



VILLAGE OF WINNEBAGO

ZONING BOARD MEETING AGENDA

Tuesday, April 01, 2025 at 6:00 PM

108 West Main Street and Virtually

To access meeting from any device: <https://global.gotomeeting.com/join/777725485>

Or by (Toll Free): 1 877 309 2073 | Access Code: 777-725-485

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **DISCLOSURE OF ANY CONFLICT OF INTEREST**
4. **PUBLIC COMMENT**

It is recommended that a written request to address the Village Board by non-members should be submitted via mail, hand delivery, or the Village Website to the Village of Winnebago Office located at 108 West Main Street, Winnebago, Illinois, 61088, by 12:00 Noon on the day of the meeting scheduled by the Village authorities in which the speaker would like to participate. Alternatively, speakers may fill out the form at the meeting to sign up for public comment. Each speaker is limited to three (3) minutes. A maximum of thirty (30) minutes shall be allowed for public comment at each meeting.

5. **APPROVAL OF MINUTES**

- [a.](#) Minutes from March 4, 2025 Public Hearing- Body Art

- [b.](#) Minutes from March 4, 2025

6. **DISCUSSION**

- [a.](#) Special Use Permit Application- Body Art Establishment at 126 S. Benton St.

7. **NEW BUSINESS**

8. **EXECUTIVE SESSION**

9. **ADJOURNMENT**

Posted: March 27, 2025 at 3:15 p.m. at 108 W. Main Street, Winnebago, IL

and online at www.villageofwinnebago.com Tel 815.335.2020 | Fax 815.415-8491

The Zoning Board held a Public Hearing on March 4, 2025, at 5:30 p.m. at the Village Hall 108 W Main Street, Winnebago, Illinois to hear input on the proposed Unified Development Ordinance (UDO) Text Amendment RE: Body Art.

The NOTICE OF PUBLIC HEARING RE: UNIFIED DEVELOPMENT TEXT AMENDMENT (RE: BODY ART) was published in the February 13, 2025, edition of the local newspaper, The Gazette.

PRESENT: A quorum of the Zoning Board members was present. Chairman Emmert, Irv Koning, Brian Martin ABSENT: Mike Booker, Riley Pitney

GUESTS: Attorney Mary Gaziano, Village Administrator Joey Dienberg, Rich Graham, Siri Drogsvold, Dillion Maclean, Morgan Blessing, John Pierson, Lisa Smith, Chandra Cearns, John Rowley, Anna Silberman, Jason Silberman

EMMERT: Ok its 5:30PM ah we have a public hearing scheduled for 5:30 and ah it's public hearings about a recommended- recommendation for a text amendment to the UDO regarding a District 3- General Business and tattoo parlors. Ah present are myself, Bill Emmert, Irv Koning, and Brian Martin, so we do have a quorum. Is there anybody here who'd like to speak to this?

MS. SMITH: Well, I'm for the tattoo parlor but I'm wait, she's running late, the girl that's going to run it.

EMMERT: Ok. Ah, our next public hearing's scheduled for 5:45 so we've got a few minutes we can wait.

*There was a brief pause in the meeting for the other guests to arrive.

EMMERT: Ok. Is this the person?

MS. SMITH: Yes

EMMERT: Ok, can we have people in the audience please identify themselves, we'll start with the front, my right.

MR. GRAHAM: Uh, Rich Graham

EMMERT: Ah, Rachel, can you hear that?

Mrs. Windgassen: Uh, yep. If you could speak up just a little bit, but yeah I can hear ya.

EMMERT: Rich Graham.

MS. DROGSVOLD: Siri Drogsvold.

EMMERT: Can you spell that please?

MS. DROGSVOLD: Last name or first name?

EMMERT: Ah, might as well do both.

MS. DROGSVOLD: Ah, first name; S-I-R-I. Last name; D-R-O-G-S-V-O-L-D.

EMMERT: Did you hear that Rachel?

MRS. WINDGASSEN: Yes, I did.

EMMERT: Just trying to make sure we get a clear record. Next.

MR. MACLEAN: Dillion Maclean

EMMERT: Dillion Maclean?

MR. MACLEAN: Maclean. M-A-C-L-E-A-N

EMMERT: Did you hear that Rachel?

MRS. WINDGASSEN: Yes, I did.

EMMERT: Next.

MR. BLESSING: Morgan Blessing.

EMMERT: Ok, just like it sounds?

MR. BLESSING: Yes.

EMMERT: Ok, Joey do we have some more chairs we can put out?

MR. DIENBERG: Yea.

EMMERT: Uh, next, second row.

MR. PIERSON: Uh, Johnathan Pierson.

EMMERT: John?

MR. PIERSON: Pierson.

EMMERT: Pierson. Spell the last name please.

MR. PIERSON: P-I-E-R-S-O-N.

EMMERT: Did you hear that Rachel?

MRS. WINDGASSEN: Yes, I did.

MS. SMITH: Lisa Smith.

EMMERT: Lisa Smith. S-M-I-T-H?

MS. SMITH: Yes

EMMERT: Ok.

MS. CEARNS: And then Chandra Cearn

EMMERT: Say that again.

MS. CEARNs: Chandra C-H-A-N-D-R-A. And then the last name is Cearn's, C-E-A-R-N-S.

EMMERT: Ok, next.

MR. ROWLEY: John Rowley.

EMMERT: John Rowley. Did you hear that Rachel?

MRS. WINDGASSEN: Ah, yes, but I believe I missed someone between John and Chandra.

EMMERT: I don't think so.

GAZIANO: That was Lisa, no yeah there was no one between them. It was-

EMMERT: Lisa Smith before Chandra. Ok, third row.

MS. SILBERMAN: Anna Silberman.

EMMERT: Uh, spell the last name please.

MS. SILBERMAN: S-I-L-B as in boy-E-R-M-A-N

EMMERT: Did you hear that, Rachel?

MRS. WINDGASSEN: Yes, I did.

EMMERT: And we'll forget the minor. And next.

MR. SILBERMAN: Jason Silberman

EMMERT: Did you get that Rachel?

MRS. WINDGASSEN: Yes, I did.

EMMERT: Ok. Ah, this is a public hearing, ah, to discuss what zoning classification body art establish-establishments should be within the Village of Winnebago UDO. Do we have anybody who would like to speak to this? Do you want to say anything, or?

MS. CEARNs: Um, I just- I'm hoping to get this passed so that-

MS. SMITH: Yeah, we both are

MS. CEARNs: Yeah, so we can-

EMMERT: Ok. Ah, for the rest of the people in attendance that had not been at a prior meeting. The reason we're doing this is the UDO is vague with respect to where a tattoo parlor would fit within the UDO. So we're going to make some recommendations when the zoning committee meets after this to give recommendations to the Village Board on just where, what zoning classification tattoo parlors should be. Ah, do you have any questions?

BOOKER: I have none

EMMERT: Do you have any questions? Ah, there not being any more ah people wanting to testify at the public hearing. I would order this public hearing to be closed.

GAZIANO: The only clarification I would like to make for um, Rachel's benefit, just in case you didn't catch it, but when the two ladies that indicated they were in favor of it, and they'd like to see it passed, it would have been Lisa Smith and um, Chandra Cearn.

MRS WINDGASSEN: Ok, thank you.

EMMERT: Ok, we'll meet as a zoning board after the next public hearing. You're- you're free to stay if you want to, ah, this next one may take a while, I'll just to give you a heads up on that.

MS. SMITH: So do you think we can go ahead and go-?

EMMERT: Uh. Based upon, the recommendation is either going to be for a uh, permitted use or a special use. That's what it comes down to.

MS. SMITH: Ok so, so we're good otherwise.

EMMERT: Yeah, it's it's going to stay in the business, as a recommendation the consensus that we had before. The only issue is, is it going to be a special permitted use or just a permitted use.

MS. SMITH: Ok

EMMERT: So

MS. CEARN: So either way, it's good. We just gotta wait to--

EMMERT: Yeah, either way it would go to the Village Board, I think, what, tomorrow?

DIENBERG: Tomorrow night

EMMERT: Tomorrow night.

MS. SMITH: And then you'd notify me? So um, because I'm the landlord of the building?

DIENBERG: Yes

MS. CEARN: And then Lisa can get ahold of me. And then we'll get it all.. I'm excited. Thank you.

EMMERT: Yeah

GAZIANO: It is-it is the Village Board just understand that, that has that final vote on this particular action. We're going to have something else where it's a variance, not having to do with you, and that rests with this board. But this other thing goes, they make a recommendation and it goes to the Village Board.

EMMERT: And it's again, just to clarify its vague. If they go the special permitted use, then there's going to have to be a request for a special use permit.

MS. CEARN: Ok, that's fine

EMMERT: If it goes permitted use, then it'll be allowed as a permitted use.

MS. SMITH: Ok

EMMERT: Ok?

MS. CEARNS: Ok, thank you guys!

MS. SMITH: Ok, sounds great. Thank you.

Prepared by:
Rachel Windgassen, Assistant Deputy Clerk



VILLAGE OF WINNEBAGO

ZONING BOARD MEETING MINUTES

Tuesday, March 04, 2025 at 6:00 PM
108 West Main Street and Virtually

1. CALL TO ORDER

The meeting was called to order at 6:20 P.M.

2. ROLL CALL

PRESENT: Chairman Bill Emmert, Irv Koning, Brian Martin ABSENT: Michael Booker, Riley Pitney

GUESTS: Attorney Gaziano, Village Administrator Joey Dienberg, Rich Graham, John Pierson, Mike Reinders, John Rowley, Dan Herr, Lorisa Herr, Jason Silberman, Anna Silberman

3. DISCLOSURE OF ANY CONFLICT OF INTEREST

None

4. PUBLIC COMMENT

No one from the public requested to speak

5. APPROVAL OF MINUTES

a. Minutes from February 4, 2025

Chairman Emmert made a motion to approve the minutes from February 4, 2025, as written.

Mr. Koning had a clarification of the spelling of DeWall in the roll call and questioned whether under 3B, first paragraph, the phrase “of a church” was needed. Attorney Gaziano stated that in the same section, the word “which” should be “wherein”.

Chairman Emmert questioned whether there were any other suggested changes or if anyone was opposed to the minutes as orally amended. No one opposed. Chairman Emmert stated, “Let the record show, we are approving these minutes by unanimous vote of all persons present, as amended.”

6. DISCUSSION

a. Recommendation on a Text Amendment to the Unified Development Ordinance Regarding Body Art Establishments in District No. 3- General Business District

Chairman Emmert stated that a special permitted use ordinance would be the most appropriate course of action. Mr. Koning questioned if passing the special permitted use, rather than a permitted use, would delay the body art establishment from opening. Chairman Emmert and Attorney Gaziano confirmed that it would delay the opening about another month. Mr. Martin agreed with it being a special permitted use. Mr. Koning noted that if the suggestions made in the last meeting were included, he would be in favor of it being a special permitted use. However, if not, then he would be in favor of it being a permitted use, due to the state statutes and regulations that are already in place for body art establishments within the state of Illinois.

Chairman Emmert stated that he would prefer for the dealings of the business to not be visible from the street. Mr. Koning noted that this issue is already covered by state regulations.

Mr. Koning questioned what the permitted hours of operations would be, to which Chairman Emmert stated they could be restricted if approved as a special permitted use.

Chairman Emmert made a motion to recommend to the Village Board, that body art establishments be a special permitted use in District No. 3- General Business, seconded by Mr. Martin. Motion carried.

b. Park Hills Church Variance Request

Chairman Emmert stated that item 6B on the Agenda must be held over until the next meeting that has at least 4 members of the Zoning Board present. Attorney Gaziano requested that Village Administrator Dienberg locate the ordinance that approved the decrease in zoning board members from 7 to 5, because she believes the number required to approve a variance was also decreased at that time.

Village Administrator Dienberg was able to produce copies of Ordinance 2023-07 for the Zoning Board. Attorney Gaziano verified that this ordinance, while changing the number of members, does not specifically reduce the number of votes required, as per the UDO.

Chairman Emmert stated that his intention is to “keep the record clean” so that if this variance were to ever be questioned, it could not be overturned for an administrative error of the necessary changes not being made in all the necessary places. Mr.

Graham reiterated Chairman Emmert’s reasoning for postponing, then clarified that as it sat, the church would not be able to proceed with their project, with no timeline on

when they would be able to move forward, until a 4th member attended the zoning meeting. Chairman Emmert confirmed this to be the case but noted that a special meeting may be able to be held.

Mr. Graham requested that a special meeting occur, due to the church’s expansion project being put on hold indefinitely otherwise, or that the Zoning Board approve the text amendment suggested as the next item on the agenda because a variance would then not be required for their project.

Chairman Emmert verified that the Board of Trustees met every 2 weeks with Attorney Gaziano, on the first and third Wednesday of each month. All zoning board members present stated that they would be available on Tuesday, March 18, 2025 for a special meeting.

Chairman Emmert requested additional research on the approval requirements be done in the interim.

Chairman Emmert made a motion to hold a special meeting on March 18, 2025, at 6 p.m. to discuss the variance and possible UDO text amendment for off street parking, seconded by Mr. Martin. Motion carried.

c. Proposed UDO Text Amendment – Off-Street Parking Requirements for Churches and Schools

Village Administrator Dienberg questioned if any discussion would be had regarding the proposed UDO text amendment for off-street parking requirements. Chairman Emmert stated that he felt it best to wait. Village Administrator Dienberg noted that by not discussing the proposed text amendment at this meeting, the earliest it would be passed, would be in May 2025 due to the public notice and hearing requirements. Attorney Gaziano reiterated Village Administrator Dienberg’s statement. Chairman Emmert stated that he would, “leave it up to the other two members if they want to proceed tonight on it.” Mr. Martin stated that he believed Mr. Booker is in favor of the UDO text amendment. Chairman Emmert noted that he would like input from the other members that are not currently in attendance, because that could affect how he votes on the variance in 6B.

7. NEW BUSINESS

No new business

8. EXECUTIVE SESSION

Not needed

9. ADJOURNMENT

Chairman Emmert made a motion to adjourn, seconded by Mr. Koning. Motion carried on a voice vote. Meeting adjourned at 6:44 p.m.

UNAPPROVED

Rachel Windgassen, Assistant Deputy Clerk

DRAFT

NOTICE TO PROPERTY OWNERS SURROUNDING SUBJECT
PROPERTY OF PUBLIC HEARING
RE: PROPOSED ZONING VARIANCE
FOR 500 WEST WINNEBAGO STREET IN VILLAGE OF WINNEBAGO
(P.I.N. 14-08-455-014)
PLANNING AND ZONING COMMISSION
VILLAGE OF WINNEBAGO, ILLINOIS

Ms. Lisa Malzow 223 S. Swift Street Winnebago, IL 61088 (P.I.N. #14-08-453-011)	Mr. Edwin H. Silberman Ms. Carol J. Silberman 311 S. Swift Street Winnebago, IL 61088 (P.I.N. #14-08-455-009)
PARK HILLS EVANGELICAL FREE CHURCH 2525 W. Stephenson Street Freeport, IL 61032 (P.I.N. #14-08-455-014--500 W. Winnebago Street)	Ms. Mandy L. Dailey Mr. Gary E. Watts 315 S. Swift Street Winnebago, IL 61088 (P.I.N. #14-08-455-011)
Mr. John Rowley 415 W. Cunningham Road Winnebago, IL 61088 (P.I.N. #14-08-455-005 and 14-08-455-003)	✓ Mr. John D. Rowley Mrs. Alice B. Rowley 415 W. Cunningham Road Winnebago, IL 61088 (P.I.N. #14-08-455-015)
VILLAGE OF WINNEBAGO P.O. Box 557 108 W. Main Street Winnebago, IL 61088 (P.I.N. #14-08-452-001 and 14-08-451-004)	STAR VILLAGE GREEN, LTD. 973 Featherstone Road #325 Rockford, IL 61107 (P.I.N. #14-08-454-020--Cunningham Road)
Ms. Shirley Eubank 219 S. Swift Street Winnebago, IL 61088 (P.I.N. #14-08-453-012)	Mr. Thomas G. Zarembski Ms. Laura Zarembski 307 S. Swift Street Winnebago, IL 61088 (P.I.N. #14-08-455-008)
CLAYTON COURT APARTMENTS c/o HAUN MANAGEMENT P.O. Box 333 Granville, IL 61326 (P.I.N. #14-08-454-018, 14-08-454-017, and 14-08-454-019)	Mr. Randy D. Keilback P.O. Box 91 Winnebago, IL 61088 (P.I.N. #14-08-455-004--313 S. Swift Street)

Mr. Jeffery Jenke 303 S. Swift Street Winnebago, IL 61088 (P.I.N. #14-08-455-007)	Mr. Harold Sloan 301 S. Swift Street Winnebago, IL 61088 (P.I.N. #14-08-455-006)
Mr. Timothy W. McDaniel Ms. Heather M. McDaniel 313 S. Swift Street Winnebago, IL 61088 (P.I.N. #14-08-455-010)	FOUR RIVERS SANITATION AUTHORITY c/o Attorney Edward Fitzgerald, General Counsel 3501 Kishwaukee Street Rockford, IL 61109 (sold by Village as part of P.I.N. #14-08-451-004--Soper Street Pump Station area land)
Mr. Brody Goodwin 221 S. Swift Street Winnebago, IL 61088 (P.I.N. #14-08-453-013)	

NOTICE IS HEREBY GIVEN that upon application by Park Hills Church, the Planning and Zoning Commission of the Village of Winnebago, Illinois, is being requested to allow a variance for a parking area related to the expansion of the existing church, as contained in the Village’s Unified Development Ordinance (UDO) for the property located at 500 W. Winnebago Street, in the Village of Winnebago which bears Property Identification Number (P.I.N.) 14-08-455-014, is currently located within the corporate limits of the Village of Winnebago and is legally described below:

Lot Two (2) and the North 63 feet of Lot Three (3) in Block Seventy-two (72) as designated upon the plat of Canal Trustee’s Addition to the Town of Winnebago, the Plat of which Addition is recorded in Book 32 of Deeds on page 320 in the Recorder’s Office of Winnebago County, Illinois, the South line of said tract being parallel with the south line of said Lot Three (3) and that part of the East Half (1/2) of vacated Leavitt Street lying West and adjoining said tract vacated by Ordinance recorded May 8, 1979 in said Recorder’s Office in Microfilm No. 7911-0291;

ALSO, the North 130.0 feet of the West 74.25 feet of Lot One (1) in Block Seventy-two (72) as designated upon the Plat of Canal Trustee’s Addition to the Town of Winnebago, the Plat of which Addition is recorded in Book 32 of Deeds on page 320 in the Recorder’s Office of Winnebago County, Illinois, the South line of said tract being parallel with the North line of said lot, and the East line of said tract being parallel with the East line of said lot; situated in the Village of Winnebago, County of Winnebago and State of Illinois.

YOU ARE FURTHER NOTIFIED that pursuant to the requirements of Article 15.03.01 of the Village’s UDO, a public hearing will be held on Wednesday, March 4, 2025, at 5:45 p.m., at which time and place objections to the proposed variance, or comments in favor thereof, shall be heard. All interested parties are invited to attend the public hearing and an opportunity to be heard will be provided in accordance with rules and procedures established by the Village authorities, and any applicable laws. The public, if desired, shall have the opportunity to attend remotely, with the following being the log in information: **Remote**

Attendance to PUBLIC HEARING via GotoMeeting Link:

<https://global.gotomeeting.com/join/696384693>, or you may connect to the meeting using your telephone: United States: 1 866 899 4679 Access Code: 696-384-693.

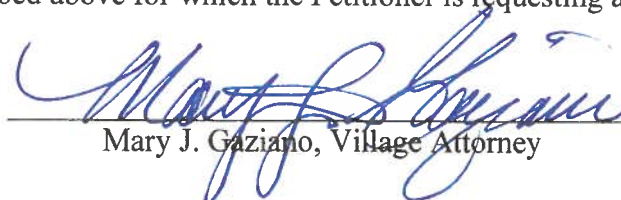
Interested residents are invited to provide comments regarding this matter either at the public hearing or by written statement. Written comments should be submitted to Village Deputy Clerk Kellie Symonds at 108 W. Main Street, Winnebago, IL 61088 or ksymonds@villageofwinnebago.com, so as to be received no later than the scheduled time of the meeting on Tuesday, March 4, 2025, in order to ensure placement of such comments in the official record of the public hearing proceedings.

This notice is being provided to you as an owner of record of property within 250 feet of the property legally described above, as disclosed by WinGis records, pursuant to the requirements of the Village's UDO. Further, Four Rivers Sanitation Authority, while not on the WinGis list obtained, is also being provided notice because it is known by the Village that said entity previously purchased part of P.I.N. 14-08-451-004 from the Village of Winnebago, which P.I.N. location is within 250 feet of the subject property seeking a variance.

Village of Winnebago Planning and Zoning Commission

BY: William D. Emmert
Chairman

I hereby certify this notice is being provided this 21st day of February, 2025, via regular U.S. mail, postage prepaid, to each of the owners listed above, as disclosed by the Winnebago County Recorder's Office land records, as provided by the Petitioner, of property within 250 feet of the subject property legally described above for which the Petitioner is requesting a certain variance as described herein.


Mary J. Gaziano, Village Attorney

PREPARED BY:

Attorney Mary J. Gaziano
One Court Place, Suite 200
Rockford, Illinois 61101
(815) 962-6800
E-Mail: MJGaziano@aol.com
Attorney for the Village
of Winnebago, Illinois

CORRECTION (FOR DAY OF WEEK REFERENCE)
NOTICE TO PROPERTY OWNERS SURROUNDING SUBJECT
PROPERTY OF PUBLIC HEARING
RE: PROPOSED ZONING VARIANCE
FOR 500 WEST WINNEBAGO STREET IN VILLAGE OF WINNEBAGO
(P.I.N. 14-08-455-014)
PLANNING AND ZONING COMMISSION
VILLAGE OF WINNEBAGO, ILLINOIS

Ms. Lisa Malzow 223 S. Swift Street Winnebago, IL 61088 (P.I.N. #14-08-453-011)	Mr. Edwin H. Silberman Ms. Carol J. Silberman 311 S. Swift Street Winnebago, IL 61088 (P.I.N. #14-08-455-009)
PARK HILLS EVANGELICAL FREE CHURCH 2525 W. Stephenson Street Freeport, IL 61032 (P.I.N. #14-08-455-014--500 W. Winnebago Street)	Ms. Mandy L. Dailey Mr. Gary E. Watts 315 S. Swift Street Winnebago, IL 61088 (P.I.N. #14-08-455-011)
Mr. John Rowley 415 W. Cunningham Road Winnebago, IL 61088 (P.I.N. #14-08-455-005 and 14-08-455-003)	Mr. John D. Rowley Mrs. Alice B. Rowley 415 W. Cunningham Road Winnebago, IL 61088 (P.I.N. #14-08-455-015)
VILLAGE OF WINNEBAGO P.O. Box 557 108 W. Main Street Winnebago, IL 61088 (P.I.N. #14-08-452-001 and 14-08-451-004)	STAR VILLAGE GREEN, LTD. 973 Featherstone Road #325 Rockford, IL 61107 (P.I.N. #14-08-454-020--Cunningham Road)
Ms. Shirley Eubank 219 S. Swift Street Winnebago, IL 61088 (P.I.N. #14-08-453-012)	Mr. Thomas G. Zarembski Ms. Laura Zarembski 307 S. Swift Street Winnebago, IL 61088 (P.I.N. #14-08-455-008)
CLAYTON COURT APARTMENTS c/o HAUN MANAGEMENT P.O. Box 333 Granville, IL 61326 (P.I.N. #14-08-454-018, 14-08-454-017, and 14-08-454-019)	Mr. Randy D. Keilback P.O. Box 91 Winnebago, IL 61088 (P.I.N. #14-08-455-004--313 S. Swift Street)

Mr. Jeffery Jenke 303 S. Swift Street Winnebago, IL 61088 (P.I.N. #14-08-455-007)	Mr. Harold Sloan 301 S. Swift Street Winnebago, IL 61088 (P.I.N. #14-08-455-006)
Mr. Timothy W. McDaniel Ms. Heather M. McDaniel 313 S. Swift Street Winnebago, IL 61088 (P.I.N. #14-08-455-010)	FOUR RIVERS SANITATION AUTHORITY c/o Attorney Edward Fitzgerald, General Counsel 3501 Kishwaukee Street Rockford, IL 61109 (sold by Village as part of P.I.N. #14-08-451-004--Soper Street Pump Station area land)
Mr. Brody Goodwin 221 S. Swift Street Winnebago, IL 61088 (P.I.N. #14-08-453-013)	

You were previously sent notice of a public hearing to occur on March 4, 2025 at 5:45 p.m. in the above matter. That date and time are correct. However, one of the places where the day of the week was referenced incorrectly listed the day of the week as Wednesday instead of Tuesday. This correction is being sent as clarification that Tuesday is the day of the week on which March 4, 2025 occurs.

I hereby certify this notice is being provided this 27th day of February, 2025, via regular U.S. mail, postage prepaid, to each of the owners listed above, as disclosed by the Winnebago County Recorder's Office land records, as provided by the Petitioner, of property within 250 feet of the subject property legally described above for which the Petitioner is requesting a certain variance as described herein.


Mary J. Gaziano, Village Attorney

PREPARED BY:
Attorney Mary J. Gaziano
One Court Place, Suite 200
Rockford, Illinois 61101
(815) 962-6800
E-Mail: MJGaziano@aol.com
Attorney for the Village
of Winnebago, Illinois



Agenda Item Executive Summary

Item Name _____ Special Permitted Use Application: Body Art Establishment _____ Committee or Board _____ Zoning Board _____

BUDGET IMPACT

Amount:	N/A	Budgeted:	N/A
List what fund:	N/A		

EXECUTIVE SUMMARY

On December 12, 2024, the Village office was contacted by an interested party seeking to rent the space at 126 S Benton Street for a Tattoo and Body Piercing business, with plans to open on January 1, 2025.

The Zoning Board held several meetings to discuss whether the proposed business would qualify as a permitted or special permitted use within District No. 3 – General Business. Following a public hearing on March 4, 2025, the Zoning Board recommended to the Village Board that Body Art Establishments be allowed as a special permitted use.

In response to this recommendation, the Village Board approved a Text Amendment to the UDO, allowing Body Art Establishments as a special permitted use within the district. The Tattoo Parlor is now in the process of submitting its Special Permitted Use application to proceed with the business.

Next Step: A public hearing is scheduled for the proposed special use permit application. The recommended date for the hearing is **May 6, 2025, at 5:45 PM.**

ATTACHMENTS (PLEASE LIST)

Special Permitted Use Application, IL Health Department Body Art Code

ACTION REQUESTED

- ☒ For Discussion Only
- ☐ Resolution
- ☐ Ordinance
- ☐ Motion:

MOTION:

Staff: _____ Joseph Dienberg, Village Administrator _____ Date: _____ 4/1/2025 _____

ZONING APPLICATION

Village of Winnebago



Phone: (815) 335-2020 ▪ Fax: (815) 415-8491
108 W. Main Street, Winnebago, Illinois 61088

It is recommended that a pre-application conference be held to ensure that all applicable information is provided, and the application is filled out correctly. Please call 815-335-2020 to schedule a pre-application conference. Delays in obtaining a public hearing date may result from incomplete or errant applications.

REQUIRED APPLICATION MATERIALS

The following materials must be submitted to the Planning and Zoning Department before a Public Hearing can be scheduled. Incomplete applications cannot be processed.

- ☐ Application Form (Original Form, pages 7, 8, & 9)
- ☐ Application Fee (See Fee Schedule, page 4)
- ☐ Legal Description

Project Drawings:

- ☐ Preliminary or Final Site Plan (1 copy). Include project data [i.e., building area, land area, setbacks, coverage, parking and landscaping calculations, etc.]. The information required will vary depending on the type of request being made. However, all site plans should be drawn to scale and be accurate to the best of the petitioner's ability.
- ☐ Preliminary or Final Engineering
- ☐ Floor Plans
- ☐ Building Elevations
- ☐ Landscape Plan (indicate species, plant location, quantity, size, spacing, and easement/utility locations)
- ☐ Sign elevations

Other Documents:

- ☐ A detailed written statement explaining the reason for the request.

The Zoning Board of Appeals and Village Board base their decisions on the standards listed below. It is in the best interest of the applicant to base their presentation on the applicable set of standards when presenting their petition.

- ↓
- ☐ Applicant should respond to the following statements while presenting his or her request to the Zoning Board of Appeals, along with an additional written statement detailing the nature of the proposed use if this application is for a **SPECIAL USE PERMIT**, pursuant to Unified Development Ordinance Article 14.03:
 - a. The proposed use at the specified location is consistent with the goals, objectives, and policies of the Comprehensive Plan;
 - b. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations and complies with requirements of the Article;
 - c. The proposed Special Use is not materially detrimental to the public health, safety, comfort, and general welfare, and will not result in material damage or prejudice to other property in the vicinity;
 - d. The proposed use is compatible with, and preserves or enhances, the character and integrity of adjacent development, and includes improvements necessary to mitigate adverse development-related impacts, such as traffic, noise, odors, visual nuisances, or other similar adverse effects to adjacent development and neighborhoods;
 - e. The proposed use does not generate pedestrian and vehicular traffic that will be hazardous to the existing and anticipated traffic in the neighborhood;
 - f. The proposed Special Use complies with all fire, health, building, plumbing, electrical, and stormwater drainage regulations of the Village, County, State and Federal agencies; and

g. Adequate utilities exist to service the proposed Special Use.

- ☐ Applicant should respond to the following statements while presenting his or her request to the Zoning Board of Appeals, along with an additional written statement describing the specific nature of the proposed variation and the practical difficulty and perceived hardship resulting from a strict and literal interpretation of a specified regulation of this chapter if this application is a request for a **VARIANCE**, pursuant to Unified Development Ordinance Article 15.03 et seq.

15.03 (3) Variances & Findings of Fact

- a. That there are special circumstances, applying to the land or buildings for which the variance is sought, which circumstances are peculiar to such land or buildings and do not apply generally to land or buildings in the vicinity;
 - b. That said circumstances are such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of such land or buildings;
 - c. That the variance as granted by the Zoning Board of Appeals is the minimum variance that will accomplish the reasonable use of land or building in question;
 - d. That the granting of the variance will be in harmony with the general purpose and intent of this ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
 - e. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that district.
 - f. The extraordinary or exceptional conditions of the property, requiring the request for the variance, were not caused by the petitioner.
 - g. The proposed variance will alleviate a peculiar, exceptional, or undue hardship, as distinguished from a mere inconvenience or pecuniary hardship.
 - h. The denial of the proposed variance will deprive the petitioner the use of his/her property in a manner equivalent to the use permitted to be made by the owners of property in the immediate area.
 - i. The proposed variance will result in a structure that is appropriate to and compatible with the character and scale of structures in the area in which the variance is being requested
- ☐ Applicant should respond to the following statements while presenting his or her request to the Zoning Board of Appeals for a **ZONING DISTRICT CHANGE / ZONING MAP AMENDMENT**, pursuant to Unified Development Ordinance 18.04.
- a. Legal owners of the property(s) to be rezoned. If the property is held in an Illinois Land Trust, a Statement of Beneficial Interest is also required;
 - b. Legal Description of the property(s) to be rezoned;
 - c. Common street address of property(s) to be rezoned;
 - d. Size of property (in square feet or acres);
 - e. Current zoning of property;
 - f. Requested zoning of property;
 - g. Narrative description of the reasons for requested rezoning;
 - h. Estimated impact of rezoning on surrounding neighborhood;
 - i. Vicinity map showing the area to be rezoned

FEE SCHEDULE

LAND USE (ZONING DEVELOPMENT) APPLICATIONS

Zoning Map Amendment (Zoning Change):	* \$400.00 plus, \$10.00 per acre or part of, plus consultant fees
Special Use Permit:	* \$450.00 plus, \$20.00 per acre or part of, plus applicable professional fees
Variance:	* \$350.00, plus applicable professional fees
Planned Residential Development (PRD):	* \$450.00 plus, \$20.00 per acre or part of, plus applicable professional fees
Appeal:	\$250.00 plus applicable professional fees
Text Amendment / Future Land Use Plan Amendment	\$400.00 plus applicable professional fees

ADDITIONAL FEES:

Any fees born because of a report and/or publication required by State Law for the above noted zoning procedures shall be the responsibility of the Applicant.

The above noted fees are *NOT* inclusive of any other fees that may result from other required permits (i.e. building permit, zoning clearance (permit), sign permit, health permit, etc.).

Based on the complexity of the application and subsequent review required, in addition to the listed fees below, at the village's sole discretion applicants may be responsible for additional professional fees incurred by the village during the application process, including but not limited to engineering, legal, or planning review fees.

Notice For All Petitions:

*** When work is commenced prior to obtaining the required "Land Use (Zoning Development) Application(s)", the established fees shall be increased by 50%. The payment of such fee shall not relieve any person from fully complying with the requirements of the Village Unified Development Ordinance, nor from the penalties prescribed within the Unified Development Ordinance, as stated in Article 4.04 and any other applicable portions of the Unified Development Ordinance.**

PROCEDURE CHECKLIST FOR APPLICANT USE

- ☐ Prospective applicant obtains application packet from Village Office. Blank applications may be faxed or mailed upon request or downloaded off the Winnebago Village website at <http://www.villageofwinnebago.com>. All pages of the application packet should be read thoroughly at this time. If necessary, Village Office personnel will explain procedures and fees involved.
- ☐ Pre-Application Conference: It is recommended that the applicant contact the Village Office to schedule a time to review the application to ensure that it is complete and includes all applicable materials.
- ☐ Applicant submits completed zoning application, along with site plan, written statement (when applicable), other required materials and the appropriate fee. Zoning Board will review submitted materials for completeness. Applications are then scheduled for a public hearing before the Zoning Board of Appeals.
- ☐ Applicant must contact the Soil and Water Conservation District (SWCD) office directly and make proper application for Zoning Letter and/or Natural Resource Information (NRI) Report. If necessary, SWCD personnel will explain procedures and fees involved. Zoning applications are not complete until SWCD Natural Resource Information (NRI) Reports are properly applied for. Zoning requests will not be scheduled for a public hearing unless a completed NRI Report is forthcoming.
- ☐ The "Endangered Species Act" entitles the Illinois Department of Natural Resources (IDNR) to review zoning, special use, and Variance applications for their impact on endangered or protected species. Illinois law allows thirty (30) days for their response. The applicant is responsible for contacting the IDNR, at 5224 South Second Street, Springfield, IL 62701-1787. Additional information can be obtained about this process via the internet address: <http://dnrecocat.state.il.us/ecopublic/>. If you have any questions or comments about endangered species consultation process, you can send an email to DNR.EcoCAT@illinois.gov
- ☐ The "National Historic Preservation Act" entitles the Illinois Historic Preservation Agency to review zoning, special use, and Variance applications for their impact on cultural or historical resources. Illinois law allows thirty (30) days for their response. The applicant is responsible for contacting the Illinois Historic Preservation Agency at (1-217-782-4836).
- ☐ A Notice of Public Hearing is printed in the local newspaper no less than 15 days, nor more than 30 days before the date of public hearing. See fee schedule for applicable fee (Page 4).
- ☐ When applicable, the subject property is posted with a notice sign prepared by Village Office personnel summarizing pertinent case information and the scheduled Zoning Board of Appeals hearing date no less than 15 days before the public hearing.
- ☐ Property owners surrounding the subject property are notified by mail, approximately 15 days before the date of public hearing, provided by Village Office staff summarizing pertinent case information and the scheduled Zoning Board of Appeals hearing date. Other appropriate agencies are also notified at this time. Note that adjoining property owners may legally protest map and text amendments, which may necessitate a super majority vote of the Village Board to approve a petition.
- ☐ Village Office staff review application and submit written staff report to the Zoning Board of Appeals and to the Village Board. Applicant is mailed a copy of this written staff report provided by Village Office staff, usually about 1 week before the date of public hearing.

- ☐ Zoning Board of Appeals (ZBA) conducts a Public Hearing, normally on their regularly scheduled meeting date. The applicant or an authorized agent must appear to present pertinent information and provide testimony under oath. No less than 4 copies of any handouts or exhibits should be made available for ZBA members and staff. One copy will be kept and added to the file as an exhibit(s). Be aware that delays may occur as public hearings can extend to additional Board meetings and may include multiple or returning speakers. The Board deliberates and provides its recommendation based on findings of fact. Unsupportive ZBA recommendations can affect the voting considerations of the Village Board.
- ☐ Zoning Board of Appeals public hearing minutes are transcribed and distributed to Village Board members, usually about 1 week after the close of public hearing. Copies of minutes are available to applicants' following approval of said minutes by the Zoning Board of Appeals. The minutes of the Zoning Board of Appeals public hearing are normally approved the following month.
- ☐ Pertinent case information and ZBA recommendation is presented to Village Board for its consideration, layover, and decision, usually within 4 weeks after the ZBA provides its recommendation.
- ☐ Individual ordinances for each approved application are signed, certified, and processed through the Village Clerk. A Completed ordinance copy accompanies the applicant's notification of the Village Board decision.

PLANNING & ZONING APPLICATION

Applicant Information

Name: Lisa Smith
Address: 6054 Whippoorwill Rd. Rockford IL 61102
Phone: 815-793-6787
Email: _____

Owner Information

Name: Lisa Smith
Address: 6054 Whippoorwill Rd. Rockford, IL 61102
Phone: 815 793 6787
Email: bella.jayden89@yahoo.com

Action Requested

☐ Zoning Map Amendment (Zoning Change)☒ Special Use Permit☐ Variance☐ Planned Residential Development (PRD)☐ Appeal☐ Text Amendment

Detail of Request: Tattoo Studio

Legal Description: (attach a separate sheet if necessary) Original plat of Winnebago DEC
E 76.09 FT All Lot 05 Block 009

PIN Number(s): 14-08-433-008

Current Zoning District: Business

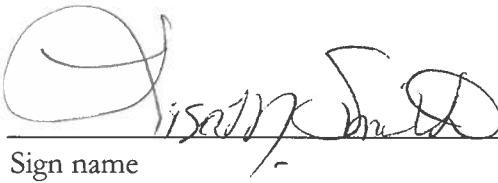
Lot Size: _____ acres, or _____ square feet

Adjacent Properties (provide as a separate sheet if necessary)

NORTH:PIN Number(s): 14-08-433-006Property Owner(s): Winnebago TownshipMailing Address(s): 116 Benton St.Land Use: Town Hall**EAST:**PIN Number(s): 14-08-433-010Property Owner(s): LANGLEY, Jerry and HarrietMailing Address(s): P.O. BOX 271 Winnebago IL. 61088Land Use: Empty Building**SOUTH:**PIN Number(s): 14-08-478-001Property Owner(s): HAMILTON, BRETMailing Address(s): 204 South Benton St. Winnebago IL. 61088Land Use: Resident**WEST:**PIN Number(s): 14-08-432-012Property Owner(s): BENASSI, Anthony F and KATHLEEN L.Mailing Address(s): 810 Stephanie Ln. Winnebago IL. 61088Land Use: Dentist Office

LEGAL NOTICE AFFIDAVIT

I, below signed, hereby understand that in order for my zoning request to be heard, notice of the hearing which it will be heard at must be published in a newspaper of general circulation that is published in the County pursuant to State Law, and as a result, ~~publication fees will incur which I hereby agree to pay~~ the incurred fees.


Sign name

3/11/25
Date

Lisa M. Smith
Print Name

Driver license number for biller (paper)

Phone number for biller account

Address of where bill from paper shall be sent
(Street)

Address of where bill from paper shall be sent
(City, State, Zip Code)

TOWNSHIP NOTIFICATION OF VILLAGE OF WINNEBAGO ZONING PETITION

I, _____ (Name of Applicant) am petitioning the Village Of Winnebago for a:

☐ Zoning Map Amendment from District # _____ To District # _____

☐ Special Use Permit For _____
_____, in District # _____

☐ Variance In _____ from

A distance/size of _____ to _____, in District of _____

the subject property is located at: _____
(street address)

the P.I.N. Number(s) is: _____

the size of the property is _____ acres, or _____ sq. ft.

Proposed use for the subject property: _____

Contact Information:

Name: _____

Phone Number: _____

Email Address: _____

Address: _____

Signature: _____ Date: _____

Please attach a copy of your site plan

CONTACT INFORMATION: _____

PHONE NUMBER: _____ FAX: _____

ADDRESS: _____

SIGNATURE: _____ DATE: _____

Development Team (please include phone, fax, email and mailing address for any that apply).Project Manager: N/ADeveloper: NONEAttorney: NONEEngineer or Surveyor: NONE

Other: _____

Signatures (Declaration)

I, the applicant(s), of the above legally described property on which the above action is requested, provided answers to the questions herein that are true to the best of my knowledge. The property owner(s) of the above legally described property on which the above action is requested, is aware or will be informed about the request made herein.

By virtue of my application for the above action, I do hereby declare that the appropriate Village staff, appointed, and elected officials responsible for the review of my application are given permission to visit and inspect the subject property for the above requested action in order to determine the suitability of the request.

Applicant(s) Signature: [Signature] Date Signed: 3/11/25

Owner(s) Signature: [Signature] Date Signed: _____
 _____ Date Signed: _____

STAFF SIGNATURE: _____ Date Signed: _____

NOTES:

- If the property is held in trust, the trust officer must sign this petition as owner. In addition, the trust officer must provide a letter that names all beneficiaries of the trust.
- If the applicant is a corporation, provide as a separate attachment, a statement verifying the correct names and addresses of all officers and directors of the corporation and all of the stockholders or shareholders owning an interest in excess of 20% of all the outstanding stocks or shares of the corporation.
- If the applicant is a partnership, joint venture, syndicate, or unincorporated voluntary association, then provide as a separate attachment, a statement verifying the correct names and addresses of all partners or members of the partnership, joint venture, syndicate, or unincorporated voluntary association.

TO BE COMPLETED BY VILLAGE OFFICE

Pre-Application Meeting Date: _____ Application Date: _____
 Staff Attending: _____ ZBA Hearing Date: _____
 Fee Paid: \$ _____ Village Board Meeting Date: _____
 Receipt # _____

It is recommended that you notify your township of the Map or Text Amendment, Special Use Permit, or Variance you are applying for. Please complete the form on the following page, and mail it, along with a site plat, to the Township Supervisor for the Township in which the subject property is located.

TOWNSHIP SUPERVISORS

Burritt Township

Burritt Township Supervisor 2568
N. Weldon Rd.
Winnebago, IL 61088

Pecatonica Township Pecatonica

Township Supervisor 328 E. 9th St.
Pecatonica, IL 61063

Durand Township

Durand Township Supervisor 209
E. South St.
Box 474
Durand, IL 61024

Seward Township

Seward Township Supervisor
4130 S. Pecatonica Rd.
Winnebago, IL 61088

Rockford Township

Rockford Township Supervisor
2615 Green Apple Lane
Rockford, IL 61107

Winnebago Township

Winnebago Township Supervisor
7952 Towermont Dr.
Rockford, IL 61102

WINNEBAGO COUNTY SOIL AND WATER CONSERVATION DISTRICT

4833 Owen Center Rd.
Rockford, IL 61101-6007

P: (815) 965-2392, Ext. 3
Website: www.winnebago-swcd.org

Open Mon-Fri 8am-4:30pm

Required Information for Natural Resource Inventory Reports and Zoning Letters.

Incomplete applications will not be processed.

Date: _____ (Office use) REPORT # _____

Zoning application filed with: (The report will be sent to the office indicated below by the SWCD Office)

☐ Rockford ☐ Loves Park ☐ Machesney Park ☐ Cherry Valley ☐ Village of Winnebago

Location of subject property: _____
(Street address)

PIN #: _____ - _____ - _____ Total Acres: _____ Current Zoning: _____

Project or Subdivision Name: _____

Contact Information for Applicant/Petitioner:

(The SWCD Office will send a copy of the report to this listed applicant)

Name: _____

Address: _____

Phone #: (____) _____ - _____

Email: _____

Contact Information for owner

☐ Check if a copy is to be mailed to the owner

Name: _____

Address: _____

Contact person (if different than applicant):

Name: _____ Phone: (____) _____ - _____

Company (if applicable): _____

Address: _____ Email: _____

Type of Request: *(Check the one that applies and describe the request in detail)*

☐ Change in Zoning from _____ to _____

☐ Variance: _____

☐ Special Use Permit: _____

☐ Other: _____

DRAFT 1/28/2025 – TEST USE BY PARK HILLS CHURCH

Existing Land Use: (vacant, agriculture, residential, etc.) _____

Proposed Land Use: _____

Date of Public Hearing: _____

Water Supply

☐ Well ☐ Community Water

Wastewater Treatment:

☐ Septic ☐ Sanitary Sewer

Proposed Land Use Will Include:

☐ Septic Tank Filter Fields ☐ Dwellings Without Basement ☐ Small Commercial Buildings

☐ Dwelling With Basements ☐ Other (describe in detail) _____

I (we) understand the filing of this application allows an authorized representative of the Winnebago County Soil and Water Conservation District to visit and conduct any necessary on-site investigations on the site which is described above. It is also understood that through this request I am giving the Soil and Water Conservation District permission to provide NRCS Wetland Inventory Information on my land in regards to the Natural Resource Information Report. I understand that this report becomes public knowledge once accepted by the District Board of Directors. Completions of this report may require 30 days as allowed under State Law.

(Petitioner)

(Date)

This report is used as a guide in making land use decisions and does not preclude further refinement of soil type boundary lines during more detailed on-site investigations. Interpretations are based on criteria established by the National Soils Handbook (USDA-Natural Resource Conservation Service) and are subject to change by this office and appropriate county agencies.

FEES:

- Zoning Letter
☐ \$75.00
- N.R.I. Reports
(zoning request involving AG Zoned land or vacant land)
☐ \$400.00 (0-5 acres) +\$20.00/acre over 5

Winnebago County SWCD fee determinations are final.
Reports will not be completed without payment.

PAYMENT (we accept any of the following):

- Cash
- Check (made payable to): Winnebago County SWCD
- Credit card (Illinois E-Pay through the SWCD website at www.winnebago-swcd.org).

A returned check fee of \$25.00 will be charged for each returned check

If you have any questions regarding this form please call (815) 965-2392, extension 3.

FILING DEADLINE

Any person who petitions any municipality or county agency in the District for variation or amendment from that municipality's or county's zoning ordinance or who proposed to subdivide vacant or agricultural lands therein shall furnish a copy of such petition or proposal to the District no less than 10 days prior to the regularly scheduled meeting of the District.

The Winnebago County Soil and Water Conservation District is an equal opportunity employer. All programs and services are offered without regard to race, color, national origin, religion, sex, age, marital status, or handicap.

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER m: FOOD DRUGS AND COSMETICS
PART 797 BODY ART CODE

Section 6. Item #a.

- Section 797.100 Definitions
- Section 797.200 Incorporated and Referenced Materials
- Section 797.300 General Requirements
- Section 797.400 Operational Requirements
- Section 797.500 Exemptions
- Section 797.600 Public Notification Requirements
- Section 797.700 Disclosure of Pre-existing Conditions
- Section 797.800 Preparation and Care of the Body Art Area
- Section 797.900 Disinfection and Sterilization Procedures
- Section 797.1000 Requirements for Single-Use Items
- Section 797.1100 Requirements for Premises
- Section 797.1200 Establishment Certificate of Registration Requirements
- Section 797.1300 Body Artist Proficiency Requirements
- Section 797.1400 Temporary Certificate of Registration Requirements
- Section 797.1500 Enforcement
- Section 797.1600 Procedures for Suspension, Revocation, or Refusal to Issue a Certificate of Registration
- Section 797.1700 Violations and Fines
- Section 797.1750 Administrative Hearings

AUTHORITY: Implementing and authorized by the Tattoo and Body Piercing Establishment Registration Act [410 ILCS 54].

SOURCE: Adopted at 33 Ill. Reg. 246, effective December 26, 2008.

Section 797.100 Definitions

The following shall be the accepted definitions of the terms used in this Part:

"Act" means Tattoo and Body Piercing Establishment Registration Act [410 ILCS 54].

"Aftercare" means oral and written instructions given to the client, specific to the body art procedures rendered, about caring for the body art and surrounding area. These instructions will include information about when to seek medical treatment, if necessary.

"Antiseptic" means an agent that reduces disease-causing microorganisms on human skin or mucosa.

"Apprentice" means an individual who works under the supervision of a body artist and performs body art activities.

"Autoclave" means an apparatus that is registered and listed with the federal Food and Drug Administration for sterilizing articles by using superheated steam under pressure.

"Body Art" means the practice of physical body adornment, including, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding and scarification.

This definition does not include practices that are considered medical procedures by the State Medical Board, such as implants under the skin, which shall not be performed in a body art establishment. Nor does this definition include piercing of the non-cartilaginous portion or lobe of the ear with pre-sterilized single-use stud-and-clasp ear-piercing systems.

Section 6. Item #a.

"Body Artist" means a person who conducts or practices body art activities and/or procedures.

"Body Art Establishment" or *"Establishment"* means a body-piercing operation, a tattooing operation, body modification establishment or a combination of all operations in a multiple-type establishment, whether public or private, temporary or permanent in nature or location, profit or not for profit. (Section 10 of the Act)

"Body Piercing" means penetrating the skin to make a hole, mark, or scar that is generally permanent in nature, including, but not limited to, micro-dermal anchors, acts of suspension and sub-dermal/trans-dermal implants. *"Body piercing"* does not include practices that are considered medical procedures or the puncturing of the non-cartilaginous portion or lobe of the ear using a pre-sterilized, single-use stud-and-clasp ear piercing system. (Section 10 of the Act)

"Certificate of Registration" means written permission by the Department to operate a body art establishment. Approval is given in accordance with this Part and is separate from any other licensing requirement that may exist within communities or political subdivisions comprising the jurisdiction.

"Change of Ownership" means any of the following:

In the case of a body art establishment owned by a corporation, the transfer of the facility by the corporation to another corporation, to a partnership or association, or to a natural person. Transfer of stock in a corporation does not constitute change of ownership.

In the case of a body art establishment owned by a partnership or association, the transfer of the facility by the partnership or association to another partnership or association, to a corporation, or to a natural person. Transfer of interest in the partnership or association or substitution of any or all partners or members of the association does not constitute change of ownership.

In the case of a body art establishment owned by a natural person, the transfer of the facility to any corporation, partnership, association or other natural person, whether or not the owner retains any interest in the facility.

"Clean" or "Cleaning" means the removal of foreign materials from objects, normally accomplished with detergent, water and mechanical action.

"Client" means the person, customer, or patron whose skin will be tattooed, modified or pierced. (Section 10 of the Act)

"Cosmetic Tattooing" (see "Tattooing").

"Dentist" means a person licensed to practice dentistry in this State pursuant to the Illinois Dental Practice Act [225 ILCS 25].

"Department" means the Illinois Department of Public Health or its designated agent.

"Director" means the Director of Public Health or his or her designee. (Section 10 of the Act)

"Disclosure Warning Statement" means a sign or poster that is provided by the Department and advises the public of the potential health risks of body art services.

Section 6. Item #a.

"Disinfect" or "Disinfection" means a process that provides an effective concentration of a United States Environmental Protection Agency registered chemical for enough contact time as specified by the manufacturer to reduce bacterial count, including pathogens, to a safe level (when disease organisms that may be present are destroyed so as to prevent transfer) on equipment surfaces and in toilet and hand-washing facilities.

"Ear Piercing" means the puncturing of the non-cartilaginous portion or lobe of the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system, following manufacturer's instructions. Under no circumstances shall ear piercing studs and clasps be used anywhere on the body other than the non-cartilaginous portion and lobe of the ear.

"Equipment" means all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks, and all other apparatus and appurtenances used in connection with the procedures of body art.

"Good Hygienic Practices" means practices conducive to maintaining health and preventing disease, especially through cleanliness. Good hygienic practices include, but are not limited to, restrictions on eating, drinking and the use of tobacco products in the establishment; maintaining a high degree of personal cleanliness; hand washing and proper hand washing techniques; use of single-use disposable gloves; preventing employees from contaminating work surfaces; and availability of hand washing facilities and supplies.

"Hand-Washing Sink" means a sink equipped with hot and cold running water under pressure, tempered by means of a mixing valve or combination faucet, activated by wrist blade or knee control or other hands-free means, used solely for washing hands, arms and other portions of the body.

"Hot Water" means water that attains and maintains the temperature of not less than 120 degrees F.

"Imminent Health Hazard" means any hazard to the public health when the evidence shows that a product or practice creates or may create a public health situation, including, but not limited to, a lack of water or electricity, lack of sterilization, infections that are epidemiologically associated with a body art establishment, or the occurrence of a single case of a life-threatening illness that is epidemiologically associated with a body art establishment.

"Instruments Used for Body Art" means hand pieces, needles, needle bars, and other instruments that may come in contact with a client's body or may be exposed to body fluids during body art procedures.

"Invasive" means entry into the body either by incision or insertion of an instrument into or through the skin or mucosa, or by any other means intended to puncture, break or compromise the skin or mucosa.

"Jewelry" means any personal ornament inserted into a pierced area. The ornament shall be free of nicks, scratches or irregular surfaces and must have been properly sterilized prior to use.

"Mobile Body Art Establishment" or "Mobile Body Art Unit" means a mobile establishment or unit that is self-propelled or otherwise movable from place to place and is self-sufficient for utilities such as gas, water, electricity and liquid waste disposal.

"Operator" means an individual, partnership, corporation, association, or other entity that is engaged in the business of owning, managing, or offering services of body art. (Section 10 of the Act)

Section 6. Item #a.

"Person" means any individual, corporation, partnership, firm, association, society, trust, estate, public or private institution, group, agency, political subdivision of this State, any other state or political subdivision or agency of that state, and any legal successor, representative, agent or agency of a person.

"Physician" means a person licensed under the Medical Practice Act of 1987 [225 ILCS 60] to practice medicine in all of its branches.

"Potable Water" means water that is safe for human consumption and meets the water quality standards of the Primary Drinking Water Standards (35 Ill. Adm. Code 611).

"Procedure Surface" means any surface of a work area, including, but not limited to, the procedure chair that comes into contact with the client's body during a body art procedure, skin preparation of the area adjacent to and including the body art procedure, or any associated work area that may require disinfecting.

"Regulated Waste" means any liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; sharps and any wastes containing blood and other potentially infectious materials, as defined in 29 CFR 1910.1030 (Bloodborne Pathogens).

"Scarification" means to create a design on the skin by means of shallow cuts or skin removal that are sometimes rubbed with a colorant or irritant to enhance the resulting scar tissue.

"Sharps" means any objects (sterile or contaminated) that may purposefully or accidentally cut or penetrate the skin or mucosa, including, but not limited to, pre-sterilized single-use needles, scalpel blades, and razor blades.

"Sharps Disposal Container" means a puncture-resistant, leak-proof container that can be closed for handling, storage, transportation and disposal and that is labeled with the international biohazard symbol.

"Single Use" means products or items that are intended for one-time, one-person use and are disposed of after use on each client, including, but not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, tattoo needles, scalpel blades, stencils, ink cups and protective gloves.

"Standard Precautions" means infection prevention and control measures that apply to all clients regardless of condition or presumed infection status (see 77 Ill. Adm. Code 690.1010(a)(1)).

"Sterile" means free of all living organisms, including spores.

"Sterilization" means the use of a physical or chemical process to destroy all living organisms, including spores.

"Sterilization Packaging" means packaging materials, including, but not limited to, bags, packs, pouches or tubing designed for steam sterilization use. The sterilization packaging shall allow penetration of steam to allow sterilization and to maintain the sterility of the item after sterilization.

"Sterilize" means to destroy all living organisms including spores. (Section 10 of the Act)

"Sterilizer" means equipment used to sterilize body art devices, equipment and supplies by direct exposure to a selected sterilization agent validated by a sterile indicator strip.

"Tattooing" means any method of placing ink or other pigment into the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This term includes all forms of cosmetic tattooing.

"Tempered Water" means water ranging in temperature from 85 degrees F to, but not including, 120 degrees F.

"Temporary Body Art Establishment" means any place or premise operating for educational, trade show or product demonstration purposes at a fixed location where a body artist/apprentice performs body art procedures for no more than 14 days consecutively in conjunction with a single event or celebration.

"Temporary Certificate of Registration" means a certificate of registration issued by the Department *for educational, trade show, or product demonstration purposes only. The temporary certificate of registration shall be valid for a maximum of 14 calendar days.* (Section 20 of the Act)

"Ultrasonic Unit" means a unit used for cleaning soiled and/or used instruments before they are sterilized, using the emission of high frequency sound waves.

"Violation" means a finding of violation of a Section of the Act or this Part by a court of competent jurisdiction in this State, or by the Director in a Final Order issued pursuant to the Act, or by a notice of warning issued in accordance with this Part.

"Work Station" means an area where body art procedures are performed.

Section 797.200 Incorporated and Referenced Materials

- a) The following materials are incorporated or referenced in this Part:
 - 1) Illinois Statutes and Administrative Rules:
 - A) Criminal Code of 1961 [720 ILCS 5]
 - B) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)
 - C) Illinois Plumbing Code (77 Ill. Adm. Code 890)
 - D) Control of Communicable Diseases Code (77 Ill. Adm. Code 690)
 - E) Electrologist Licensing Act [225 ILCS 412]
 - F) Acupuncture Practice Act [225 ILCS 2]
 - G) Administrative Review Law [735 ILCS 5/Art. III]
 - H) Illinois Food, Drug and Cosmetic Act [410 ILCS 620]

- I) Public Area Sanitary Practice Code (77 Ill. Adm. Code 895)
 - J) Drinking Water Systems Code (77 Ill. Adm. Code 900)
 - K) Private Sewage Disposal Code (77 Ill. Adm. Code 905)
 - L) Illinois Water Well Construction Code (77 Ill. Adm. Code 920)
- 2) Federal Regulations:
- Bloodborne Pathogens, Occupational Safety and Health Administration (OSHA), 29 CFR 1910.1030(g)(2) (July 2005)
- 3) Federal Guidelines:
- A) Guidelines for Prevention of Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Health-Care and Public-Safety Workers, in Morbidity and Mortality Weekly Report (MMWR), June 23, 1989, Vol. 38, No. S-6
 - B) Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures, in MMWR, July 12, 1991, Vol. 40, No. RR-8
- b) All incorporations by reference of federal regulations and guidelines refer to the materials on the date specified and do not include any amendments or editions subsequent to the date specified.
- c) Copies of all incorporated materials are available for inspection and copying by the public at the Department's Central Office, Division of Food, Drugs, and Dairies, 525 West Jefferson Street, Springfield, Illinois 62761.

Section 797.300 General Requirements

The following information shall be kept on file on the premises of a body art establishment and shall be available for inspection by the Department:

- a) Body Artist/Apprentice information
 - 1) Full names and exact duties;
 - 2) Date of birth;
 - 3) Home address;
 - 4) Home and work telephone numbers;
 - 5) Identification photographs;
 - 6) Current places of employment;
 - 7) Training documentation/certificates; and
 - 8) Proof of completion of a bloodborne pathogen training program compliant with Bloodborne Pathogens, OSHA, 29 CFR 1910.1030.

b) Establishment Information

- 1) Name of Establishment;
- 2) Hours of Operation;
- 3) Owner's name and home address;
- 4) A copy of the operation procedure (see Section 797.300(c));
- 5) Owner's telephone numbers; and
- 6) A complete description of all body art procedures performed.

c) Emergency Procedures Information

The owner or operator of a body art establishment shall prepare, maintain and implement an operation procedure that meets the following requirements:

- 1) The operation procedure shall provide for response to the occurrence of any sudden, serious and unexpected sickness or injury that would lead a reasonable person, possessing an average knowledge of health, to believe that the sick or injured person requires urgent or unscheduled medical care.
- 2) The operation procedure shall include a method to address emergency situations, including, but not limited to, adverse reactions, anaphylactic reactions, and accidental needle sticks.
- 3) The operation procedure shall include procedures to be used when blood, plasma, serum or body fluids, such as semen, saliva, breast milk, vaginal secretions and any fluid contaminated with blood, are exposed to:
 - A) mucous membranes, including eye, mouth or other mucous membranes;
 - B) broken or non-intact skin;
 - C) abraded or irritated skin; or
 - D) skin surfaces that are otherwise compromised.
- 4) The operation procedure shall describe methods for obtaining appropriate medical care in the event of such an exposure and designate personnel to be notified in the event of an emergency.
- 5) The operation procedure must be maintained in the body art establishment in a location accessible to all employees.

c) The establishment shall also keep on file a copy of this Part.

Section 797.400 Operational Requirements

- a) It shall be unlawful for any person to perform body art procedures unless such procedures are performed in a body art establishment with a current certificate of registration.

- b) A body artist/apprentice shall be a minimum of 18 years of age.
- c) Eating or drinking by anyone other than a client is prohibited in the area where body art is performed.
- d) Smoking is prohibited in the body art establishment.
- e) *Body art procedures must not be performed, without medical clearance, on skin surfaces where sunburn, rash, acne, infection, open lesions, or other questionable skin lesions exist and must not be performed on any person who is impaired by drugs or alcohol.* (Section 27 of Act) Medical clearance must be in the form of a written and signed statement by a physician.
- f) The body artists/apprentice shall maintain a high degree of personal cleanliness, conform to good hygienic practices, and wear clean clothes when performing body art procedures. Before performing body art procedures, body artists/apprentices shall thoroughly wash their hands for a minimum of 20 seconds in tempered 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.
- g) In performing body art procedures, the body artist/apprentice shall wear single-use medical grade gloves. Gloves shall be changed if they become contaminated by contact with any non-clean surfaces or objects or by contact with a third person. The gloves shall be discarded, at a minimum, after the completion of each procedure on an individual client, and hands shall be washed before the next pair of gloves is donned. Under no circumstances shall a single pair of gloves be used on more than one person. The use of single-use, medical grade gloves does not preclude or substitute for hand-washing procedures as part of a good personal hygiene program.
- h) If, while performing a body art procedure, the body artist's/apprentice's glove is pierced, torn or otherwise compromised, the procedure in subsection (f) shall be repeated immediately. The contaminated gloves shall be immediately discarded, and the hands washed thoroughly (see subsection (e)) before a fresh pair of gloves is applied. Any item or instrument used for body art that is contaminated during the procedure shall be replaced immediately with a new disposable item or a new sterilized instrument or item before the procedure resumes.
- i) Regulated waste that may release liquid blood or body fluids when compressed, or may release dried blood or body fluids when handled, shall be placed in an approved bag marked with the international biohazard symbol. The regulated waste shall then be disposed of in compliance with 29 CFR 1910.1030. Sharps ready for disposal shall be disposed of in approved sharps disposal containers. Storage of regulated waste on site shall comply with the regulations in 29 CFR 1910.1030, and storage of regulated waste awaiting pick-up shall not exceed 30 days.
- j) Waste that does not release liquid blood or body fluids when compressed or does not release dried blood or body fluids when handled may be placed in a covered receptacle and disposed of through normal disposal methods.
- k) No person shall perform any tattoo procedure upon a person under the age of 18 years that is prohibited by Sections 12-10 through 12-10.2(c) of the Criminal Code of 1961. Age verification shall be obtained by government issued identification containing a birth date and photograph. In any procedure other than tattooing, the parent or legal guardian shall sign a consent form in the presence of an operator/body artist. The consent form shall indicate that the parent or legal guardian has read and understood the disclosure warning statement required under Section 797.600(c).
- l) Before the oral cavity of a person under 18 years of age may be pierced, the written consent form signed by the parent or legal guardian must contain a provision in substantially the following

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 in but is not limited to nerve damage, numbness, and life threatening blood clots. (Section 12-10.1 of the Criminal Code of 1961)

- m) Any skin or mucosal surface that is to receive a body art procedure shall be free of rash, irritation or any visible infection.
- n) No body artist/apprentice affected with boils, infected wounds, open sores, abrasions, weeping dermatological lesions or acute respiratory infection, possibly manifested by fever, chills and/or a chronic productive cough, shall work in any area of a body art establishment in any capacity in which that person could contaminate body art equipment, supplies or working surfaces with body substances or pathogenic organisms.
- o) Any body artist can refuse service to any individual, at any time, and for any reason.

Section 797.500 Exemptions

The following practices, occupations and persons are exempted from this Part:

- a) *The practice of electrology as defined in the Electrologist Licensing Act [225 ILCS 412] (Section 10 of the Act);*
- b) *The practice of acupuncture as defined in the Acupuncture Practice Act [225 ILCS 2]) (Section 10 of the Act);*
- c) *The use, by a physician licensed to practice medicine in all its branches, of colors, dyes, or pigments for the purpose of obscuring scar tissue or imparting color to the skin for cosmetic, medical, or figurative purposes (Section 10 of the Act); and*
- d) Individuals who pierce only the non-cartilaginous portion or lobe of the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system.

Section 797.600 Public Notification Requirements

- a) Written public education materials, provided by the Department, shall be offered and explained to all clients prior to receiving body art procedures.
- b) Verbal and written instructions for the aftercare of the body art shall be provided to each client.
- c) The written public education materials shall advise the client to consult a physician or dentist as appropriate at the first sign of infection. The written public education materials shall also contain the name, address and phone number of the establishment. These documents shall be signed and dated by both parties, with a copy given to the client, and the operator shall retain the original with all other required records for a period of no less than one year. In addition, all establishments shall prominently display a disclosure warning poster, provided by the Department, that advises the public of the potential health risks of body art services.
- d) The operator and/or body artist shall report in writing to the Department all infections or diseases, resulting from a body art procedure, that required medical attention. The written report shall be

sent to the Department by mail or facsimile within 24 hours after receiving a report attention was required. The report shall include:

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- 1) The name, address and phone number of the affected individual;
- 2) The date of the body art procedure;
- 3) Identification of the body artist/apprentice who performed the service;
- 4) The name, address and certificate of registration number of the body art establishment involved;
- 5) The anatomical location, condition and description of the affected site;
- 6) The name, address and phone number of the affected individual's health care provider;
- 7) The date that medical attention was sought; and
- 8) Any other information considered relevant to the situation.

Section 797.700 Disclosure of Pre-existing Conditions

The body artist/apprentice shall request information from all clients as follows:

"To ensure that your body art procedure heals properly, we ask that you disclose if you have or have had any of the following conditions. Disclosure does not prevent you from having a body art procedure.

- a) Diabetes;
- b) History of hemophilia (bleeding);
- c) History of skin diseases, skin lesions or skin sensitivities to soaps, disinfectants, etc.;
- d) History of allergies or adverse reactions to pigments, dyes or other skin sensitivities such as, but not limited to, latex;
- e) History of epilepsy, seizures, fainting or narcolepsy;
- f) Medications used, such as anticoagulants that thin the blood and/or interfere with blood clotting;
- g) Human immunodeficiency virus (HIV);
- h) Hepatitis;
- i) Any other information that would aid us in evaluating your body art healing process."

Section 797.800 Preparation and Care of the Body Art Area

- a) Before a body art procedure is performed, the immediate skin area and the areas of skin surrounding the location of the body art procedure shall be washed with liquid soap and water or a skin antiseptic. If shaving is necessary, single-use disposable razors shall be used. Following shaving, the skin and surrounding area shall be washed with liquid soap and water or a skin antiseptic. The single-use disposable razor and washing pad shall be discarded after a single use.

- b) If bleeding occurs, all products used to check the flow of blood or to absorb blood use and shall be disposed of immediately after use in appropriate covered containers. (See definition of "regulated waste" in Section 797.100.)

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Section 797.900 Disinfection and Sterilization Procedures

- a) All non-disposable instruments used for body art shall be cleaned after each use by scrubbing with an appropriate soap or disinfectant solution and hot water, or by following the manufacturer's instructions, to remove blood and tissue residue, and shall then be placed in an ultrasonic unit operated in accordance with manufacturer's instructions.
- b) After cleaning, all non-disposable instruments used for body art shall be packed individually in sterilization packaging and subsequently sterilized (see subsection (c)). All sterilization packaging shall contain either a sterilization indicator or internal temperature indicator. Sterilization packaging shall be dated with an expiration date not to exceed six months or in accordance with manufacturer's instructions. If sterilization packaging is compromised or expired, the instrument shall be removed, repackaged and re-sterilized.
- c) All cleaned non-disposable instruments used for body art shall be sterilized in an autoclave that meets the criteria specified in subsection (i). The autoclave shall be used, cleaned and maintained according to manufacturer's instruction. The operator shall retain on-site a copy of the manufacturer's recommended procedures for the operation of the sterilization unit and a daily temperature log for each day's use. If the body art establishment uses only single-use disposable instruments and products, and uses sterile single-use needles and tubes, an autoclave shall not be required.
- d) After sterilization, the instruments used for body art procedures shall be stored in a dry, clean cabinet or tightly covered container reserved for the storage of such instruments.
- e) All instruments shall remain stored in sterile packages until just prior to the performance of a body art procedure. When assembling instruments used for body art procedures, the operator shall wear single-use disposable medical grade gloves and use aseptic techniques to ensure that the instruments and the gloves are not contaminated.
- f) All inks, pigments, needles and equipment shall be specifically manufactured for performing body art procedures and shall be used according to manufacturer's instructions. Single-use needles, specifically manufactured for body art, may be purchased and used to construct a needle bar by the body artist.
- g) Pigment shall be reconstituted using only distilled or sterile water or a glycerin product.
- h) Immediately before a tattoo is applied, the quantity of the ink to be used shall be transferred from the ink bottle and placed into single-use containers. Upon completion of the tattoo, these single-use containers and their contents shall be discarded.
- i) Each certificate of registration holder shall demonstrate, by monthly spore destruction tests, that the autoclave used is capable of attaining sterilization. These tests shall be verified through an independent laboratory. Test records shall be retained on-site by the operator for a period of one year.

Section 797.1000 Requirements for Single-Use Items

- a) Single-use items shall not be used on more than one client for any reason. After use, all single-use needles, razors and other sharps shall be immediately disposed of in approved sharps disposal

containers.

- b) All products applied to the skin, including body art stencils, shall be single-use and disposable. Petroleum jellies, soaps and other products used in the application of stencils shall be dispensed and applied to the area to be tattooed with gauze or in a manner to prevent contamination of the original container and its contents.
- c) Single-use items must be stored in a clean, covered location, in a manner to prevent any contamination.

Section 797.1100 Requirements for Premises

- a) All walls, floors and procedure surfaces of a body art establishment shall be smooth, free of open holes and cracks, and washable. Walls, floors and ceilings shall be in good repair and maintained in a clean condition. All procedure surfaces, including client chair/benches, shall be of such construction as to be easily cleaned and disinfected after each client. All procedure surfaces shall be cleaned and disinfected after each procedure. The body art establishment shall be maintained in a clean and sanitary condition at all times.
- b) All body art establishments shall be completely separated, by solid partitions or by walls extending from floor to ceiling, from any room used for human habitation, any food establishment or room where food is prepared, any hair salon, or any other such activity that may cause potential contamination of work surfaces.
- c) Effective measures shall be taken by the operator/body artist/apprentice to protect against the presence of insects, vermin and rodents in the establishment. Exterior doors shall be self-closing and tight fitting. If windows open, they shall have tight-fitting screens.
- d) Each body art establishment shall have an area that may be screened from public view for clients requesting privacy. Dividers, curtains or partitions, at a minimum, shall be available to separate multiple work stations.
- e) The establishment shall be well ventilated and provided with an artificial light source equivalent to at least 20 foot candles.
- f) No animals of any kind shall be allowed in a body art establishment, except service animals used by persons with disabilities. Fish aquariums shall be allowed in waiting rooms and non-procedural areas.
- g) A separate hand-washing sink (see Section 797.100) shall be readily accessible to the operators within the body art establishment. The hand sink shall be supplied with liquid soap and disposable paper towels. One hand sink shall serve no more than six stations.
- h) Each body art establishment shall have a minimum of one hand-washing sink, excluding any service sinks, and one toilet facility. The toilet facility shall be equipped with a hand-washing sink, as well as liquid soap and paper towels in dispensers. Toilet facilities shall have tight fitting, self-closing doors. Such doors shall not be left open except during cleaning or maintenance. A supply of toilet tissue shall be provided at each toilet at all times. Toilet facilities shall also be equipped with mechanical ventilation to the outside air.
- i) At least one covered waste receptacle shall be provided at each work station, lavatory facility, and toilet facility. Receptacles in the work station shall be emptied daily, and solid waste shall be removed from the premises at least weekly. All refuse containers shall be cleanable, and kept clean. Waste receptacles shall be kept uncovered during use and covered while not in use.

- j) All instruments and supplies shall be stored in clean, dry, covered containers. The only contaminated equipment, including the autoclave and ultrasonic units, along with cleaning supplies and cleaning equipment, shall be stored in an area separate from the procedure area. This area shall not be publicly accessible.
- k) If reusable cloth items are used, they shall be mechanically washed with detergent and dried after each use. The cloth items shall be stored in a dry, clean environment until used.
- l) In addition to complying with all of the requirements of this Part, mobile body art vehicles and body artists/apprentices working from a mobile body art establishment shall also comply with the following requirements:
 - 1) Body art shall be performed only from an enclosed vehicle such as a trailer or mobile home. No body art procedures shall be performed outside of the enclosed vehicle.
 - 2) Potable water shall be maintained for the mobile body art establishment at all times during operation.
 - 3) All liquid wastes shall be stored in a storage tank with a capacity at least 50 percent greater than the capacity of the on-board potable water supply. Liquid wastes shall be disposed of in accordance with State and federal laws.
 - 4) A toilet facility, equipped with a hand sink, shall be available within the mobile body art establishment. The hand sink shall be supplied with hot and cold running water, under pressure, to a mixing-type faucet, as well as liquid soap and paper towels in dispensers. Toilet facilities shall have tight fitting, self-closing doors. The doors shall not be left open except during cleaning or maintenance. A supply of toilet tissue shall be provided at each toilet at all times. Toilet facilities shall also be equipped with mechanical ventilation to the outside air.

Section 797.1200 Establishment Certificate of Registration Requirements

- a) The operator of a body art establishment shall maintain a current certificate of registration from the Department, to be renewed annually. The owner shall file an application with the Department using an application provided by the Department and shall include all of the following information:
 - 1) *The applicant's name, address, telephone number, and age.* To qualify for the certificate of registration, the applicant shall be *at least 18 years of age*;
 - 2) *The name, address, and phone number of the establishment;*
 - 3) *The type and year of manufacture of equipment proposed to be used for body art, if available;*
 - 4) A floor plan of the premises, showing the location of required facilities and work stations;
 - 5) *The sterilization and operational procedures to be used by the establishment (Section 15 of the Act);*
 - 6) The total number of work stations located in the establishment. This number shall include all work stations, whether utilized or not.

- b) With each annual certificate of registration application, the applicant shall submit a refundable fee. The \$500 non-refundable fee shall satisfy the cost of the certificate of registration and the registration of one work station. For each additional work station located in the facility, applicants shall submit, at the time of application, an additional \$50 non-refundable fee. Section 6. Item #a.
- c) Any attempt to obtain a certificate of registration by means of fraud, misrepresentation or concealment is prohibited.
- d) *The certificate of registration issued by the Department shall be conspicuously displayed within the sight of clients upon entering the establishment.*
- e) *Registration is valid for a single location and only for the operator named on the certificate. Registration is not transferable. (Section 35 of Act)*
- f) *In the event of a change of ownership, the new owner must apply for a certificate of registration prior to the opening of the property. (Section 40 of Act)*

Section 797.1300 Body Artist Proficiency Requirements

- a) The operator shall hire only body artists who have complied with the body artist proficiency requirements of this Part.
- b) No person shall conduct body art procedures without first demonstrating proficiency and knowledge of this Part.
- c) The operator shall determine that each body artist possesses knowledge of the following subjects:
- 1) Anatomy;
 - 2) Infectious disease control, including waste disposal, hand-washing techniques, sterilization equipment operation and methods, and sanitization/disinfection/sterilization methods and techniques; and
 - 3) Skin diseases, disorders and conditions (including diabetes).
- d) Body artists/apprentices shall maintain documentation of completion of "Bloodborne Pathogen Training", as required by OSHA (29 CFR 1910.1030) at the body art establishment.
- e) A list of all body artists who have complied with this Section and all other provisions of this Part shall be posted in a prominent and conspicuous area of the establishment.

Section 797.1400 Temporary Certificate of Registration Requirements

- a) *A temporary certificate of registration may be issued by the Department for educational, trade show or product demonstration purposes that include body art procedures. The temporary certificate of registration shall be valid for a maximum of 14 consecutive calendar days. (Section 20 of Act)*
- b) The establishment shall be contained in a completely enclosed non-mobile facility (e.g., inside a permanent building).
- c) An operator who wishes to obtain a temporary certificate of registration for his or her establishment/booth shall submit a temporary certificate of registration application for review by the Department at least 30 days prior to the event. The application shall specify:

- 1) Inclusive dates during which the temporary certificate of registration is needed (not to exceed 14 consecutive calendar days per event), without reapplication;
 - 2) Compliance with body artist proficiency requirements as specified in Section 797.1300;
 - 3) The address where the temporary certificate of registration will be used.
- d) A temporary certificate of registration shall not be issued unless the applicant has paid a non-refundable fee of \$250.
 - e) A temporary certificate of registration shall not be transferable from one place or person to another.
 - f) Compliance with all of the requirements of this Part includes, but is not limited to, the following:
 - 1) Conveniently located hand-washing sink with liquid soap, paper towels and hot and cold water under adequate pressure shall be provided. Drainage in accordance with local plumbing codes is to be provided. Alcohol-based single-use hand wipes shall be available in each work station to augment the hand-washing requirements of this Section;
 - 2) There shall be at least 20 foot candles of light at the level where the body art procedure is being performed; and
 - 3) The establishment shall provide a sterilizer in compliance with this Part, on which a spore test has been performed 30 or fewer days prior to the date of the event, or use only single-use prepackaged sterilized equipment.
 - g) A temporary certificate of registration issued by the Department is required prior to the performance of any body art procedures.
 - h) Body art procedures shall not be performed before the Department has inspected the location identified on the temporary certificate of registration application.
 - i) If the holder of a temporary certificate of registration fails to comply with the requirements of the Act or this Part, the Department shall suspend the temporary certificate of registration.
 - j) The temporary certificate of registration and the disclosure warning poster (see Section 797.600(c)) provided by the Department shall be prominently posted.

Section 797.1500 Enforcement

- a) The Department shall inspect any establishment, mobile body art establishment/unit, or any other place that it believes is required to apply for a certification of registration under the Act and this Part, as often as necessary to ensure compliance with this Part. The initial inspection of a mobile body art establishment shall take place at a location identified by the Department. Additional inspections may be performed at any event where the mobile body art establishment is scheduled to operate.
- b) If the Department is denied access to any establishment, mobile body art establishment/unit, or any other place that it believes is required to apply for certification of registration under the Act and this Part, the Department shall request intervention of local, county or State law enforcement agencies to seek a court order or warrant to investigate and enter the establishment, mobile body art establishment/unit, or any other place. Any person or entity preventing the Department from

carrying out its duties under the Act or this Part shall be guilty of a violation of the Act and shall be subject to penalties.

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- c) If the Department suspects that a communicable disease is or may be transmitted by an operator/apprentice, by use of unapproved or malfunctioning equipment, or by unsanitary or unsafe conditions and practices or other imminent health hazard that may adversely affect the health of the public, upon written notice to the owner or operator, the Department shall do any or all of the following:
 - 1) Issue an order excluding any or all operators/apprentices from the body art establishment who are responsible, or appear to be responsible, for the transmission of a communicable disease until the Department determines there is no further risk to public health;
 - 2) Issue an order to immediately suspend the certificate of registration of the establishment until the Department determines that there is no further risk to the public health. The order shall state the cause for the action.

Section 797.1600 Procedures for Suspension, Revocation, or Refusal to Issue a Certificate of Registration

A certificate of registration may be denied, suspended, or revoked, or the renewal of a certificate of registration may be denied, for any of the following reasons:

- a) Any single violation of the Act or this Part;
- b) *Conviction of an applicant or registrant of an offense arising from false, fraudulent, deceptive or misleading advertising. The record of conviction or a certified copy shall be conclusive evidence of the conviction;*
- c) *Revocation of a certificate of registration during the previous 5 years or surrender or expiration of the certificate of registration during the pendency of action by the Department to revoke or suspend the certificate of registration during the previous 5 years, if, before the certificate of registration was issued to the individual applicant, a controlling owner or controlling combination of owners of the applicant, or any affiliate of the individual applicant or controlling owner of the applicant or affiliate of the applicant, was a controlling owner of the prior certificate of registration. (Section 45 of the Act)*

Section 797.1700 Violations and Fines

- a) In addition to any other action authorized by the Act or this Part, the Department may assess fines, in addition to denying, suspending and revoking certificates of registration, against a person for any violation of any provision of the Act or this Part.
- b) *A fine not to exceed \$1,000 per day for each day the registrant remains in violation shall be issued for any violation of the Act or this Part. (Section 80 of Act)*
- c) A violation is a failure to adhere to any of the provisions of the Act or this Part. A violation shall also include any of the following:
 - 1) Failure to abide by any stop operation or stop use order issued under this Part;
 - 2) Failure to notify the Department of any incident, accident or public health emergency involving any equipment or operator, as required in Section 797.600;

- 3) Failure to allow the Department to perform inspections and investigations in accordance with Section 30 of the Act and Section 797.1500;
- 4) Use of autoclave or body art equipment in a manner inconsistent with its labeling or directions;
- 5) Performing a body art procedure in a faulty, careless or negligent manner;
- 6) Performing a body art procedure in violation of the certificate of registration requirements of Section 15 of the Act;
- 7) Performing a body art procedure in violation of an order issued by the Department;
- 8) Failure to use methods or materials suitable for body art;
- 9) Performing a body art procedure on a person under the age of 18 years, in violation of the Criminal Code of 1961;
- 10) Allowing a certificate of registration to be used by another person;
- 11) Aiding or abetting a person in evading any provision of the Act;
- 12) Failure to comply with the operator proficiency requirements of Section 797.1300;
- 13) Failure to comply with waste removal requirements of Section 797.400;
- 14) Failure to maintain client records as required by Sections 797.600(c) and 797.900(i);
- 15) Failure to maintain premises in sanitary condition as required by Section 797.1100;
- 16) Failure to establish and maintain records of monthly autoclave spore destruction tests in accordance with Section 797.700(i);
- 17) Failure to renew a certificate of registration in accordance with Section 35 of the Act;
- 18) Failure to notify the Department of a change in business ownership in accordance with Section 40 of the Act and Section 797.1200 of this Part;
- 19) Failure to provide information to the Department upon request in accordance with Section 55 of the Act;
- 20) Failure to display or provide a current permit, in accordance with Section 35 of the Act.

Section 797.1750 Administrative Hearings

- a) All hearings shall be conducted pursuant to the Act and the Department's Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100) or Section 50(d) of the Act.
- b) The Department shall serve notice of fine and/or penalty assignments, and provide an opportunity for hearing.
- c) If a person fails to request a hearing within the time provided in the notice, the person shall be deemed to have waived the right to an administrative hearing, and the fine, pursuant to Section

797.1700 and/or action pursuant to Section 797.1600, shall be due immediately upon a final order by the Department.

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- d) All fines and/or actions that are upheld in whole or in part by final order of the Department shall be due in full at the conclusion of the time period for filing for administrative review pursuant to the Administrative Review Law, unless the person has, within that time, filed proceedings in administrative review specifically appealing the fine and/or adverse licensure action and unless the court has stayed enforcement of the fine and/or adverse licensure action.