interpreted quite broad. Virtually every federal, state and local government agency qualifies as a law enforcement official if the agency has authority to investigate or conduct an inquiry into any potential violation of law. It is likely that even if the health oversight exception failed, the law enforcement exception would apply.





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Note that Illinois has enacted the Illinois Health Insurance Portability and Accountability Act, 215 ILCS 97/1, et seq. However, the state law focuses more on portability of health insurance than on privacy of health information.

ANALYSIS

Likely no HIPAA Violation implicated by the Village's Ordinance

HIPAA only applies to "covered entities" and "business associates" and the Village is neither. In practice, the Village likely obtains the certification either from the doctor directly or from the individual employee. The covered entity (the doctor's office) producing the physician statement is subject to HIPAA. The doctor likely obtains authorization from the tattoo parlor employee or justifies its release under the governmental regulatory exceptions, which arguably, the Village is operating as in this context. Even if the Village is somehow a "covered entity" it still would not be subject to liability so long as it does not disclose the physician statement. Liability does not attach until there has been an improper disclosure and it does not attach to the receiving entity regardless of whether it was supposed to receive the record. I do want to highlight that the Freedom of Information Act specifically considers medical records to be private information. However, it would be impossible for the Village to remove all identifiers. Still, these records can be justifiably withheld by the Village if they were requested.

Possible Preemption

Arguably, there is a greater chance that the Village's Ordinance and in particular, the doctor certification provision may be preempted by the Tattoo and Body Piercing Establishment Registration Act (Act). However, that conclusion is also unlikely.

A non-home-rule municipality has only that police power given to it by the General Assembly and possesses no inherent power. While the Act does not contain an express statement of preemption, it does contain comprehensive regulation. Where there is comprehensive state level regulation, a local body may not be free to regulate in that area. Hawthorne v. Vill. of Olympia Fields, 204 Ill. 2d 243, 261 (2003).

In Hawthorne, after the Department of Children and Family Services (DCFS) issued Hawthorne a license to operate a home day care at her municipal residence, she contacted the Village of Olympia Fields "to obtain a building permit so that she could remodel portions of the premises." Hawthorne, 204 Ill.2d at 245-46. In response, the village advised Hawthorne that its zoning ordinance did not provide for the operation of home day cares and that she would therefore have to obtain a zoning variance before she could obtain her requested building permit. Id. at 246. After applying for and being denied a zoning variance, Hawthorne sued the village, arguing, inter alia, that "its zoning ordinance had the effect of wholly excluding home day care from the village and that such action [was] beyond the village's power." Id. at 247-48. Finding that the village could neither prohibit the operation of a licensed home day care nor regulate the same in contravention of DCFS regulations, the circuit court declared the village's zoning ordinance null and void to the extent that it was preempted





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by state law. Id. at 249–50. After the appellate court affirmed the circuit court’s judgment, the Illinois Supreme Court granted the village’s petition for leave to appeal. Id. at 251.

When affirming the judgment of the appellate court, the Illinois Supreme Court observed that the Child Care Act of 1969 (225 ILCS 10/1 et seq. (West 2000)) gave DCFS the statewide authority to license and regulate home day cares, but “[n]otably absent” from the statute was “any provision delegating authority to, or allowing regulation by, units of local government.” Hawthorne, 204 Ill.2d at 260 (citations omitted). Applying Dillon’s Rule, the court concluded that the village’s ordinance prohibiting home day cares was preempted by state law. Hawthorne, 204 Ill.2d at 255. In so holding, the court rejected the village’s contention that had the legislature “intended the Child Care Act and its regulations to have preemptive effect, it would have said so explicitly in the legislation.” stating:

That doctrine [(preemption)] holds that where the legislature has enacted a comprehensive system of regulation and licensure, as it did in this case, the legislature implies by that system that there is no room for regulation by local governmental units.

The Statute (Child Care Act of 1969) and its regulations bears a lot of similarities to the Tattoo and Body Piercing Establishment Registration Act. Under its statutory authority, DCFS promulgated comprehensive regulations governing the physical facilities a day-care home must possess; the characteristics and qualifications of the home’s family, caregivers, assistants and substitute caregivers; the number and ages of children the home may serve; the opportunities for daily activity the home must provide to the children; and a wide variety of other matters ranging from nutrition and meals. Likewise, the Department of Public Health has also promulgated comprehensive regulations governing tattoo parlors. Note that the DCFS regulations are arguably more complex and further reaching.

Conclusion

The decision in Hawthorne should not be construed as a ban on all types of regulation, but more as a ceiling regarding the extent of any regulation. Moreover, unlike Hawthorne, the Village’s Ordinance does not act as an outright ban; and partial enforcement under the Act is ceded to the local county’s health department. After looking at the regulations of nearby municipalities, including those that are non-home-rule, it appears that most are not concerned with the possibility of preemption. However, while there is always a separate license and fee, most do not go above and beyond the regulations provided for in the Act. Some home rule entities, however, have achieved an outright ban by requiring a physician to be present. While the doctors statement is aggressive, it is not so above and beyond the Act that it would be incapable of withstanding judicial scrutiny.

I spoke with a medical professional over the weekend regarding the risks posed by tattoo artists with a communicable disease and it was “unofficially” conveyed that there probably is not a greater risk. So, the Village may actually derive little benefit from the provision. If the Village is willing, it may be appropriate to have an internal discussion regarding the merits of the provision and the possibility of reworking the entire ordinance in light of the new law.





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Regardless, if the Village wishes to keep the physician statement requirement, there is likely no HIPAA violation or preemption issue.



Chapter 5.36 - TATTOO AND BODY PIERCING ESTABLISHMENTS

Sections:

5.36.010 - Definitions.

The following definitions shall apply to this chapter:

"Body piercing" means to make a hole in the body or oral cavity in order to insert or allow the insertion of any ring, hoop, stud, or other object for the purpose of ornamentation of the body, but specifically excluding the standard transverse piercing of the ear lobe that is commonly performed in retail establishments in conjunction with the sale of ear rings.

"Licensee" means any owner or operator licensed under this chapter.

"Operator(s)" means any individual who performs or practices the art of tattooing or body piercing on other human beings.

"Owner" means any individual, firm, company, corporation or association that owns or operates an establishment where tattooing or body piercing is performed.

"Person" means any individual, firm, company, corporation, association or other entity.

"Superintendent" means the superintendent for building and zoning for purposes of this chapter.

"Tattoo" means to insert pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, so as to produce an indelible mark or figure visible through the skin. 720 ILCS 5/12-10.

"Tongue splitting" means the cutting of a human tongue into two or more parts.

Use of the words "he," "him," and "his" or other words having a masculine meaning are meant as gender neutral and shall apply with equal force to the female gender.

(Ord. 06-10-23-02 § 1; Ord. 01-03-12-04 § 1)

5.36.020 - License required.

It is unlawful for any person to maintain and operate a tattoo or body piercing establishment in the Village of North Aurora, without first having obtained a license as hereinafter provided which shall be renewed on an annual basis.

It is unlawful for any individual to practice the art of tattooing or body piercing on the person of another in the Village of North Aurora without first obtaining a license ~~which shall be renewed on a yearly basis.~~

(Ord. 01-03-12-04 § 2)

5.36.030 - Application and fee.

A. Tattoo or body piercing establishment:

1. Every applicant for a license to maintain, operate or conduct a tattoo or body piercing establishment shall file an application upon a form provided by the village and pay a nonrefundable **annual** filing fee of two hundred fifty dollars (\$250.00) to the building and zoning superintendent. The building and zoning superintendent shall thereafter refer copies of such application and all additional information to the police department, fire department, village

administrator, and village president. The application shall state the location of the premises of the proposed establishment. The superintendent shall inspect the premises proposed to be operated as a tattoo or body piercing establishment, and make recommendations to the administrator concerning compliance with the ordinances of the village. Upon receipt of the recommendations of the superintendent, the administrator shall notify the applicant as to whether his/her application has been granted, denied or held for further investigation. The period of such additional investigation shall not exceed an additional thirty (30) days, unless otherwise agreed to by the applicant.

2. The applicant shall also provide a certificate of insurance from an insurance company licensed to do business in the state of Illinois certifying that the applicant has the following coverages in force:

Personal:	
Bodily Injury	\$200,000.00
Property Damage	\$25,000.00
OR	
Combined Single Limit	\$225,000.00
Worker's Compensation:	
Coverage A:	Statutory Amount
Coverage B, each accident	\$100,000.00

3. All applicants for a tattoo or body piercing establishment license, including all partners and limited partners of a partnership, all officers, directors, and stockholders holding more than ten (10) percent of the stock of a corporate applicant, and all members of a limited liability company shall furnish the following information in the application:
 - a. Name, residence, address and date of birth.
 - b. Social security number and driver's license number, if any.
 - c. Written proof that the individual is at least twenty-one (21) years of age.
 - d. All residential addresses for the past three years.
 - e. The applicant's height, weight, color of eyes and hair.
 - f. The business, occupation or employment of the applicant for the three years immediately preceding the date of application.
 - g. The tattoo, body piercing or similar business experience of the applicant, whether such person has had a business license revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.

- h. All criminal or municipal ordinance violations resulting in either a conviction, a forfeiture of bond, or pleadings of nolo contendere, except minor traffic violations.
 - i. The fingerprints and photograph of the applicant.
 - j. If the applicant is a corporation, or a limited liability company, the state of incorporation or organization and the name of the corporation or limited liability company exactly as shown in its articles of incorporation or articles of organization.
4. No tattoo or body piercing establishment license shall be issued or renewed for:
- a. A person who is not of good character and reputation in the community in which the person resides.
 - b. A person who has been convicted of a felony under any federal or state law, unless the administrator receives a certificate from the chief of police who, after an investigation, certifies that the applicant has been sufficiently rehabilitated to warrant the public trust.
 - c. A person who is under twenty-one (21) years of age.
 - d. A person who had a tattoo or body piercing license or similar business license revoked by another governmental body for cause.
 - e. A person convicted of any offense involving sexual misconduct with children or of pandering, prostitution or solicitation.
 - f. Any location that permits any use other than that of a tattoo or body piercing establishment or any location that falls to pass the annual inspection of the regional health department of the state of Illinois or fails to meet any of the standards set forth in the chapter.
 - g. Any owner, proprietor, manager or other person in charge of any tattoo or body piercing establishment that employs any person who is not at least twenty-one (21) years of age.

B. Tattoo or body piercing operator:

- 1. Any person, including the owner of a tattoo or body piercing establishment, before he/she engages in the practice of tattooing or body piercing as herein defined, shall file an application for a license with the superintendent upon a form provided by the village and shall pay an initial license fee of one hundred dollars (\$100.00).
- 2. The application for a tattoo or body piercing operator's license shall contain the following:
 - a. Name, residence, address and date of birth.
 - b. Social security number and driver's license number, if any.
 - c. Applicant's weight, height, color of hair and eyes.
 - d. Written evidence that the applicant is at least twenty-one (21) years of age.
 - e. Business, occupation or employment of the applicant for the three years immediately preceding the date of application.
 - f. A statement whether the applicant has ever been convicted of, pleaded nolo contendere to, or suffered a forfeiture on a bond charge of committing any crime except minor traffic violations. If the answer is in the affirmative, a further statement must be made giving the place and the court in which such conviction, plea or forfeiture was had, the specific charge under which the conviction, plea or forfeiture was obtained, and the sentence imposed as a result thereof.
 - g. The fingerprints and photograph of the applicant.

~~3. All applicants shall also undergo a physical examination for contagious and communicable diseases which shall include a recognized blood test for syphilis, a culture for gonorrhea, and a test or tests which will demonstrate freedom from tuberculosis, hepatitis, and acquired immune~~

~~deficiency syndrome which are to be made and interpreted by a physician acceptable to the corporate authorities and such other laboratory tests performed in a laboratory approved by the corporate authorities as may be necessitated by the above examination. The physician shall furnish to the corporate authorities a certificate based upon the applicant's physical examination and issued within thirty (30) days of such examination, signed by said physician who must be duly licensed by the state of Illinois. The certificate shall state that the person examined is free from all contagious and communicable diseases and is not infected with nor a carrier for any of the germs or viruses of such diseases. Such person shall undergo the physical examination referred to above and submit to the corporate authorities the certificate required herein prior to commencement of his/her employment and at least once every twelve (12) months thereafter to be eligible for a license renewal.~~

~~3.~~ 4. No tattoo or body piercing operator's license shall be issued ~~or renewed~~ for:

- a. A person who is not of good character and reputation in the community in which he/she resides.
- b. A person who has been convicted of a felony under any federal or state law unless the clerk receives a certificate from the chief of police who, after an investigation, certifies that the applicant has been sufficiently rehabilitated to warrant the public trust.
- c. A person who is under twenty-one (21) years of age.
- d. A person who had a tattoo or body piercing operator's license or similar license revoked by another governmental body for cause.
- e. A person convicted of any offense involving sexual misconduct with children or of pandering, prostitution or solicitation.
- f. Any person who has not had six months experience as an apprentice or a tattoo or body piercing operator or cannot demonstrate that he/she is qualified to be a tattoo or body piercing operator.
- g. Any person who fails to pass the initial or annual medical examination specified in this chapter.

(Ord. 01-03-12-04 § 3)

5.36.040 - Duration of license

Any tattoo or body piercing establishment license as provided for herein shall be for a term of one year.

(Ord. 01-03-12-04 § 4)

5.36.050 - Premises.

No tattoo or body piercing establishment shall receive a license or be operated, established or maintained unless the establishment shall comply with each of the following minimum regulations:

- A. The establishment shall have a certificate of compliance with or inspection by the Kane County health department, if available.
- B. Any room in which tattooing or body piercing is done shall have an enclosed area of not less than five hundred (500) square feet. The walls, floors and ceiling shall have an impervious, smooth and washable surface.
- C. Toilet facilities shall be provided within the establishment which are installed in accordance with the various building codes of the Village of North Aurora. When five or more employees or patrons

of different sexes are on the premises at the same time, separate toilet facilities shall be provided and designated as to the sex accommodated therein. Lavatories shall be provided with both hot and cold running water and shall be installed in the toilet room. Lavatories shall be provided with soap and a dispenser with sanitary towels.

- D. The premises shall have equipment for disinfecting and sterilizing nondisposable instruments and materials used in administering tattoos or body piercing, and such nondisposable instruments and materials shall be disinfected after use on each patron. All reusable equipment used in the application of the tattoo or body piercing shall be washed, rinsed, sanitized, and air dried after each use. Then such equipment shall be decontaminated by autoclaving or by applying a high level disinfectant and then stored in a clean, dry and enclosed location so as to prevent contamination.
- E. All tables and other equipment shall be constructed of easily cleanable material, shall be painted or finished in a light color, with a smooth, washable finish, and shall be separated from waiting customers or observers by a solid wall or door totally eliminating any view into the tattooing or body piercing room.
- F. Closed cabinets shall be provided for use in the storage of clean linens, towels, needles and other materials and instruments used in tattooing and body piercing. All used linens, towels, equipment, instruments and other material shall be kept in properly covered containers or cabinets, which shall be kept separate from the clean storage areas.
- G. The entire premises and equipment shall be maintained in a clean, sanitary condition and in good repair at all times.
- H. No tattoo or body piercing establishment shall be open to the public for business between the hours of 10:00 p.m. and 7:00 a.m.
- I. The main entrance door of any tattoo or body piercing establishment shall be visible from a public street and shall remain unlocked during business hours.

(Ord. 01-03-12-04 § 5)

5.36.060 - Operating requirements.

- A. The operator shall wash his/her hands thoroughly with antiseptic soap and water before starting any tattoo or body piercing; the hands shall be dried by individual, single use towels. All operators shall be required to use surgical gloves in the performance of their services.
- B. The area on the patron to be tattooed or pierced shall first be thoroughly washed with a sterile, single use sponge with warm water containing an antiseptic liquid soap. The area should be shaved, if necessary, with a safety razor, using single service blades for each customer or patron, followed by a solution of at least seventy (70) percent alcohol to be applied to the area before tattooing or piercing is begun.
- C. Only petroleum jelly in collapsible metal or plastic tubes shall be used on the area to be tattooed or pierced, and it shall be applied with sterile gauze.
- D. Single service or individual containers of dye or ink shall be used for each patron, and the container therefore shall be discarded immediately after completing work on each patron. Any dye in which the needles are dipped shall not be used on another person. All needles, pigments, dyes, colors and all bandages and surgical dressings used in connection with tattooing or body piercing shall be sterile and free from bacteria, virus particles and noxious agents and substances and disposed per the Illinois Pollution Control Board standards for potentially infectious medical waste materials. After completing work on any person, the tattooed or pierced area shall be washed with sterile gauze and at least seventy (70) percent alcohol solution and allowed to dry. A sterile gauze dressing shall be fastened to the tattooed or pierced area.

- E. Operators shall at all times while in the performance of their services wear uniforms or garments which cover the torso, and said garments shall be kept clean and in a sanitary condition.
- F. No person, while on the premises of any tattoo or body piercing establishment, shall possess, sell, dispense, provide, give, keep or maintain any alcoholic beverage.
- G. No intoxicated person or person under the influence of illicit substances shall be tattooed or pierced by an operator on the licensed premises.
- H. Licensees shall at all times comply with the regulations of the department of labor's occupational safety and health administration as presently existing or hereafter amended, with respect to occupational exposure to blood, blood borne pathogens or other potentially infectious materials, which regulations are incorporated by reference herein.
- I. Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.
- J. No tattooing or body piercing shall be done on any skin surface that has rash, pimples, boils, infections, or manifests any evidence of unhealthy conditions.
- K. Written parental consent shall be obtained before any person under the age of twenty-one (21) is tattooed or pierced.
- L. Every owner of a tattooing or body piercing establishment shall have the premises inspected prior to the issuance of a license and annually thereafter, by the Kane County health department. A copy of the report, disclosing no health violations, shall be furnished the village annually. The issuance of a license, or renewal thereof, is contingent upon said report being furnished the village.

(Ord. 01-03-12-04 § 6)

(Ord. No. 15-03-02-01, § 1, 3-2-2015)

5.36.070 - Inspection.

- A. Any village department or agency may make an inspection of each establishment granted a license under the provisions of this chapter for the purposes of determining compliance with the provisions of this chapter.
- B. It shall be the duty of each tattoo or body piercing operator to keep and maintain an index card for three years for each person who is tattooed or pierced in their establishment. The customer card file shall be available for inspection by the village officials, and the following information shall be shown on each card of each person tattooed or pierced:
 1. Date of tattooing or body piercing.
 2. Name of customer.
 3. Address of customer.
 4. Age of customer.
 5. Name of tattoo or body piercing operator.
 6. Address of tattoo or body piercing operator.
 7. Charges for tattooing or body piercing.
 8. A brief and accurate description of the place on the body tattooed or pierced and a description of the tattoo or piercing.

(Ord. 01-03-12-04 § 7)

5.36.080 - License revocation and suspension.

It shall be cause for revocation or suspension that a licensee has violated the provisions of this chapter or any code or ordinance of the village relative to operation of the business or use of the premises; has made a false statement on any application for license under this chapter or refuses to permit any authorized police officer or authorized member of the police department or building department of the village to inspect the premises or the operations thereof at reasonable times; or becomes ineligible to hold a license as required in Section 5.36.030.

(Ord. 01-03-12-04 § 8)

5.36.090 - Transfer of license prohibited.

No license for the operation of a tattoo or body piercing establishment or operator's license shall be transferable.

(Ord. 01-03-12-04 § 9)

5.36.100 - Display of license required.

Each licensee shall display a valid current license in a conspicuous place within the licensed establishment so that the same may be readily seen by persons entering the establishment.

(Ord. 01-03-12-04 § 10)

5.36.110 - Exceptions.

The provisions of this chapter shall not apply to licensed medical doctors or doctors of osteopathic medicine who perform tattooing or body piercing of individuals while in the course of their medical practice.

(Ord. 01-03-12-04 § 11)

~~5.36.120 – Requirement for authorized physician for body piercing.~~

~~Every licensee of a tattooing and/or body piercing establishment must have on call during business hours a physician or osteopath authorized to practice medicine or osteopathic medicine in the state of Illinois as set forth in Illinois Medical Practice Act of 1987 (225 ILCS 60/1 et seq.) or any amendment thereof. The licensee must annually provide a statement to the village listing the name, address, telephone number and specialty of each physician and osteopath licensee has on call. The list shall be accompanied by a statement addressed to the village from the physician or osteopath confirming the same.~~

~~(Ord. 01-03-12-04 § 12)~~

5.36.130 - Tattooing or body piercing of minors.

In accordance with 720 ILCS 5/12-10.1:

- A. No person may pierce the body of a person under eighteen (18) years of age without written consent of a parent or legal guardian of that person, which written consent must be obtained prior to the piercing and be in substantially the following form:

"I understand that the oral piercing of the tongue, lips, cheeks, or any other area of the oral cavity carries serious risk of infection or damage to the mouth and teeth, or both infection and damage to those areas, that could result but is not limited to nerve damage, numbness, and life threatening blood clots."

- B. Any person who is an owner or employed by a business that performs tattooing or body piercing may not permit a person less than eighteen (18) years of age to enter or remain on the premises where tattooing or body piercing is being performed unless the person under eighteen (18) years of age is accompanied by his or her parent or legal guardian.

(Ord. 06-10-23-02 § 2; Ord. 01-03-12-04 § 13)

(Ord. No. 15-03-02-01, § 2, 3-2-2015)

5.36.140 - Tongue splitting.

A person may not perform tongue splitting on another person unless the person performing the tongue splitting is licensed to practice medicine in all its branches under the Medical Practice Act of 1987 or licensed under the Illinois Dental Practice Act.

(Ord. 06-10-23-02 § 3)

5.36.150 - Penalty.

In addition to license suspension or revocation as provided above, any licensee violating any of the provisions of this chapter shall be fined not less than seventy-five dollars (\$75.00) or more than seven hundred fifty dollars (\$750.00), and a separate offense shall be determined to have been committed each day during which or on which the violation occurs or continues.

(Ord. 06-10-23-02 § 4; Ord. 01-03-12-04 § 14)